

HB

177

CORRECTION

Discard: CSHB 177(RES)
(Work Order 25-GH1060L)

and retain this corrected version.
(Work Order 25-GH1060O)

Corrected April 30, 2007
Chief Clerk's Office

HOUSE COMMITTEE REPORT

(9)

Date Referred to Committee: April 4, 2007

FURTHER REFERRALS: Finance

Date of Committee Action: 4-24-2007

The RESOURCES Committee considered:

HB 177

HOUSE BILL NO. 177

NATURAL GAS PIPELINE PROJECT

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

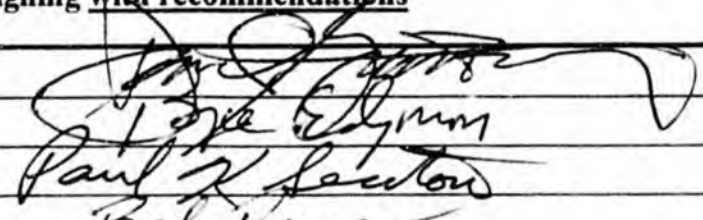
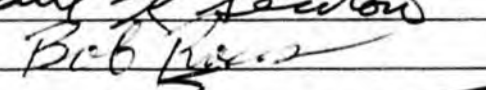
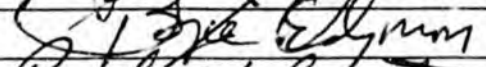
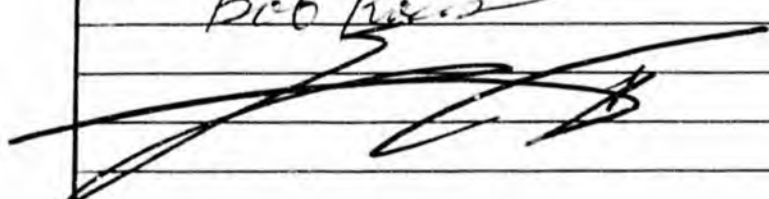
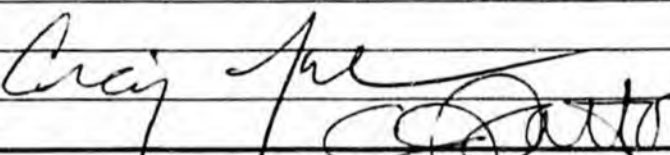
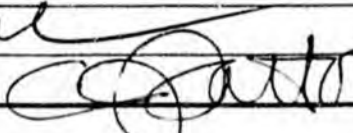
Recommends it be replaced with HCS or CS for HB 177 (RES)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u> *Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
LWF		✓		
GOV		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	1			✓
CED	2			✓
DNR	3			✓
DNR	4	✓		
REV	5	✓		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	SEATON	✓			
	ROSS	✓			
	EDGMON	X			
	KAWASAKI	X			
Chair: 	Johnson	✓			
Chair: 	Gatto	✓			

HOUSE COMMITTEE REPO 7

(9)

Date Referred to Committee: April 4, 2007

FURTHER REFERRALS: Finance

Date of Committee Action: 4-24-2007

The RESOURCES Committee considered:

HB 177

HOUSE BILL NO. 177

NATURAL GAS PIPELINE PROJECT

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

Recommends it be replaced with HCS or CS for HB 177 (RES)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
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<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
LWF		✓		
GOV		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	1			✓
CED	2			✓
DNR	3			✓
DNR	4	✓		
REV	5	✓		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
	EDGMON	X			
Paul K. Seaton	SEATON	✓			
Bob [unclear]	ROSES	✓			
	KAWASAKI	X			
Chair:	Johnson	✓			
Chair:	Gatto	✓			

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB 177CS(O&G)-DNR-O&G-04-10-07
 Bill Version: CS HB 177 (O&G)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Natural Gas Pipeline Project RDU Resource Development
 Component Alaska Gasline Inducements Act
 Sponsor Rules Committee
 Requester House Resources Component No. new

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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	500,000.0*					
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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						
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 (FY2007) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill authorizes the Alaska Gasline Inducement Act (AGIA) which would create a competitive public process for inviting applications for a license under this Act. The application process would include certain application requirements before an application can be considered as well as criteria by which the Commissioners of Natural Resources and Revenue will evaluate all qualifying applications.

The Act would also create inducements including: state matching contributions for pipeline construction in an amount not to exceed \$500 million and the benefit of a state gas pipeline coordinator.

Under the AGIA, the licensee or its designated affiliate would be entitled to state matching contributions for qualified expenditures (post license costs incurred by the licensee that are directly and reasonably related to obtaining a certificate of public necessity and convenience from the FERC or RCA for development of the project).

(Continued on next page).

Prepared by: Kevin Banks, Acting Director Phone 269-8800
 Division Oil and Gas Date/Time 4/10/2007
 Approved by: Tom Irwin, Commissioner Date 4/10/2007
 Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CS HB 177 (O&G)

ANALYSIS CONTINUATION

Until the close of the first binding season, the state will match up to 50 percent of the licensee's qualified expenditures pursuant to the amount specified in the application. After the close of the first binding open season, the state may match the qualified expenditures at the amount specified but the amount may be no greater than 80 percent. Over a five year period, these contributions may not exceed \$500 million. The present value of the state's total \$500 million contribution would be roughly \$415 million, because state spending will be spread over several years.

AGIA will generate a number of project benefits that could more than offset its costs. The size of these benefits will depend on ultimate project scope and market prices, which AGIA leaves to the competitive process. Actual benefits will vary depending upon project terminus (Alberta, Chicago), size (1.2 Bcf/day, 4.5 Bcf/day), mode of transport (pipeline only, pipeline plus LNG facilities), among other things. Illustrative benefits shown here assume a 4.3 Bcf/day project to Alberta, Canada with a construction cost that is 50% greater than assumed in 2001. Results are presented in present value dollars, assuming a discount rate of 5%, to recognize that a dollar of state benefit received in the future will be worth less than a dollar spent today.

First, AGIA is likely to result in a project sooner than if no pipeline legislation is passed. By having the state agree to shoulder a large share of the up-front capital that is particularly risky, AGIA ensures that in exchange project proponents commit to move the project forward past clearly defined benchmarks. Because AGIA results in a project sooner, the current value of project revenues to the state is enhanced. Assuming a gas price of \$5.50, if AGIA accelerates project startup by one year, from 2017 to 2016, state benefits will exceed \$1.6 billion; a two-year acceleration in the project returns \$3.2 billion; a three-year acceleration generates \$4.9 billion.

Second, AGIA's requirement of a minimum 70 percent share of debt in the determination of tariffs ensures that the state will not pay unnecessarily high transportation costs. Without this protection, project tariffs could be calculated on the basis of 60 or even 50 percent debt and still pass regulatory scrutiny. The tariff benefits of a 70 percent debt structure, rather than 60 percent or 50 percent, are 28 cents and 55 cents per MMBtu, respectively. The savings to the state are \$1.25 billion and \$2.63 billion, respectively. Meanwhile, lower tariffs improve project economics for holders of both existing and yet to be discovered gas reserves, thereby increasing the likelihood that the project will commence sooner. The degree to which such savings are realized depends on how, absent AGIA's requirements, project tariffs would otherwise have been determined.

Third, AGIA's pipeline access provisions promise to increase competition for exploration and development of Alaska's gas resources, leading to earlier and more significant pipeline expansions. The value to the state of such expansions is scenario specific, and cannot be accurately predicted. That said, if AGIA's expansion provisions caused the pipeline to expand by 10% in year 3 of its operations, whereas without AGIA such an expansion would not occur, the increase in state royalty and taxes would be roughly \$3 billion in today's dollars. Even if the chances that such an expansion would otherwise not occur were only one in five the AGIA investment of \$500 million would more than pay for itself in this provision alone.

Finally, AGIA will directly ensure lower tariffs. The state's direct investment in up-front development costs would reduce the cost of moving gas to Alberta by roughly 4 cents. The present value royalty and tax benefits of this 4 cent tariff reduction come to \$183 million. Put differently, assuming \$5.50 gas prices, during pipeline operation the state will receive roughly 45% of the value of its contribution in increased royalty and production tax benefits. And at gas prices of \$7.50 or higher the state's up-front contribution actually generates more in royalty and tax benefits than it costs.

This fiscal note assumes that the FY07 Supplemental Appropriation for Gasline requested in HB138/SB82-Sec2(a&b) will be fully funded.

* \$300,000,000 was appropriated last year (SLA2006/Ch13/Sec14) from the general fund to Alaska Housing Finance Corporation for the purpose of funding capital projects including financing expenses and may be available to partially fund the matching grant.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note: HB177CS-DOLWD-CO-04-12-07

Bill Version: CSHB 177(O&G)

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Department: Labor and Workforce Development

Title: Natural Gas Pipeline Project

RDU: Office of the Commissioner

Component: Commissioner's Office

Sponsor: Rules Committee

Requester: House RES

Component Number: 340

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0

Estimate of any current year (FY2007) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by: Guy Bell, Assistant Commissioner

Phone: 465-2700

Division: Commissioner's Office

Date/Time: 4/12/07 4:11 PM

Approved by: Click Bishop, Commissioner

Date: 4/12/2007

Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: CSHB 177(O&G)

ANALYSIS: (continued)

The Alaska Gasline offers Alaskans the opportunity for thousands of high paying jobs with tremendous legacy potential. To ensure Alaskans are considered first for these jobs, the state needs to invest up-front in determining the best way to deliver that workforce by placing Alaskans first, maximizing job opportunities for all Alaskans, including rural Alaskans and Alaska Natives, developing a training plan taking into account existing skills versus required skills, and developing training infrastructure, and implementing and expanding training programs so employers hire Alaskans qualified for pipeline jobs.

This fiscal note outlines the Alaska Department of Labor and Workforce Development's (DOLWD) estimate of the cost of a comprehensive training program to deliver a prepared Alaska workforce for the Alaska Gas Pipeline. The investment is broken down over a six year period as follows:

FY 08 Gasline Project Budget Request: \$ 6,500.0 GF

1. Pipeline Training Center \$ 4,100.0 GF

This would fund a grant to the Alaska Works Partnership to build and equip a comprehensive pipeline trades training facility in Fairbanks. The facility would contain classroom and shop space for pipeline trades training classes. The center will also include a gas compressor training module. Trades to be trained would include but not be limited to pipefitters, heavy equipment operators, plumbers, carpenters, mechanics and electricians. It is estimated that up to 8,000 Alaskans will be trained at this facility through FY 13.

2. Strategic Planning and Research \$ 850.0 GF

This would fund three activities: (1) strategic planning to be overseen by the Commissioner of the Department of Labor and Workforce Development and the Alaska Workforce Investment Board; (2) Gas line Occupational Supply and Demand Analysis; and (3) Rural Alaskan and Alaska Native Skills Inventory and Gasline Employment Interest.

Commissioner's Office, Gasline Workforce Plan \$ 275.0 GF

Funding to retain experts to assist the Commissioner and the Workforce Investment Board in developing a comprehensive Gasline Workforce Development strategy. Areas of technical assistance include innovative training strategies, training technology upgrades, workforce health and safety issues and development of an outcome driven workforce analysis system. This support will allow the Commissioner's Office to incorporate the specialized knowledge associated with meeting the workforce development needs of a mega project with the resources already available through the various divisions of the department. The department will ensure that Alaska's workforce development concerns for the gas line are well described and articulated to potential producers or contractors.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: CSHB 177(O&G)

ANALYSIS: (continued)

Research & Analysis Section \$ 250.0 GF

The department's Research & Analysis Section (R&A) will assess the supply and demand for labor resulting from both the construction and operation of the gas pipeline. In an effort to ensure that a qualified workforce exists at the time of gasline construction, DOLWD will conduct an occupational supply and demand analysis to identify potential workforce gaps.

R&A will assist with the development of strategies to close the projected skills gap. Strategies may include the identification of "training gaps" and the development of career information products that encourage Alaskans, of all ages, to consider potential shortage occupations when planning their careers.

Alaska Labor Exchange System Improvement \$ 325.0 GF

The Employment Security Division will improve the web-based, Alaska Labor Exchange System (ALEXsys) to allow the department to complete a state-wide inventory of workers' individual skill sets and better identify a qualified Alaskan workforce and potential training opportunities for Alaskans in preparation for the construction and maintenance phases of the Alaska gasline.

3. Direct Training \$ 500.0 GF

This investment will continue and expand the extremely successful pipeline trades training program in Fairbanks. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

4. University of Alaska \$ 750.0 GF

Engineering and Construction Management programs.

5. Alaska Laborers Training School \$ 300.0 GF

To purchase a D3 Rock Drill to enhance training delivery.

FY 09 Gas Pipeline Project Budget Request: \$ 18,750.0 GF

1. Other Training Infrastructure \$ 15,000.0 GF

Provide essential upgrades to various training facilities throughout the state to provide site-specific specialized training. Potential sites include AVTEC and Regional Training Centers located throughout rural Alaska.

3. Direct Training \$ 2,500.0 GF

This investment will continue and expand the extremely successful pipeline training in Fairbanks, and other targeted training as determined by the training priorities developed by the department and the Alaska Workforce Investment Board. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: CSHB 177(O&G)

ANALYSIS: (continued)

4. University of Alaska \$ 1,250.0 GF
Engineering and Construction Management programs.

FY 10 to FY 13 Gas Pipeline Project Budget Request: \$ 46,000.0 GF

1. Direct Training \$ 40,000.0 GF

Annual investment of \$10 million to continue and expand training. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

2. University of Alaska \$ 6,000.0 GF

Provide \$1,500.0 annually to support Engineering and Cons. uction Management programs.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSHB177(O&G)-OOG-EO-4-18-07
 Bill Version: CSHB 177 (O&G)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: OOG

Title "An Act relating to the Alaska Gasline
Inducement Act...."

RDU Executive Operations

Component Executive Office

Sponsor Rules Committee

Requester House Resources Committee

Component No. 6

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	78.6	368.6	378.2	385.9	396.6	404.6
Travel	8.0	20.0	20.0	20.0	20.0	20.0
Contractual	18.2	56.4	56.4	56.4	56.4	56.4
Supplies	8.0	20.0	20.0	20.0	20.0	20.0
Equipment	20.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	132.8	465.0	474.6	482.3	493.0	501.0

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	132.8	465.0	474.6	482.3	493.0	501.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	132.8	465.0	474.6	482.3	493.0	501.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This fiscal note assumes the office will begin functioning at the onset of the last quarter of FY08.

Personal services consists of a state gas pipeline coordinator (R28A), an inter-governmental coordinator (R24), and an executive secretary (R14).

Prepared by: Gail Fenumiai, Asst. Administrative Director

Phone 465-3885

Division Division of Administrative Services

Date/Time 4/20/2007, 2:40pm

Approved by: Linda J. Perez, Administrative Director

Date 4/20/2007

Agency Office of the Governor

ALASKA STATE LEGISLATURE
House Resources Committee

Carl Gatto, Co-Chair

State Capitol Building, Room 108
Juneau, AK 99801-1182
(907) 465-3743
FAX (907) 465-2381
Rep_Carl_Gatto@legis.state.ak.us



Craig Johnson, Co-Chair

State Capitol Building, Room 126
Juneau, AK 99801-1182
(907) 465-4993
FAX (907) 465-3872
Rep_Craig_Johnson@legis.state.ak.us

MEMORANDUM

TO: Legislative Legal – attn: Don Bullock

FROM: Heath E. Hilyard, Committee Aide
House Resources Committee

RE: CSHB 177 Drafting Request

DATE: April 25th, 2007

The House Resources Committee adopted and moved out CSHB 177 (25-GH01060K) with the following amendments. I have included the typed amendments where provided by the members.

Page 3, line 5 – after “certificate” INSERT “or amended certificate”

Page 3, lines 13-15 – DELETE subsection (3)

Page 4, line 4 – INSERT “, which may not be the route described in AS 38.35.017(b).”

Page 4, line 8 – after “points” INSERT “unless the application proposes specific in-state delivery points.”

Page 4, line 10 CONCEPTUAL – after “project” INSERT “a detailed description of all pipeline access and tariff terms that the applicant would propose to offer,”

Page 4, line 24 – after “services” DELETE remaining language through line 26

Page 11, lines 2-5 – DELETE subsection (c)

Page 12, line 6 – DELETE “six” REPLACE WITH “five”

Page 13, approx line 3 CONCEPTUAL – from 25-GH1060M (O&G), page 11, line 16-17 INSERT subsection (5) and renumber appropriately

Page 14, line 22 CONCEPTUAL – after “certificate” INSERT “or amended certificate” and conform all similar references of the same nature throughout the entire document.

Page 14, line 24 & line 30 – after “if” DELETE “, at the time the certificate is awarded,”

Page 15, line 17 – after “In this section” SUBSTITUTE “effective date of the certificate” for “time the certificate is awarded”

Page 15, line 8 – after “abandon” INSERT “and transfer the certificate”

Page 15, line 15 CONCEPTUAL – between “(a)” and “(b)” INSERT “or” DELETE “, or (c)”; after “designee.” INSERT “A transfer under (c) of this section is at 50 percent of the licensee’s net cost.”

Page 15, line 27 – INSERT “conservation” between “gas” and “commission”

Page 16, line 11-12 – after “and” DELETE “so long as terms of the license continue to apply” and SUBSTITUTE “until commencement of commercial operations”

Page 17, line 31 CONCEPTUAL – INSERT “or state’s designee” between “state” and “all” and conform all similar references of the same nature throughout the entire document.

Page 17, line 28 through Page 18, line 2 – DELETE the entire section

Page 18, line 31 – DELETE “typically”

Page 19, lines 3-4 – DELETE subsection (d) and renumber accordingly

Page 19, lines 26-29 – after “coordinator.” DELETE all material through “elected.”

Page 19, line 17 – between “state” and “of” INSERT “50 percent”

Page 22, line 15 – DELETE “incorporate into the lease terms of the relevant regulation as fixed contract terms” REPLACE with language on Page 22, line 22 from “incorporate” through the semi-colon.

CS FOR HOUSE BILL NO. 177(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act; providing inducements for the**
2 **construction of a natural gas pipeline and shippers that commit to use that pipeline;**
3 **establishing the Alaska Gasline Inducement Act matching contribution fund; providing**
4 **for an Alaska Gasline Inducement Act coordinator; making conforming amendments;**
5 **and providing for an effective date."**

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

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

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

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

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

12 (1) facilitates commercialization of North Slope gas resources in the
13 state;

(2) promotes exploration and development of oil and gas resources on the North Slope;

(3) maximizes benefits to the people of the state ^{of} ~~from the~~ development of oil and gas resources in the state; and

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

Article 2. Alaska Gasline Inducement Act License.

Sec. 43.90.100. Gas project. (a) The commissioner of revenue and the commissioner of natural resources, acting jointly, may award an Alaska Gasline Inducement Act license as provided in this chapter. The person awarded a license under this chapter is entitled to the inducement set out in AS 43.90.110.

(b) Nothing in this chapter precludes a person from pursuing a gas pipeline project independently from this chapter.

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

(1) subject to appropriation, state matching contributions in ^{an} ~~a~~ total amount not to exceed \$500,000,000, paid ^{in total} ~~to the licensee~~ ^{over a} ~~during the~~ five-year period ^{immediately} following the date the license is awarded; the payment period may be extended under an amendment or modification under AS 43.90.210; a payment under this paragraph shall be made according to the following:

(A) on or before the close of the first binding open season, the state shall match the licensee's qualified expenditures at the level specified in the license; however, the state's matching contribution may not ^{be more than} ~~exceed~~ 50 percent of the qualified expenditures incurred before the ^{close} ~~end~~ of the first binding open season;

(B) after the close of the first binding open season, the state shall match the licensee's qualified expenditures at ^{the} ~~the~~ level specified in the license; however, the state's matching contribution may not be greater than 80 percent of the qualified expenditures incurred after the close of the first

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INSERT →

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binding open season;

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(C) ~~(a)~~ ^{are} qualified expenditure^{are} ~~(is)~~ a cost^{are} that ~~(is)~~ incurred after the

3

license is issued under this chapter, ~~(is incurred)~~ by the licensee or the licensee's

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designated affiliate, and ^{are} ~~(is)~~ directly and reasonably related to obtaining a

5

certificate^{or amended cert} of public convenience and necessity from the Federal Energy

6

Regulatory Commission or the Regulatory Commission of Alaska, as

7

appropriate, for development of the project; ^{in this subparagraph,} "qualified expenditure" does not

8

include overhead costs, litigation costs, ~~(the cost of an asset or work product)~~ ^{predating}

9

the issuance of the license

~~(acquired by the licensee before the license is issued)~~ ^{or} ~~(civil penalties, criminal~~ ^{or criminal}

10

penalties] or fines; and

11

(2) the benefit of an Alaska Gasline Inducement Act coordinator who

12

has the authority prescribed in AS 43.90.250; and .

13

(3) the benefits of coordination with qualified training organizations

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that prepare individuals for employment in gas pipeline project management,

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construction, operation, maintenance, and other gas pipeline-related positions.

16

(b) The commissioner of revenue in consultation with the commissioner of

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natural resources shall adopt regulations for determining whether an expenditure is a

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qualified expenditure for the purposes of (a) of this section.

19

Sec. 43.90.120. Request for applications for the license. (a) The

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commissioners shall commence a public process to request applications for a license

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under this chapter as soon as practicable after the effective date of this chapter.

22

(b) The commissioners may use independent contractors ^{advise} to assist ~~(them)~~ in

23

developing the ^{provisions for the} application and in evaluating ~~(the)~~ applications received, ^{for license} under this chapter.

24

(c) The provisions of AS 36.30 do not apply to requests for applications under

25

this chapter.

An application for a license must be consistent with the terms of the request for applications under 43.90.120 and must

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Sec. 43.90.130. Application requirements. In order to be considered for the

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license, an applicant shall file an application that is consistent with the terms of the

28

request for applications under AS 43.90.120 and shall

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(1) ^{be filed} file the application by the deadline established by the

30

commissioners in the request for applications;

31

(2) provide a detailed description of a proposed natural gas pipeline

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

4 (A) the route proposed for the natural gas pipeline; ✓

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

9 (C) an analysis demonstrating the ^{project's} economic and technical
10 viability ~~of the project~~; as required in the request for application

11 (D) an economically and technically viable work plan, timeline,
12 and associated budget for developing the proposed project ^{including how the applicant will perform} and work associated
13 with the project that ~~includes~~ field work, environmental studies, design and
14 engineering, how the applicant will implement implementing practices for controlling carbon emissions from
15 natural gas systems as established by the United States Environmental
16 Protection Agency, and how the applicant will comply complying with all applicable state, federal, and
17 international regulatory requirements that affect the proposed project; the
18 applicant shall address the following:

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

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

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and tariff terms for liquefaction services or, if a third party would perform liquefaction services, the identification of that third party and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export destination, regasification facilities and pipeline facilities needed for transport to market destinations; the entity or entities that would be required to obtain necessary export permits and licenses or a certificate of public convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

(3) if the proposed project is within the jurisdiction of the Federal Energy Regulatory Commission, commit to

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

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

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

(4) if the proposed project is within the jurisdiction of the Regulatory Commission of Alaska, commit to

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with

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1 the requirements of AS 42.06; and

2 (B) apply for a certificate of public convenience and necessity
3 to authorize the construction and operation of the proposed project by a date
4 certain;

5 (5) after the first binding open season, commit to assess the market
6 demand for additional pipeline capacity at least every two years through public
7 nonbinding solicitations or similar means;

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

11 (A) "commercially reasonable terms" means that, subject to the
12 provisions of (7) of this section, revenue from transportation contracts covers
13 the cost of the expansion, including increased fuel costs, and a reasonable
14 return on capital as authorized by the Federal Energy Regulatory Commission
15 or the Regulatory Commission of Alaska, as applicable, and there is no
16 impairment of the proposed project's ability to recover the costs of existing
17 facilities;

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

22 (7) make a commitment that the applicant

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

28 (B) will propose and support the recovery of mainline capacity
29 expansion costs, including fuel costs, from all mainline system users through
30 rolled-in rates; an applicant is obligated under this subparagraph only if the
31 rolled-in rates would increase the rates

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

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

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

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

30 (D) may, for the recovery of mainline capacity expansion costs,
31 including fuel costs, that, under rolled-in rate treatment, would result in rates

1 that exceed the level in (B) of this paragraph, propose and support the recovery
2 of those costs through any combination of incremental and rolled-in rates;

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

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

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

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

29 (11) describe the means for preventing or managing cost overruns for
30 the proposed project, and the measures for minimizing the effect from any overruns;

31 (12) commit to provide a minimum of five delivery points of natural

1 gas in this state;

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

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

9 (15) to the extent permitted by law, commit to

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

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

14 (C) establish hiring facilities or use existing hiring facilities in
15 the state; and

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

19 (16) waive the right to appeal the issuance of a license to another
20 applicant or to appeal the determination under AS 43.90.180(b) that no application
21 merits the issuance of a license;

22 (17) commit to negotiate, before construction, a project labor
23 agreement; in this paragraph, "project labor agreement" means a comprehensive
24 collective bargaining agreement between the licensee or its agent and the appropriate
25 labor representatives to ensure expedited construction with labor stability for the
26 project by qualified residents of the state;

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

30 (19) provide a detailed description of the applicant and other entities
31 participating with the applicant in the application and the project proposed by the

1 applicant; and persons the applicant intends to involve in the construction and
2 operation of the proposed project; the description must include the nature of the
3 affiliation for each person, the commitments by the person to the applicant, and other
4 information relevant to the commissioners' evaluation of the readiness and ability of
5 the applicant to complete the project presented in the application; and

6 (20) otherwise demonstrate the readiness and ability to perform the
7 activities specified in the application, including following the detailed work plan,
8 timeline, and operation within the associated budget.

9 **Sec. 43.90.140. Initial application review; additional information requests;**
10 **complete applications.** (a) The commissioners shall review each application filed
11 under AS 43.90.130 to determine whether it is consistent with the terms of the request
12 for applications and meets the requirements in AS 43.90.130. The commissioners shall
13 reject an application that does not meet the terms of the request for applications or the
14 requirements in AS 43.90.130.

15 (b) The commissioners may request additional information relating to the
16 application.

17 (c) If, within the time specified by the commissioners, the applicant fails to
18 provide the additional information requested under (b) of this section, or submits
19 additional information that is not responsive, the application shall be rejected.

20 (d) For an application not rejected under this section, the commissioners shall
21 make a determination that the application, including any requested additional
22 information, is complete.

23 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the
24 request of the applicant, information submitted under this chapter that the applicant
25 identifies and demonstrates is proprietary or is a trade secret is confidential and not
26 subject to public disclosure under AS 40.25, unless the applicant is granted a license
27 under this chapter. After a license is awarded, all information submitted by the
28 licensee under this chapter, and retained for the purposes of this chapter, shall be made
29 public.

30 (b) If the commissioners determine that the information submitted by the
31 applicant is not proprietary or is not a trade secret, the commissioners shall notify the

1 applicant and return the information at the request of the applicant.

2 (c) An applicant that challenges the award of a license or the process for
3 making the award shall be considered to have consented to the disclosure of all of the
4 information submitted under this chapter by the applicant making challenge, including
5 information held confidential under (a) of this section.

6 (d) In this section, "proprietary" means that the information is treated by the
7 applicant as confidential and the public disclosure of that information would adversely
8 affect the competitive position of the applicant, or materially diminish the commercial
9 value of the information to the applicant.

10 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall
11 publish notice and provide a 60-day period for public review and comment on all
12 applications determined complete under AS 43.90.140.

13 (b) Applications received under this chapter are not subject to public
14 disclosure under AS 40.25 until the commissioners publish notice under this section.
15 However, information that the commissioners have determined is confidential under
16 AS 43.90.150 may not be made public even after the notice is published under (a) of
17 this section, except as provided in AS 43.90.150. If information is held confidential
18 under AS 43.90.150, the applicant shall provide a summary of the confidential
19 information that is satisfactory to the commissioners, and the commissioners shall
20 make the summary of the confidential information available to the public.

21 (c) Information provided by an applicant to the commissioners under this
22 chapter, including information determined by the commissioners to be confidential
23 under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal analyst who
24 serves as head of the legislative finance division, agents and contractors of the
25 legislative auditor and the fiscal analyst, and members of the legislature, on request
26 and after the individual making the request signs a confidentiality agreement prepared
27 by the commissioners.

28 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners
29 shall evaluate all applications determined to be complete under AS 43.90.140,
30 consider public comments received under AS 43.90.160(a), and rank each application
31 according to the net present value of the anticipated cash flow to the state from the

1 applicant's project proposal using the factors in (b) of this section and weighted by the
2 project's likelihood of success based on the commissioners' assessment of the factors
3 listed in (c) of this section.

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

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

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

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

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

15 (5) other factors found by the commissioners to be relevant to the
16 evaluation of the net present value of the anticipated cash flow to the state, including
17 the value of state income tax or equivalent payment in lieu of tax and supplemental
18 profit-sharing to the state if contractually stipulated.

19 (c) When evaluating the project's likelihood of success, the commissioners
20 shall consider

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

26 (2) the financial resources of the applicant;

27 (3) the ability of the applicant to comply with the proposed
28 performance schedule;

29 (4) the applicant's organization, experience, accounting and operational
30 controls, technical skills or the ability to obtain the necessary equipment or the
31 ability to obtain the necessary equipment;

- 1 (5) the applicant's record of
2 (A) performance on projects not licensed under this chapter;
3 (B) integrity and good business ethics; and
4 (6) other evidence and factors found by the commissioners to be
5 relevant to the evaluation of the project's likelihood of success.

6 (d) In this section, "net present value" means the discounted value of a future
7 stream of cash flow.

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

14 (1) issue a determination, with written findings addressing the basis for
15 the determination; the determination becomes a final agency action in accordance with
16 AS 43.90.190;

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

19 (3) submit the determination along with the findings, supporting
20 documentation, and a copy of the notice published under (2) of this subsection to the
21 presiding officer of each house of the legislature for action as provided in
22 AS 43.90.190.

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

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

30 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the
31 presiding officer of each house of the legislature receives a determination from the

1 commissioners under AS 43.90.180, the rules committee of each house of the
2 legislature shall introduce a bill in the committee's respective chamber that provides
3 for the approval of the license proposed to be issued by the commissioners.

4 (b) If a bill approving the issuance of the license passes the legislature within
5 90 days after the last date a presiding officer receives a determination by the
6 commissioners under AS 43.90.180, the commissioners shall issue the license as soon
7 as practicable after the effective date of the Act approving the issuance of the license.

8 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after
9 the end of a special session or after the end of a regular session of a legislature, a bill
10 introduced under (a) of this section that is not passed or not withdrawn, defeated,
11 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or
12 special legislative session convened during the 90-day period described in (b) of this
13 section in the same reading or status it was in at the time of adjournment. However, a
14 bill introduced under (a) of this section may not be carried over to the first regular
15 session of a legislature.

16 (d) If the legislature fails to approve the issuance of the license, the
17 commissioners

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

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

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

21 (a) A licensee that is awarded a certificate of public convenience and necessity from a
22 regulatory agency with jurisdiction over the project shall accept the certificate when
23 all rights of administrative appeal relating to the certificate have expired.

24 (b) If, at the time the certificate is awarded, the licensee has credit support
25 sufficient to finance construction of the project through ownership of rights to produce
26 and market gas resources, firm transportation commitments, or government financing,
27 the licensee shall sanction the project within one year after the effective date of the
28 certificate of public convenience and necessity issued by the regulatory agency with
29 jurisdiction over the project.

30 (c) If, at the time the certificate is awarded, the licensee does not have credit
31 support sufficient to finance construction of the project through ownership of rights to

1 produce and market gas resources, firm transportation commitments, or government
2 financing, the licensee shall sanction the project within five years after the effective
3 date of the certificate of public convenience and necessity issued by the regulatory
4 agency with jurisdiction over the project.

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

7 (1) seek approval from the Federal Energy Regulatory Commission or
8 the Regulatory Commission of Alaska, as applicable, to abandon to the state or the
9 state's designee; and

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

14 (e) The transfer of any certificate of public convenience and necessity or
15 transfer under (d) of this section as a result of failure to comply with (a), (b), or (c) of
16 this section is at no cost to the state or the state's designee.

17 (f) In this section, "time the certificate is awarded" means the date after which
18 all rights of administrative appeal relating to the certificate have expired.

19 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
20 to the approval of the commissioners, a licensee may amend or modify its project plan
21 if the amendments or modifications improve the net present value of the project to the
22 state, are necessary because of an order issued by the Alaska Oil and Gas
23 Conservation Commission, or are necessary as a result of changed circumstances
24 outside the licensee's control and not reasonably foreseeable before the license was
25 issued. An amendment or modification approved under this section must be consistent
26 with the requirements in AS 43.90.130 and, except for an amendment or modification
27 required because of an order by the Alaska Oil and Gas Commission, may not
28 diminish the net present value to the state of the project or the likelihood of success for
29 the project.

30 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A
31 licensee shall maintain complete and accurate records of all expenditures and

1 commitments of state contributions received under this chapter, including receipts and
2 records showing the payment or cost of purchased items and services, the names and
3 addresses of the sellers and service providers, and the dates of service or delivery.

4 (b) Upon reasonable notice, the commissioners may audit the records, books,
5 and files of the entity receiving the state money or making the expenditures and
6 commitments under this chapter.

7 (c) With respect to information relating to the project, the commissioners may
8 conduct hearings or other investigative inquiries, compel the attendance of witnesses
9 and production of documents, and require the licensee to furnish information and
10 documents relating to the project in hard copy or electronic format.

11 (d) After a license has been issued and so long as the terms of the license
12 continue to apply, the licensee shall allow the commissioners to

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

15 (2) receive all relevant notices and information sent to the governing
16 body and equity holders;

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

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

21 (e) A licensee shall maintain the records and reports required under this
22 section for seven years from the date the licensee receives state money under this
23 chapter.

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

26 (1) committed money received from the state under this chapter for an
27 expenditure that is not a qualified expenditure under AS 43.90.110;

28 (2) substantially departed from the specifications set out in the
29 application without state approval of a project plan amendment or modification under
30 AS 43.90.210;

31 (3) violated any provision of this chapter or any other provision of

1 state or federal law material to the license; or

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

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

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

10 (d) If the commissioners and the licensee are unable to resolve the violation
11 within the time specified in (b) of this section, the commissioners shall provide the
12 licensee with notice that the violation has not been cured and provide the opportunity
13 for the licensee to be heard. If after notice and hearing the commissioners determine
14 that the violation has not been cured, the commissioners shall issue a written decision
15 that is a final administrative action for purposes of appeal to the superior court in the
16 state.

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

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

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

23 (3) license revocation;

24 (4) assignment to the state or the state's designee of all project data,
25 engineering designs, contracts, permits, and other data relating to the project that are
26 acquired by the licensee during the term of the license; and

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

28 (f) If the license is revoked under (e) of this section, the licensee

29 (1) may not submit an application for the license in the event a request
30 for applications is issued under AS 43.90.120 after the date of revocation; and

31 (2) shall deliver to the state all project data, engineering designs,

1 contracts, rights-of-way, and other work product of the licensee that is related to the
2 licensed project.

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

8 (b) If the commissioners or the licensee determine the project is uneconomic
9 and the other party disagrees, the disagreement shall be settled by arbitration
10 administered by the American Arbitration Association under the substantive and
11 procedural laws of this state, and judgment on the award rendered by the arbitrators
12 may be entered in a superior court in the state. In the event of arbitration, each party
13 shall select an arbitrator from the American Arbitration Association's National Roster
14 and the two arbitrators shall appoint a third arbitrator from the American Arbitration
15 Association's National Roster who shall serve as the chair of the three-member
16 arbitration panel. If the arbitration panel determine that the project is

17 (1) uneconomic, the state and the licensee no longer have any
18 obligation under this chapter with respect to the license, except for requirements
19 imposed on the licensee under (f) of this section and AS 43.90.220; or

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

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

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

28 (2) predicted costs of transportation at a 100 percent load factor, when
29 deducted from predicted gas sales revenue using publicly available predictions of
30 future gas prices, would result in a producer rate of return that is below the rate
31 typically accepted by a prudent oil and gas exploration and production company for

1 incremental upstream investment that is required to produce and deliver gas to the
2 project.

3 (d) In an appeal of a final determination rendered by the arbitrators under (b)
4 of this section, the person making the appeal has the burden of proof.

5 (e) If the state makes a payment to the licensee under AS 43.90.440, the
6 license is considered abandoned, and the state and the licensee no longer have any
7 obligations under this chapter with respect to the license, except that the licensee must
8 comply with the

9 (1) requirements imposed on the licensee under AS 43.90.220
10 regarding state money received by the licensee before the license was considered
11 abandoned; and

12 (2) requirements of AS 43.90.440.

13 (f) If the commissioners and the licensee agree that the project is uneconomic
14 or an arbitration panel makes a final determination that the project is uneconomic, the
15 licensee shall deliver to the state or the state's designee all engineering designs,
16 contracts, permits, and other data relating to the project that are acquired by the
17 licensee during the term of the license upon reimbursement by the state of the net
18 amount of expenditures incurred and paid by the licensee that are qualified
19 expenditures for the purposes of AS 43.90.110.

20 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is
21 created in the office of the governor the position of Alaska Gasline Inducement Act
22 coordinator. Administrative support for the position shall be provided by the office of
23 the governor. The position shall continue until one year after commencement of
24 commercial operations of the project.

25 (b) The governor shall appoint a person to the position of Alaska Gasline
26 Inducement Act coordinator. The initial appointment is subject to confirmation by the
27 legislature and an appointment is subject to reconfirmation by the legislature during
28 the first regular legislative session after a general election at which a governor is
29 elected. The individual serving as the Alaska Gasline Inducement Act coordinator may
30 be removed from the position at the discretion of the governor.

31 (c) The Alaska Gasline Inducement Act coordinator is entitled to receive an

1 annual salary equal to Step A, Range 28, of the salary schedule set out in
2 AS 39.27.011(a) for Juneau.

3 (d) The Alaska Gasline Inducement Act coordinator shall, in conjunction with
4 the commissioners,

5 (1) coordinate expeditious performance of all activities by state
6 agencies for the project;

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

9 (3) coordinate with the Office of the Federal Coordinator for Alaska
10 Natural Gas Transportation Projects (29 U.S.C. 720d) for natural gas transportation
11 projects in the state.

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

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

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

25 **Article 3. Resource Inducement.**

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

1 the first binding open season of the project. The inducement in AS 43.90.310 is
2 contractual.

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

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

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

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

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

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

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

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

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

1 actions do not unreasonably

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

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

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

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

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

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

24 (2) to enter into a contract with the state that amends the existing lease
25 terms by

26 (A) extending the required period of notice that the state must
27 provide before exercising the state's right to switch between taking its royalty
28 in value or in kind for gas committed for firm transportation in the first binding
29 open season of the project; or

30 (B) eliminating the ability of the state to take its royalty in kind
31 for gas in the quantity and volume committed to the firm transportation

1 capacity acquired during the first binding open season of the project, if the
2 person entitled to this election agrees to provide gas for in-state residential and
3 commercial uses at the delivery points described in the license at the same
4 value as would be received by the state if the state receives its royalty in value
5 with the corresponding distance-sensitive transportation charges; if the lessee
6 or other person exercising this election fails to adequately supply the in-state
7 gas requirements, after reasonable notice, or if the contract effectively prevents
8 the state from exercising its rights with other lessees to switch between taking
9 its royalty in value or in kind because of various unit agreements among
10 lessees, the election is considered to terminate, and the provisions of the
11 original lease relating to the state's taking its royalty gas in kind or in value
12 apply.

13 (c) To claim the inducement under (b) of this section, a lessee or other
14 qualified person shall agree, on an application form provided by the Department of
15 Natural Resources, that the lessee or person, and the lessee's or person's affiliates,
16 successors, assigns, and agents will not protest or appeal a filing by the licensee to roll
17 in expansion costs of the mainline up to a level that is required in AS 43.90.130(7).
18 The agreement not to protest may not preclude the lessee or other qualified person, or
19 the affiliates, successors, assigns, and agents of the lessee or other qualified person,
20 from protesting a filing to roll in mainline expansion costs that licensee is not required
21 to propose and support under AS 43.90.130(7).

22 (d) The commissioner of natural resources shall provide for review of the
23 regulations adopted under (a) of this section at least every two years after the
24 commencement of commercial operations to determine whether the regulations
25 continue to minimize retroactive adjustments to the monthly value of the state's
26 royalty share of gas production under current conditions; the commissioner shall
27 amend the regulations when the requirement is not being met.

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

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

9 (b) The exemption under this section may be applied within the 10 years
10 immediately following commencement of commercial operations and only applied to
11 production taxes that are levied on North Slope gas shipped through firm
12 transportation capacity the person acquired during the first binding open season or
13 shipped in the firm transportation capacity described in a voucher received by the gas
14 producer under AS 43.90.330.

15 (c) The person claiming the exemption under this section shall agree that the
16 person and the person's affiliates, successors, assigns, and agents will not protest or
17 appeal a filing by the licensee to roll in mainline expansion costs up to the level that
18 the licensee is required to propose and support under AS 43.90.130(7); the agreement
19 required under this subsection may not preclude the person or the person's affiliates,
20 successors, assigns, and agents, from protesting a filing to roll in mainline expansion
21 costs that the licensee is not required to propose and support under AS 43.90.130(7).

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

28 (b) A voucher issued by the commissioners under this section entitles the
29 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for
30 gas shipped in the firm transportation capacity acquired by the person applying for the
31 voucher during the first binding open season of the project and described in the

1 voucher. The voucher may be transferred to a gas producer that has a binding
2 obligation to sell gas to the person transferring the voucher under a gas purchase
3 agreement.

4 (c) A gas producer holding a voucher may claim the resource inducements for
5 gas shipped through the firm transportation capacity described in the voucher and only
6 on gas that is produced and delivered to the purchaser on the North Slope. A gas
7 producer may claim the resource inducements under this subsection until the earlier of
8 the termination of the binding gas purchase agreement or the expiration of the
9 inducements by operation of law.

10 Article 4. Miscellaneous Provisions.

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

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

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

27 (d) Within 10 days after the convening of each regular session of the
28 legislature, the commissioners shall submit to the legislature a report that lists the
29 disbursements from the fund during the preceding fiscal year with a written
30 justification for each disbursement and the projected amount of money that will be
31 required for contributions in each of the next three fiscal years.

1 **Sec. 43.90.410. Regulations.** The commissioner of revenue may adopt
2 regulations on behalf of the commissioners for the purpose of implementing the
3 provisions of this chapter. The commissioner of revenue and the commissioner of
4 natural resources may change regulations adopted under authority outside of this
5 chapter as necessary to implement the provisions of this chapter.

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

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

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

31 (b) In this section,

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

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

5 (A) the state's exercise of its right to resolve disputes involving
6 royalties and taxes;

7 (B) the state's exercise of its right to modify royalties as
8 authorized by law in effect on the effective date of this section; or

9 (C) the benefits of a large project permit coordinator authorized
10 by a law in effect on the effective date of this section.

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

16 (1) the transfer is approved in writing in advance by the
17 commissioners; and

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

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

25 (c) A person may transfer that person's rights to the royalty inducement under
26 AS 43.90.310 and the gas production tax exemptions under AS 43.90.320 only in
27 connection with a sale or merger that results in transfer of all the person's assets in the
28 North Slope of this state, along with the person's firm transportation capacity contracts
29 in the project.

30 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),
31 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of

1 firm transportation capacity in the first binding open season of the project may transfer
2 the voucher only if the transfer is in connection with the permanent assignment by the
3 person of 100 percent of the firm transportation capacity acquired in the first binding
4 open season of the project.

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

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

12 **Article 5. General Provisions.**

13 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
14 requires,

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

18 (2) "Alaska Gasline Inducement Act coordinator" and "coordinator"
19 means the person appointed under AS 43.90.250;

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

22 (4) "commissioners" means the commissioner of revenue and the
23 commissioner of natural resources;

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

28 (6) "equity holder" means the

29 (A) stockholders of a corporation;

30 (B) members of a limited liability company;

31 (C) partners of a partnership;

1 (D) joint venturers of a joint venture;

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

3 or

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

5 (7) "gas processing" means the treatment of gas downstream of the
6 point of production to extract natural gas liquids;

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

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

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

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

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

17 (13) "North Slope" means that part of the state that lies North of 68
18 degrees North latitude;

19 (14) "North Slope gas" means natural gas produced on the North
20 Slope;

21 (15) "open season" means the process that complies with 18 C.F.R.
22 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects);

23 (16) "project" means a natural gas pipeline project authorized under a
24 license issued under this chapter;

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

30 (18) "sanction" means financial commitments to go forward with the
31 project as evidenced by entering into financial commitments of at least

1 \$1,000,000,000 with third parties;

2 (19) "under common control with" has the meaning given "control" in
3 this section;

4 (20) "unit agreement" means an agreement executed by the working
5 interest owners and royalty owners creating the unit.

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

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

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

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

13 (41) the Alaska Gasline Inducement Act coordinator appointed under
14 AS 43.90.250.

15 * **Sec. 4.** AS 40.25.120(a) is amended to read:

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

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

20 (2) records pertaining to juveniles unless disclosure is authorized by
21 law;

22 (3) medical and related public health records;

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

25 (5) to the extent the records are required to be kept confidential under
26 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
27 or retain federal assistance;

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

30 (A) could reasonably be expected to interfere with enforcement
31 proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) records that are

(A) proprietary or a trade secret in accordance with AS 43.90.150;

(B) applications that are received under AS 43.90.120 - 43.90.140 until notice is published under AS 43.90.160.

* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to read:

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

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

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

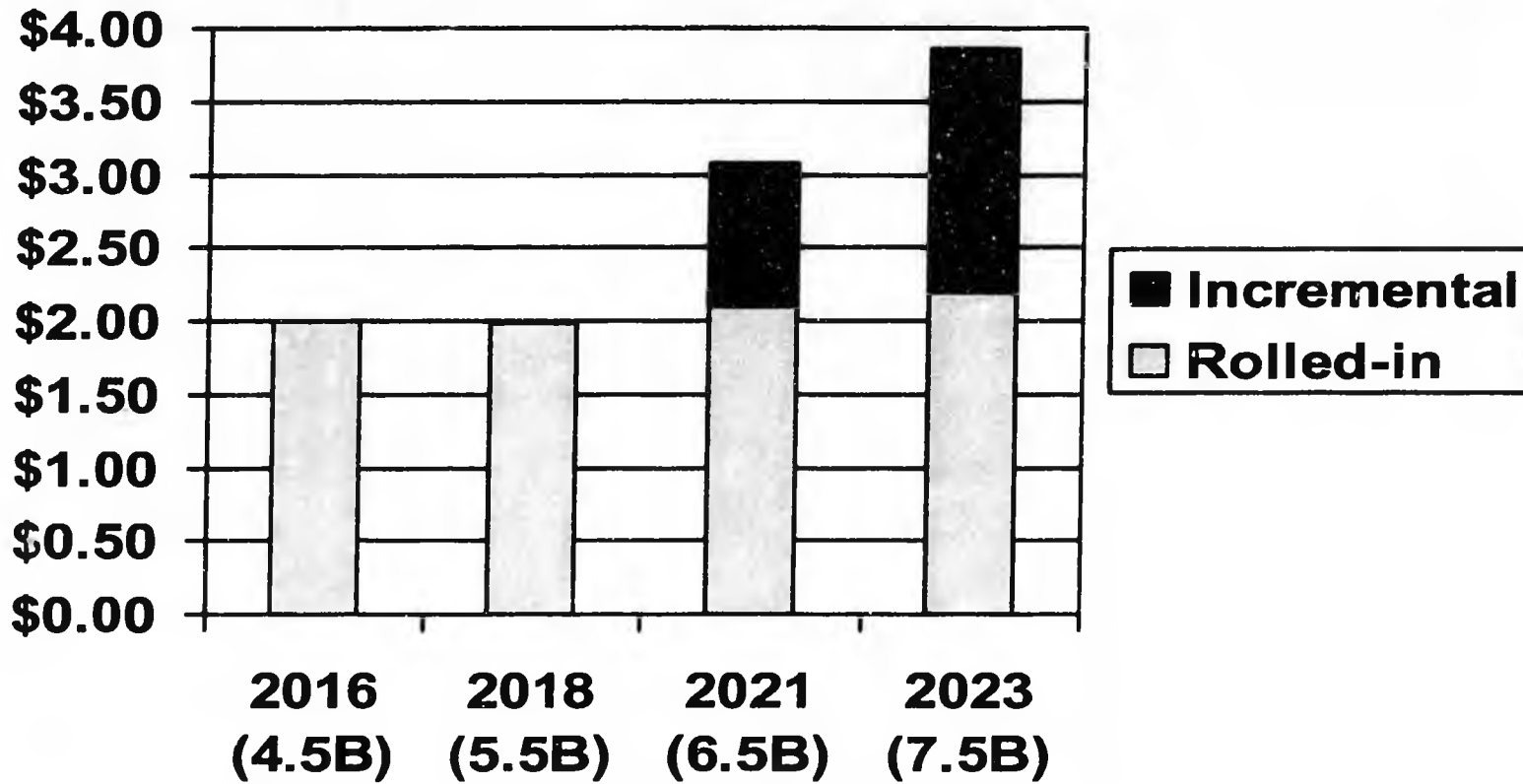
* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to read:

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

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* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

AGIA RATE POLICY
Rolled-in vs Incremental



25-GH1060K
Bullock
4/24/07

CS FOR HOUSE BILL NO. 177(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act; providing inducements for the**
2 **construction of a natural gas pipeline and shippers that commit to use that pipeline;**
3 **establishing the Alaska Gasline Inducement Act matching contribution fund; providing**
4 **for an Alaska Gasline Inducement Act coordinator; making conforming amendments;**
5 **and providing for an effective date."**

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

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

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

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

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

12 (1) facilitates commercialization of North Slope gas resources in the
13 state;

1 (2) promotes exploration and development of oil and gas resources on
2 the North Slope;

3 (3) maximizes benefits to the people of the state from the development
4 of oil and gas resources in the state; and

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

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

9 **Sec. 43.90.100. Gas project.** (a) The commissioner of revenue and the
10 commissioner of natural resources, acting jointly, may award an Alaska Gasline
11 Inducement Act license as provided in this chapter. The person awarded a license
12 under this chapter is entitled to the inducement set out in AS 43.90.110.

13 (b) Nothing in this chapter precludes a person from pursuing a gas pipeline
14 project independently from this chapter.

15 **Sec. 43.90.110. Natural gas pipeline project construction inducement.** (a)
16 Subject to the limitations of this chapter, a license issued under this chapter entitle the
17 licensee or its designated affiliate to receive

18 (1) subject to appropriation, state matching contributions in a total
19 amount not to exceed \$500,000,000, paid to the licensee during the five-year period
20 immediately following the date the license is awarded; the payment period may be
21 extended under an amendment or modification under AS 43.90.210; a payment under
22 this paragraph shall be made according to the following:

23 (A) on or before the close of the first binding open season, the
24 state shall match the licensee's qualified expenditures at the level specified in
25 the license; however, the state's matching contribution may not exceed 50
26 percent of the qualified expenditures incurred before the end of the first
27 binding open season;

28 (B) after the close of the first binding open season, the state
29 shall match the licensee's qualified expenditures at the level specified in the
30 license; however, the state's matching contribution may not be greater than 80
31 percent of the qualified expenditures incurred after the close of the first

1 binding open season;

2 (C) a qualified expenditure is a cost that is incurred after the
3 license is issued under this chapter, is incurred by the licensee or the licensee's
4 designated affiliate, and is directly and reasonably related to obtaining a
5 certificate of public convenience and necessity from the Federal Energy
6 Regulatory Commission or the Regulatory Commission of Alaska, as
7 appropriate, for development of the project; "qualified expenditure" does not
8 include overhead costs, litigation costs, the cost of an asset or work product
9 acquired by the licensee before the license is issued, civil penalties, criminal
10 penalties, or fines;

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11 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
12 has the authority prescribed in AS 43.90.250; and

13 (3) the benefits of coordination with qualified training organizations
14 that prepare individuals for employment in gas pipeline project management,
15 construction, operation, maintenance, and other gas pipeline-related positions.

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

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

22 (b) The commissioners may use independent contractors to assist them in
23 developing the application and in evaluating the applications received.

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

26 **Sec. 43.90.130. Application requirements.** In order to be considered for the
27 license, an applicant shall file an application that is consistent with the terms of the
28 request for applications under AS 43.90.120 and shall

29 (1) file the application by the deadline established by the
30 commissioners in the request for applications;

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

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

4 (A) the route proposed for the natural gas pipeline; *#20 Section*

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

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9 *delivery points;* (C) an analysis demonstrating the economic and technical
10 viability of the project; *#22 Section*

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

19 (i) if the proposed project involves a pipeline into or
20 through Canada, a detailed description of the applicant's plan to obtain
21 necessary rights-of-way and authorizations in Canada, a description of
22 the transportation services to be provided and a description of rate-
23 making methodologies the applicant will propose to the regulatory
24 agencies, an estimate of rates and charges for all services; *[and a*
25 *detailed description of all access and tariff terms that the applicant*
26 *would propose to offer];*

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

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and tariff terms for liquefaction services or, if a third party would perform liquefaction services, the identification of that third party and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export destination, regasification facilities and pipeline facilities needed for transport to market destinations; the entity or entities that would be required to obtain necessary export permits and licenses or a certificate of public convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate commerce ^{if United States markets are proposed}; and all rights-of-way or authorizations required from a foreign country;

(3) if the proposed project is within the jurisdiction of the Federal Energy Regulatory Commission, commit to

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

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

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

(4) if the proposed project is within the jurisdiction of the Regulatory Commission of Alaska, commit to

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with

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1 the requirements of AS 42.06; and

2 (B) apply for a certificate of public convenience and necessity
3 to authorize the construction and operation of the proposed project by a date
4 certain;

5 (5) after the first binding open season, commit to assess the market
6 demand for additional pipeline capacity at least every two years through public
7 nonbinding solicitations or similar means;

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

11 (A) "commercially reasonable terms" means that, subject to the
12 provisions of (7) of this section, revenue from transportation contracts covers
13 the cost of the expansion, including increased fuel costs, and a reasonable
14 return on capital as authorized by the Federal Energy Regulatory Commission
15 or the Regulatory Commission of Alaska, as applicable, and there is no
16 impairment of the proposed project's ability to recover the costs of existing
17 facilities;

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

22 (7) make a commitment that the applicant

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

28 (B) will propose and support the recovery of mainline capacity
29 expansion costs, including fuel costs, from all mainline system users through
30 rolled-in rates; ~~an applicant is obligated under this subparagraph only if the~~
31 ~~rolled-in rates would increase the rates~~

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

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

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

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

30 (D) may, for the recovery of mainline capacity expansion costs,
31 including fuel costs, that, under rolled-in rate treatment, would result in rates

1 that exceed the level in (B) of this paragraph, propose and support the recovery
 2 of those costs through any combination of incremental and rolled-in rates;
 3 (E) will not enter into a negotiated rate agreement that would
 4 preclude the applicant from collecting from any shipper, including a shipper
 5 with a negotiated rate agreement, the rolled-in rates that are required to be
 6 proposed and supported by the applicant under (B) of this paragraph or the
 7 partial rolled-in rates that are required to be proposed and supported by the
 8 applicant under (C) of this paragraph;

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

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

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

29 (11) describe the means for preventing or managing cost overruns for
 30 the proposed project, and the measures for minimizing the effect from any overruns;

31 (12) commit to provide a minimum of five delivery points of natural

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1 gas in this state;

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

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

9 (15) to the extent permitted by law, commit to

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

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

14 (C) establish hiring facilities or use existing hiring facilities in
15 the state; and

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

19 (16) waive the right to appeal the issuance of a license to another
20 applicant or to appeal the determination under AS 43.90.180(b) that no application
21 merits the issuance of a license;

22 (17) commit to negotiate, before construction, a project labor
23 agreement; in this paragraph, "project labor agreement" means a comprehensive
24 collective bargaining agreement between the licensee or its agent and the appropriate
25 labor representatives to ensure expedited construction with labor stability for the
26 project by qualified residents of the state;

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

30 (19) provide a detailed description of the applicant and other entities
31 participating with the applicant in the application and the project proposed by the

1 applicant; and persons the applicant intends to involve in the construction and
2 operation of the proposed project; the description must include the nature of the
3 affiliation for each person, the commitments by the person to the applicant, and other
4 information relevant to the commissioners' evaluation of the readiness and ability of
5 the applicant to complete the project presented in the application; and

6 (20) otherwise demonstrate the readiness and ability to perform the
7 activities specified in the application, including following the detailed work plan,
8 timeline, and operation within the associated budget.

9 **Sec. 43.90.140. Initial application review; additional information requests;
10 complete applications.** (a) The commissioners shall review each application filed
11 under AS 43.90.130 to determine whether it is consistent with the terms of the request
12 for applications and meets the requirements in AS 43.90.130. The commissioners shall
13 reject an application that does not meet the terms of the request for applications or the
14 requirements in AS 43.90.130.

15 (b) The commissioners may request additional information relating to the
16 application.

17 (c) ~~If, within the time specified by the commissioners, the applicant fails to~~
18 ~~provide the additional information requested under (b) of this section, or submits~~
19 ~~additional information that is not responsive, the application shall be rejected.~~

20 (d) ~~For an application not rejected under this section, the commissioners shall~~
21 ~~make a determination that the application, including any requested additional~~
22 ~~information is complete.~~

23 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the
24 request of the applicant, information submitted under this chapter that the applicant
25 identifies and demonstrates is proprietary or is a trade secret is confidential and not
26 subject to public disclosure under AS 40.25, unless the applicant is granted a license
27 under this chapter. After a license is awarded, all information submitted by the
28 licensee under this chapter, and retained for the purposes of this chapter, shall be made
29 public.

30 (b) If the commissioners determine that the information submitted by the
31 applicant is not proprietary or is not a trade secret, the commissioners shall notify the

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applicant and return the information at the request of the applicant.

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(c) An applicant that challenges the award of a license or the process for making the award shall be considered to have consented to the disclosure of all of the information submitted under this chapter by the applicant making challenge, including information held confidential under (a) of this section.

(d) In this section, "proprietary" means that the information is treated by the applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant, or materially diminish the commercial value of the information to the applicant.

Sec. 43.90.160. Notice, review, and comment. (a) The commissioners shall publish notice and provide a 60-day period for public review and comment on all applications determined complete under AS 43.90.140.

(b) Applications received under this chapter are not subject to public disclosure under AS 40.25 until the commissioners publish notice under this section. However, information that the commissioners have determined is confidential under AS 43.90.150 may not be made public even after the notice is published under (a) of this section, except as provided in AS 43.90.150. If information is held confidential under AS 43.90.150, the applicant shall provide a summary of the confidential information that is satisfactory to the commissioners, and the commissioners shall make the summary of the confidential information available to the public.

(c) Information provided by an applicant to the commissioners under this chapter, including information determined by the commissioners to be confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal analyst who serves as head of the legislative finance division, agents and contractors of the legislative auditor and the fiscal analyst, and members of the legislature, on request and after the individual making the request signs a confidentiality agreement prepared by the commissioners.

Sec. 43.90.170. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.140, consider public comments received under AS 43.90.160(a), and rank each application according to the net present value of the anticipated cash flow to the state from the

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1 applicant's project proposal using the factors in (b) of this section and weighted by the
2 project's likelihood of success based on the commissioners' assessment of the factors
3 listed in (c) of this section.

4 (b) When evaluating the net present value of anticipated cash flow to the state
5 from the applicant's project proposal, the commissioners shall use an undiscounted
6 value and, at a minimum, discount rates of two, ^{Five}~~six~~, and eight percent, and consider

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

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

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

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

15 (5) ^{original v M, pg 11, line 16-17} other factors found by the commissioners to be relevant to the
16 evaluation of the net present value of the anticipated cash flow to the state, including
17 the value of state income tax or equivalent payment in lieu of tax and supplemental
18 profit-sharing to the state if contractually stipulated.

19 (c) When evaluating the project's likelihood of success, the commissioners
20 shall consider

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

26 (2) the financial resources of the applicant;

27 (3) the ability of the applicant to comply with the proposed
28 performance schedule;

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

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1 (5) the applicant's record of

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

3 (B) integrity and good business ethics; and

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

6 (d) In this section, "net present value" means the discounted value of a future
7 stream of cash flow.

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

14 (1) issue a determination, with written findings addressing the basis for
15 the determination; the determination becomes a final agency action in accordance with
16 AS 43.90.190;

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

19 (3) submit the determination along with the findings, supporting
20 documentation, and a copy of the notice published under (2) of this subsection to the
21 presiding officer of each house of the legislature for action as provided in
22 AS 43.90.190.

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

28 (c) The commissioners' determination under this (b) of this section is a final
29 agency action. (d) ~~(deleted)~~ w/in 90 days

30 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the
31 presiding officer of each house of the legislature receives a determination from the

1 commissioners under AS 43.90.180, the rules committee of each house of the
2 legislature shall introduce a bill in the committee's respective chamber that provides
3 for the approval of the license proposed to be issued by the commissioners.

4 (b) If a bill approving the issuance of the license passes the legislature within
5 90 days after the last date a presiding officer receives a determination by the
6 commissioners under AS 43.90.180, the commissioners shall issue the license as soon
7 as practicable after the effective date of the Act approving the issuance of the license.

8 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after
9 the end of a special session or after the end of a regular session of a legislature, a bill
10 introduced under (a) of this section that is not passed or not withdrawn, defeated,
11 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or
12 special legislative session convened during the 90-day period described in (b) of this
13 section in the same reading or status it was in at the time of adjournment. However, a
14 bill introduced under (a) of this section may not be carried over to the first regular
15 session of a legislature.

16 (d) If the legislature fails to approve the issuance of the license, the
17 commissioners

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

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

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

21 (a) A licensee that is awarded a certificate of public convenience and necessity from a
22 regulatory agency with jurisdiction over the project shall accept the certificate when
23 all rights of administrative appeal relating to the certificate have expired.

24 (b) If at the time the certificate is awarded, the licensee has credit support
25 sufficient to finance construction of the project through ownership of rights to produce
26 and market gas resources, firm transportation commitments, or government financing
27 the licensee shall sanction the project within one year after the effective date of the
28 certificate of public convenience and necessity issued by the regulatory agency with
29 jurisdiction over the project.

30 (c) If at the time the certificate is awarded, the licensee does not have credit
31 support sufficient to finance construction of the project through ownership of rights to

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1 produce and market gas resources, firm transportation commitments, or government
2 financing, the licensee shall sanction the project within five years after the effective
3 date of the certificate of public convenience and necessity issued by the regulatory
4 agency with jurisdiction over the project.

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

7 (1) seek approval from the Federal Energy Regulatory Commission or
8 the Regulatory Commission of Alaska, as applicable, to abandon to the state or the
9 state's designee; and

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

14 (e) The transfer of any certificate of public convenience and necessity or
15 transfer under (d) of this section as a result of failure to comply with (a), (b) ^{or} (c) of
16 this section is at no cost to the state or the state's designee.

17 (f) In this section, "~~time the certificate is awarded~~" means the date after which
18 all rights of administrative appeal relating to the certificate have expired.

19 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
20 to the approval of the commissioners, a licensee may amend or modify its project plan
21 if the amendments or modifications improve the net present value of the project to the
22 state, are necessary because of an order issued by the Alaska Oil and Gas

23 Conservation Commission, or are necessary as a result of changed circumstances
24 outside the licensee's control and not reasonably foreseeable before the license was
25 issued. An amendment or modification approved under this section must be consistent
26 with the requirements in AS 43.90.130 and, except for an amendment or modification
27 required because of an order by the Alaska Oil and Gas Conservation Commission, may not
28 diminish the net present value to the state of the project or the likelihood of success for
29 the project.

30 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A
31 licensee shall maintain complete and accurate records of all expenditures and

* The transfer under (c) of this section is at the licensee's net cost.

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1 commitments of state contributions received under this chapter, including receipts and
2 records showing the payment or cost of purchased items and services, the names and
3 addresses of the sellers and service providers, and the dates of service or delivery.

4 (b) Upon reasonable notice, the commissioners may audit the records, books,
5 and files of the entity receiving the state money or making the expenditures and
6 commitments under this chapter.

7 (c) With respect to information relating to the project, the commissioners may
8 ~~conduct hearings or other investigative inquiries, compel the attendance of witnesses,~~
9 ~~and production of documents, and require the licensee to furnish information and~~
10 ~~documents relating to the project in hard copy or electronic format.~~

11 (d) After a license has been issued and ~~so long as the terms of the license~~
12 ~~continue to apply~~, the licensee shall allow the commissioners to ^{until commencement of commercial #36 ✓}
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13 (1) have a representative present at all meetings of the licensee's
14 governing body and meetings of equity holders that relate to the project;

15 (2) receive all relevant notices and information sent to the governing
16 body and equity holders;

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

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

21 (e) A licensee shall maintain the records and reports required under this
22 section for seven years from the date the licensee receives state money under this
23 chapter.

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

26 (1) committed money received from the state under this chapter for an
27 expenditure that is not a qualified expenditure under AS 43.90.110;

28 (2) substantially departed from the specifications set out in the
29 application without state approval of a project plan amendment or modification under
30 AS 43.90.210;

31 (3) violated any provision of this chapter or any other provision of

1 state or federal law material to the license; or

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

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

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

10 (d) If the commissioners and the licensee are unable to resolve the violation
11 within the time specified in (b) of this section, the commissioners shall provide the
12 licensee with notice that the violation has not been cured and provide the opportunity
13 for the licensee to be heard. If after notice and hearing the commissioners determine
14 that the violation has not been cured, the commissioners shall issue a written decision
15 that is a final administrative action for purposes of appeal to the superior court in the
16 state.

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

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

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

23 (3) license revocation;

24 (4) assignment to the state or the state's designee of all project data,
25 engineering designs, contracts, permits, and other data relating to the project that are
26 acquired by the licensee during the term of the license; and

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

28 (f) If the license is revoked under (e) of this section, the licensee

29 (1) may not submit an application for the license in the event a request
30 for applications is issued under AS 43.90.120 after the date of revocation; and

31 (2) shall deliver to the state, all project data, engineering designs,

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Amendment #38 ✓

contracts, rights-of-way, and other work product of the licensee that is related to the licensed project.

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

(b) If the commissioners or the licensee determine the project is uneconomic and the other party disagrees, the disagreement shall be settled by arbitration administered by the American Arbitration Association under the substantive and procedural laws of this state, and judgment on the award rendered by the arbitrators may be entered in a superior court in the state. In the event of arbitration, each party shall select an arbitrator from the American Arbitration Association's National Roster and the two arbitrators shall appoint a third arbitrator from the American Arbitration Association's National Roster who shall serve as the chair of the three-member arbitration panel. If the arbitration panel determines that the project is

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

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

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

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

(2) predicted costs of transportation at a 100 percent load factor, when deducted from predicted gas sales revenue using publicly available predictions of future gas prices, would result in a producer rate of return that is below the rate typically accepted by a prudent oil and gas exploration and production company for

Amendment #31

subjective

objective

1 incremental upstream investment that is required to produce and deliver gas to the
2 project.

3 (d) In an appeal of a final determination rendered by the arbitrators under (b)
4 of this section, the person making the appeal has the burden of proof.

5 (e) If the state makes a payment to the licensee under AS 43.90.440, the
6 license is considered abandoned, and the state and the licensee no longer have any
7 obligations under this chapter with respect to the license, except that the licensee must
8 comply with the

9 (1) requirements imposed on the licensee under AS 43.90.220
10 regarding state money received by the licensee before the license was considered
11 abandoned; and

12 (2) requirements of AS 43.90.440.

13 (f) If the commissioners and the licensee agree that the project is uneconomic
14 or an arbitration panel makes a final determination that the project is uneconomic, the
15 licensee shall deliver to the state or the state's designee all engineering designs,
16 contracts, permits, and other data relating to the project that are acquired by the
17 licensee during the term of the license upon reimbursement by the state of the net
18 amount of expenditures incurred and paid by the licensee that are qualified
19 expenditures for the purposes of AS 43.90.110.

20 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is
21 created in the office of the governor the position of Alaska Gasline Inducement Act
22 coordinator. Administrative support for the position shall be provided by the office of
23 the governor. The position shall continue until one year after commencement of
24 commercial operations of the project.

25 (b) The governor shall appoint a person to the position of Alaska Gasline
26 Inducement Act coordinator. The initial appointment is subject to confirmation by the
27 legislature and an appointment is subject to reconfirmation by the legislature during
28 the first regular legislative session after a general election at which a governor is
29 elected. The individual serving as the Alaska Gasline Inducement Act coordinator may
30 be removed from the position at the discretion of the governor.

31 (c) The Alaska Gasline Inducement Act coordinator is entitled to receive an

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1 annual salary equal to Step A, Range 28, of the salary schedule set out in
2 AS 39.27.011(a) for Juneau.

3 (d) The Alaska Gasline Inducement Act coordinator shall, in conjunction with
4 the commissioners,

5 (1) coordinate expeditious performance of all activities by state
6 agencies for the project;

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

9 (3) coordinate with the Office of the Federal Coordinator for Alaska
10 Natural Gas Transportation Projects (29 U.S.C. 720d) for natural gas transportation
11 projects in the state.

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

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

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

25 **Article 3. Resource Inducement.**

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

1 the first binding open season of the project. The inducement in AS 43.90.310 is
2 contractual.

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

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

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

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

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

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

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

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

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

1 actions do not unreasonably

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

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

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

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

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

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

24 (2) to enter into a contract with the state that amends the existing lease
25 terms by

26 (A) extending the required period of notice that the state must
27 provide before exercising the state's right to switch between taking its royalty
28 in value or in kind for gas committed for firm transportation in the first binding
29 open season of the project; or

30 (B) eliminating the ability of the state to take its royalty in kind
31 for gas in the quantity and volume committed to the firm transportation

Relevant Amend no. 6 to #44 Rule

Do not delete

amendment #42 withdrawn

1 capacity acquired during the first binding open season of the project, if the
 2 person entitled to this election agrees to provide gas for in-state residential and
 3 commercial uses at the delivery points described in the license at the same
 4 value as would be received by the state if the state receives its royalty in value
 5 with the corresponding distance-sensitive transportation charges; if the lessee
 6 or other person exercising this election fails to adequately supply the in-state
 7 gas requirements, after reasonable notice, or if the contract effectively prevents
 8 the state from exercising its rights with other lessees to switch between taking
 9 its royalty in value or in kind because of various unit agreements among
 10 lessees, the election is considered to terminate, and the provisions of the
 11 original lease relating to the state's taking its royalty gas in kind or in value
 12 apply.

13 (c) To claim the inducement under (b) of this section, a lessee or other
 14 qualified person shall agree, on an application form provided by the Department of
 15 Natural Resources, that the lessee or person, and the lessee's or person's affiliates,
 16 successors, assigns, and agents will not protest or appeal a filing by the licensee to roll
 17 in expansion costs of the mainline up to a level that is required in AS 43.90.130(7).
 18 The agreement not to protest may not preclude the lessee or other qualified person, or
 19 the affiliates, successors, assigns, and agents of the lessee or other qualified person,
 20 from protesting a filing to roll in mainline expansion costs that licensee is not required
 21 to propose and support under AS 43.90.130(7).

22 (d) The commissioner of natural resources shall provide for review of the
 23 regulations adopted under (a) of this section at least every two years after the
 24 commencement of commercial operations to determine whether the regulations
 25 continue to minimize retroactive adjustments to the monthly value of the state's
 26 royalty share of gas production under current conditions; the commissioner shall
 27 amend the regulations when the requirement is not being met.

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

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

9 (b) The exemption under this section may be applied within the 1 years
 10 immediately following commencement of commercial operations and only applied to
 11 production taxes that are levied on North Slope gas shipped through firm
 12 transportation capacity the person acquired during the first binding open season or
 13 shipped in the firm transportation capacity described in a voucher received by the gas
 14 producer under AS 43.90.330.

15 (c) The person claiming the exemption under this section shall agree that the
 16 person and the person's affiliates, successors, assigns, and agents will not protest or
 17 appeal a filing by the licensee to roll in mainline expansion costs up to the level that
 18 the licensee is required to propose and support under AS 43.90.130(7); the agreement
 19 required under this subsection may not preclude the person or the person's affiliates,
 20 successors, assigns, and agents, from protesting a filing to roll in mainline expansion
 21 costs that the licensee is not required to propose and support under AS 43.90.130(7).

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

28 (b) A voucher issued by the commissioners under this section entitles the
 29 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for
 30 gas shipped in the firm transportation capacity acquired by the person applying for the
 31 voucher during the first binding open season of the project and described in the

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1 voucher. The voucher may be transferred to a gas producer that has a binding
2 obligation to sell gas to the person transferring the voucher under a gas purchase
3 agreement.

4 (c) A gas producer holding a voucher may claim the resource inducements for
5 gas shipped through the firm transportation capacity described in the voucher and only
6 on gas that is produced and delivered to the purchaser on the North Slope. A gas
7 producer may claim the resource inducements under this subsection until the earlier of
8 the termination of the binding gas purchase agreement or the expiration of the
9 inducements by operation of law.

10 Article 4. Miscellaneous Provisions.

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

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

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

27 (d) Within 10 days after the convening of each regular session of the
28 legislature, the commissioners shall submit to the legislature a report that lists the
29 disbursements from the fund during the preceding fiscal year with a written
30 justification for each disbursement and the projected amount of money that will be
31 required for contributions in each of the next three fiscal years.

1 **Sec. 43.90.410. Regulations.** The commissioner of revenue may adopt
2 regulations on behalf of the commissioners for the purpose of implementing the
3 provisions of this chapter. The commissioner of revenue and the commissioner of
4 natural resources may change regulations adopted under authority outside of this
5 chapter as necessary to implement the provisions of this chapter.

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

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

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

31 (b) In this section,

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

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

5 (A) the state's exercise of its right to resolve disputes involving

6 royalties and taxes;

7 (B) the state's exercise of its right to modify royalties as

8 authorized by law in effect on the effective date of this section; or

9 (C) the benefits of a large project permit coordinator authorized

10 by a law in effect on the effective date of this section.

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

16 (1) the transfer is approved in writing in advance by the
17 commissioners; and

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

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

25 (c) A person may transfer that person's rights to the royalty inducement under
26 AS 43.90.310 and the gas production tax exemptions under AS 43.90.320 only in
27 connection with a sale or merger that results in transfer of all the person's assets in the
28 North Slope of this state, along with the person's firm transportation capacity contracts
29 in the project.

30 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),
31 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of

1 firm transportation capacity in the first binding open season of the project may transfer
2 the voucher only if the transfer is in connection with the permanent assignment by the
3 person of 100 percent of the firm transportation capacity acquired in the first binding
4 open season of the project.

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

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

12 **Article 5. General Provisions.**

13 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
14 requires,

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

18 (2) "Alaska Gasline Inducement Act coordinator" and "coordinator"
19 means the person appointed under AS 43.90.250;

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

22 (4) "commissioners" means the commissioner of revenue and the
23 commissioner of natural resources;

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

28 (6) "equity holder" means the

29 (A) stockholders of a corporation;

30 (B) members of a limited liability company;

31 (C) partners of a partnership;

- 1 (D) joint venturers of a joint venture;
- 2 (E) members of a governmental authority and similar persons;
- 3 or
- 4 (F) holders of any other entity or person;
- 5 (7) "gas processing" means the treatment of gas downstream of the
- 6 point of production to extract natural gas liquids;
- 7 (8) "governing body" means a corporation's board of directors, a
- 8 limited liability company's managing members, a partnership's general partners, a joint
- 9 venturer's joint venturers, a governmental authority's board or council members, and
- 10 similar entities;
- 11 (9) "lease" means an oil and gas or gas lease issued by this state;
- 12 (10) "lessee" means a person that holds a working interest in an oil and
- 13 gas or gas lease issued by this state;
- 14 (11) "license" means a license issued under this chapter;
- 15 (12) "licensee" means the holder of a license issued under this chapter
- 16 and all affiliates, successors, assigns, and agents of the holder;
- 17 (13) "North Slope" means that part of the state that lies North of 68
- 18 degrees North latitude;
- 19 (14) "North Slope gas" means natural gas produced on the North
- 20 Slope;
- 21 (15) "open season" means the process that complies with 18 C.F.R.
- 22 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects);
- 23 (16) "project" means a natural gas pipeline project authorized under a
- 24 license issued under this chapter;
- 25 (17) "recourse rates" means cost-based rates with a minimum and
- 26 maximum range that are approved by the Federal Energy Regulatory Commission, the
- 27 Regulatory Commission of Alaska, or the National Energy Board of Canada, as
- 28 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those
- 29 rates that the pipeline must make available to all shippers;
- 30 (18) "sanction" means financial commitments to go forward with the
- 31 project as evidenced by entering into financial commitments of at least

1 \$1,000,000,000 with third parties;

2 (19) "under common control with" has the meaning given "control" in
3 this section;

4 (20) "unit agreement" means an agreement executed by the working
5 interest owners and royalty owners creating the unit.

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

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

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

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

13 (41) the Alaska Gasline Inducement Act coordinator appointed under
14 AS 43.90.250.

15 * **Sec. 4.** AS 40.25.120(a) is amended to read:

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

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

20 (2) records pertaining to juveniles unless disclosure is authorized by
21 law;

22 (3) medical and related public health records;

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

25 (5) to the extent the records are required to be kept confidential under
26 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
27 or retain federal assistance;

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

30 (A) could reasonably be expected to interfere with enforcement
31 proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (12) records that are

9 (A) proprietary or a trade secret in accordance with
10 AS 43.90.150;

11 (B) applications that are received under AS 43.90.120 -
12 43.90.140 until notice is published under AS 43.90.160.

13 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

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

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

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

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

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

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*** Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).