

**HB**

**369**

# SENATE COMMITTEE REPORT

DATE: 3/25/10

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

**Resources Committee** considered CS FOR HOUSE BILL NO. 369(FIN) am

## HB 369 IN-STATE PIPELINE/ MANAGER/TEAM

"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project manager, and the Joint In-State Gasline Development Team; requiring the development of an in-state natural gas pipeline plan, to be delivered to the legislature by July 1, 2011, that provides for a gasline that is operational by December 31, 2015; directing the Joint In-State Gasline Development Team to assume responsibilities under sec. 19, ch. 14, SLA 2009; requiring expedited review and action by state agencies or entities relating to the in-state natural gas pipeline project; and providing for an effective date."

and recommends:

- be replaced with  SCS or  CS HB 369 (RES)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
<hr/>	
<b>HOUSE BILL:</b>	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

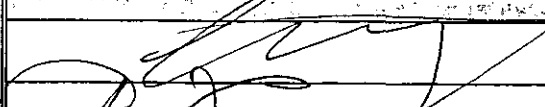
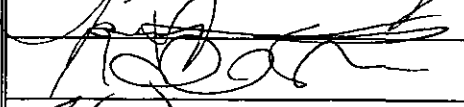
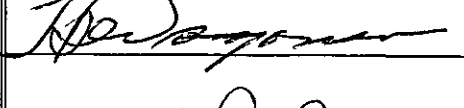
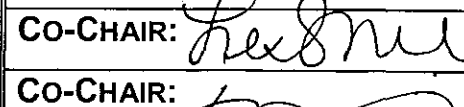
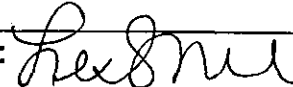
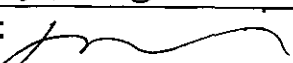
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
GOV	04/10	✓			

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC.	AMEND
	HUGGINS	✓			
	SEBORA			✓	
	FRESE			✓	
	WAGNER			✓	
CO-CHAIR: 	McBrine	✓			
CO-CHAIR: 	Wielechowski			✓	

26-LS1527W  
Cook  
4/9/10

**SENATE CS FOR CS FOR HOUSE BILL NO. 369(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES CHENAULT, Ramras, Olson, Johnson, Austerman, Hawker, Petersen,  
Lynn, Neuman, Millett, Muñoz**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project**  
2 **coordinator, and the Joint In-State Gasline Development Team; requiring the**  
3 **development of an in-state natural gas pipeline plan, to be delivered to the legislature by**  
4 **July 1, 2011, that provides for a natural gas pipeline that is operational by December 31,**  
5 **2015; directing the Joint In-State Gasline Development Team to assume responsibilities**  
6 **under sec. 19, ch. 14, SLA 2009; requiring expedited review and action by state agencies**  
7 **or entities relating to the in-state natural gas pipeline project; clarifying the purpose of**  
8 **the Alaska Natural Gas Development Authority; relating to definitions of certain terms**  
9 **that relate to a project that may be developed by the Alaska Natural Gas Development**  
10 **Authority; authorizing the Alaska Natural Gas Development Authority to issue bonds**  
11 **for energy projects; and providing for an effective date."**

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

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

3           **LEGISLATIVE FINDINGS AND PURPOSE.** (a) The legislature finds that

4                   (1) by 2018, declining oil flow through the Trans Alaska Pipeline System will  
5 seriously diminish state revenue;

6                   (2) Cook Inlet natural gas reserves are depleting at a rate that could cause  
7 significant short-term shortages for residential and commercial gas users in Southcentral  
8 Alaska by 2013;

9                   (3) a proposed natural gas pipeline to deliver North Slope gas reserves to the  
10 North American domestic gas pipeline grid at a connection in central Alberta will not produce  
11 revenue for the benefit of the state before 2020;

12                   (4) the state's significant reserves of natural gas should be made available on a  
13 priority basis in the state to enhance employment opportunities, expand the state's economy,  
14 and supply a significant portion of community energy needs;

15                   (5) the Alaska Railroad Corporation is a public corporation charged with  
16 promoting economic development in the state, enjoys unique authority, and may issue  
17 revenue bonds to finance construction of a natural gas pipeline;

18                   (6) the Alaska Natural Gas Development Authority is studying a pipeline spur,  
19 aggregating in-state demand for natural gas, and facilitating delivery of natural gas and  
20 natural gas liquids to Alaskans; and

21                   (7) in light of competing demands for future uses of the state's North Slope  
22 natural gas reserves, an aggressive effort involving planning, permitting, and coordination of  
23 information sharing, of necessary agreements and commitments, and commercial negotiations  
24 among interested parties is necessary for completion of construction of an in-state natural gas  
25 pipeline that will provide significant direct benefit to the people of the state at the earliest  
26 possible date.

27           (b) It is the purpose of sec. 4 of this Act

28                   (1) to give general direction to the Joint In-State Gasline Development Team  
29 to plan and develop construction of a high pressure in-state natural gas pipeline sufficient to  
30 provide for the distribution of natural gas for residential and commercial purposes at locations  
31 along the pipeline route; and

1 (2) to direct the executive director of the Alaska Housing Finance Corporation  
2 to oversee all aspects of the project described in sec. 4 of this Act.

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

4 Sec. 18.56.086. **Creation of subsidiaries.** The corporation may create  
5 subsidiary corporations for the purpose of financing or facilitating the financing of  
6 school construction, facilities for the University of Alaska, facilities for ports and  
7 harbors, prepayment of all or a portion of a governmental employer's share of  
8 unfunded accrued actuarial liability of retirement systems, or other capital projects. A  
9 subsidiary corporation may also be created for the purpose of planning,  
10 constructing, and financing in-state natural gas pipeline projects or for the  
11 purpose of aiding in the planning, construction, and financing of in-state natural  
12 gas pipeline projects. A subsidiary corporation created under this section may be  
13 incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of  
14 the corporation to a subsidiary created under this section. A subsidiary created under  
15 this section may borrow money and issue bonds as evidence of that borrowing, and  
16 has all the powers of the corporation that the corporation grants to it. However, a  
17 subsidiary created for the purpose of financing or facilitating the financing of  
18 prepayment of a governmental employer's share of unfunded accrued actuarial liability  
19 of retirement systems may borrow money and issue bonds only if the state bond rating  
20 is the equivalent of AA- or better and subject to AS 37.15.903. A subsidiary  
21 corporation created for the purpose of planning, constructing, and financing in-  
22 state natural gas pipeline projects or for the purpose of aiding in the planning,  
23 construction, or financing of in-state natural gas pipeline projects is exempt from  
24 AS 36.30, including AS 36.30.015(d) and (f). Unless otherwise provided by the  
25 corporation, the debts, liabilities, and obligations of a subsidiary corporation created  
26 under this section are not the debts, liabilities, or obligations of the corporation.

27 \* Sec. 3. AS 36.30.850(b) is amended by adding a new paragraph to read:

28 (48) a subsidiary of the Alaska Housing Finance Corporation created  
29 under AS 18.56.086 for the purpose of planning, financing, or constructing in-state  
30 natural gas pipeline projects or for the purpose of aiding in the planning, financing, or  
31 constructing of in-state natural gas pipeline projects.

1 \* **Sec. 4.** AS 38 is amended by adding new sections to read:

2 **Chapter 34. In-State Natural Gas Pipeline.**

3 **Sec. 38.34.010. In-state gasline project coordinator.** (a) The position of in-  
4 state gasline project coordinator is created in the Office of the Governor. The Office of  
5 the Governor shall provide administrative support for the position. The position shall  
6 continue until one year after commencement of commercial operation of the in-state  
7 natural gas pipeline.

8 (b) The governor shall appoint an individual to the position of in-state gasline  
9 project coordinator. The coordinator is in the exempt service under AS 39.25.110. The  
10 person serving as the in-state gasline project coordinator may be removed from the  
11 position at the discretion of the governor, who shall appoint another person to the  
12 position.

13 (c) The in-state gasline project coordinator shall collaborate with other state  
14 agencies to coordinate and facilitate the provisions of AS 38.34.020.

15 **Sec. 38.34.020. Expedited review and action by state agencies or entities.**

16 (a) A state agency or entity conducting a review or taking action relating to the in-state  
17 natural gas pipeline project under this chapter shall expedite the review or action in a  
18 manner consistent with the timely completion of the project.

19 (b) Notwithstanding any contrary provision of law, a state agency or entity  
20 may not include in any project certificate, right-of-way, permit, or other authorization  
21 a term or condition that is not required by law if the in-state gasline project  
22 coordinator determines that the term or condition would prevent or impair, in any  
23 significant respect, the expeditious construction and operation or expansion of the in-  
24 state natural gas pipeline project.

25 (c) Unless required by law, a state agency or entity may not add to, amend, or  
26 abrogate any certificate, right-of-way, permit, or other authorization if the in-state  
27 gasline project coordinator determines that the action would prevent or impair, in any  
28 significant respect, the expeditious construction, operation, or expansion of the in-state  
29 natural gas pipeline project.

30 **Sec. 38.34.030. Joint In-state Gasline Development Team.** (a) The Joint In-  
31 State Gasline Development Team is established in the Alaska Housing Finance

1 Corporation. The development team consists of five members as follows:

2 (1) the commissioner of transportation and public facilities, or the  
3 commissioner's designee;

4 (2) the chair of the board of directors of the Alaska Railroad  
5 Corporation or the chair's designee;

6 (3) the chief executive officer of the Alaska Natural Gas Development  
7 Authority;

8 (4) the in-state gasline project coordinator; and

9 (5) the executive director of the Alaska Housing Finance Corporation.

10 (b) The executive director of the Alaska Housing Finance Corporation is the  
11 chair of the development team.

12 (c) The development team may hire staff, enter into contracts, and exercise  
13 other powers necessary to carry out its functions. The development team shall  
14 separately account for expenditures made to carry out its functions and submit to the  
15 legislature a quarterly report of those expenditures. The development team shall also  
16 submit to each member of the legislature monthly updates on the progress of the in-  
17 state natural gas pipeline project.

18 **Sec. 38.34.040. Duties of the development team.** (a) The Joint In-State  
19 Gasline Development Team shall produce a project plan for the development of an in-  
20 state natural gas pipeline that is compatible but not competitive with the project  
21 described in and authorized by AS 41.41 or the project described in and authorized by  
22 AS 43.90. The development team shall ensure that the project plan is completed and  
23 delivered to the legislature by July 1, 2011. The project plan must specify and  
24 document how an in-state natural gas pipeline can be designed, financed, constructed,  
25 and made operational by December 31, 2015.

26 (b) The Joint In-State Gasline Development Team shall assume executive  
27 authority over and managerial responsibility for all activities enumerated under sec.  
28 19, ch. 14, SLA 2009, including work previously completed, work in process, and  
29 work for which money has been encumbered but that is not completed on the effective  
30 date of this subsection.

31 (c) The project plan must include specific plans to coordinate and facilitate

1 construction, ownership, operation, and management of a natural gas pipeline serving  
2 Fairbanks, the southcentral region of the state, and other communities whenever  
3 practicable, connecting with or enhancing the existing gas pipeline system, and  
4 reaching to tidewater in the Southcentral region of the state.

5 (d) The development team's work product shall include an analysis of  
6 alternative possible routes and the selection of a route that, consistent with the other  
7 requirements of this section,

8 (1) is economically feasible;

9 (2) makes natural gas available to residents at the lowest possible cost;

10 (3) allows for connecting lines to serve industrial, residential, and  
11 utility customers along the entire route, and in other regions of the state that can be  
12 served at commercially feasible rates;

13 (4) uses state land and existing state highway and railroad rights-of-  
14 way to the maximum extent feasible;

15 (5) uses existing highway and railroad bridges, gravel sources,  
16 equipment yards, maintenance facilities, and other existing facilities and resources to  
17 the maximum extent feasible.

18 (e) With the intent that any project-related assets acquired or developed be  
19 available for transfer or sale to the entity best able to complete the project, the  
20 development team shall

21 (1) prepare plans and designs necessary for construction of the in-state  
22 natural gas pipeline project;

23 (2) coordinate with entities qualified to build, own, and operate the  
24 natural gas pipeline;

25 (3) identify, apply for, and obtain rights-of-way and other permits for  
26 the project route;

27 (4) work with other entities to promote gas supply and purchase  
28 contracts required for the project to be commercially viable;

29 (5) prepare cost estimates for the project design, construction, and  
30 operation to determine the project's economic feasibility and the projected cost of  
31 natural gas to consumers;

1 (6) coordinate with and, to the fullest extent possible, use existing  
2 work by other state agencies and entities before contracting for new reports and  
3 research and analysis;

4 (7) determine regulatory authority over the pipeline project and  
5 perform any necessary compliance requirements;

6 (8) identify and apply for, or support extension of, existing permits for  
7 export of Alaska natural gas if that export improves project economics and will reduce  
8 the price of natural gas to in-state consumers.

9 (f) Notwithstanding any other provision of law, any rights to a natural gas  
10 pipeline corridor obtained by a state agency under eminent domain may be transferred  
11 to a private entity.

12 (g) Notwithstanding any other provision of law, a state agency acquiring an  
13 interest in land by eminent domain may grant a permit authorizing a private person to  
14 construct, manage, and operate a gas pipeline over, under, along, across, or upon the  
15 land.

16 (h) In preparing the project plan required in this section, the development team  
17 may consider all aspects of the in-state natural gas pipeline project, including public,  
18 private, or joint construction alternatives, marketing of natural gas, financing  
19 alternatives for pipeline construction, procurement of natural gas from producers,  
20 maximization of local hire, opportunities for promoting value added industries, gas-to-  
21 liquids manufacturing opportunities, production and delivery of liquefied natural gas  
22 or propane to Yukon River, interior, and coastal communities, alternatives for  
23 transporting natural gas to other locations in the state, the acquisition of natural gas  
24 commitments sufficient to ensure the long-term feasibility of the in-state natural gas  
25 pipeline project, and the development of a global natural gas trading hub in the state.

26 (i) The Joint In-State Gasline Development Team shall take all action  
27 necessary to complete its responsibilities under this section.

28 **Sec. 38.34.050. Cooperation and access to information.** (a) Notwithstanding  
29 other laws, the Joint In-state Gasline Development Team may have access to  
30 information of all state agencies or entities, including confidential information, that  
31 may relate to the in-state natural gas pipeline or prove useful in planning, design,

1 construction, or operation of the pipeline. Confidential information received by the  
2 development team shall be kept confidential.

3 (b) All state agencies or entities shall cooperate with and, except for requests  
4 from the Alaska Gasline Inducement Act coordinator (AS 43.90.250), give priority to  
5 requests for information from the Joint In-state Gasline Development Team. The  
6 development team shall avoid duplicating studies, plans, and designs that have already  
7 been produced or otherwise obtained by other state entities.

8 (c) Notwithstanding any contrary provision of law, the Department of Natural  
9 Resources shall grant the Alaska Housing Finance Corporation a right-of-way lease  
10 under AS 38.35 for the gasline transportation corridor if

11 (1) the corporation submits a complete right-of-way lease application  
12 under AS 38.35.050;

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

15 (3) the corporation agrees to be bound by the right-of-way lease  
16 covenants set out in AS 38.35.120.

17 (d) Notwithstanding any contrary provision of law, a right-of-way lease  
18 granted under (c) of this section is subject to AS 38.05, except that the best interest  
19 findings requirements of AS 38.05 and the permit requirements of AS 38.05.850 do  
20 not apply to a lease made under this section.

21 **Sec. 38.34.060. Conflicts of interest.** (a) If a member of the Joint In-state  
22 Gasline Development Team acquires, owns, or controls an interest, direct or indirect,  
23 in property, an organization, or a business that might be affected by the in-state natural  
24 gas pipeline project or other matter under consideration by the development team, the  
25 member shall immediately disclose the interest to the development team. The  
26 disclosure is a matter of public record and shall be included in the minutes of the first  
27 meeting of the development team held after the disclosure.

28 (b) The members of the development team are subject to AS 39.50 and  
29 AS 39.52.

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

31 (1) "in-state natural gas pipeline" means a pipeline for transporting

1 natural gas that runs from the North Slope to tidewater in the state;

2 (2) "North Slope" means that area of Alaska lying north of 68 degrees  
3 North latitude.

4 \* Sec. 5. AS 39.25.110 is amended by adding a new paragraph to read:

5 (43) the in-state gasline project coordinator appointed under  
6 AS 38.34.010.

7 \* Sec. 6. AS 41.41.010(a) is amended to read:

8 (a) There is established the Alaska Natural Gas Development Authority, the  
9 purpose of which is to provide one or more of the following services and functions in  
10 order to bring natural gas from the North Slope or other regions of the state to  
11 market, including

12 (1) the acquisition and conditioning of [NORTH SLOPE] natural gas;

13 (2) the design and construction of the pipeline system;

14 (3) the operation and maintenance of the pipeline system;

15 (4) the design, construction, and operation [,] of other facilities  
16 necessary for delivering the gas to market, including markets in the state [AND TO  
17 SOUTHCENTRAL ALASKA]; and

18 (5) the acquisition of natural gas market share sufficient to ensure the  
19 long-term feasibility of [THE] pipeline system projects [PROJECT].

20 \* Sec. 7. AS 41.41.010(d) is amended to read:

21 (d) The acquisition of natural gas from the North Slope and other regions of  
22 the state, including the Alaska outer continental shelf, and its delivery to markets  
23 in the state for use by markets in the state or to tidewater for shipment to market by  
24 the authority are [IS AN] essential government functions [FUNCTION] of the state.

25 \* Sec. 8. AS 41.41.990(3) is amended to read:

26 (3) "project" means the gas transmission pipeline, together with all  
27 related property and facilities, to extend from [THE PRUDHOE BAY AREA ON] the  
28 North Slope of Alaska or other regions of the state to a market in the state, or be  
29 available to a market in the state, and [EITHER] to tidewater at a point on Prince  
30 William Sound [AND THE SPUR LINE FROM GLENNALLEN TO THE  
31 SOUTHCENTRAL GAS DISTRIBUTION GRID] or [TO TIDEWATER AT A

1 POINT ON] Cook Inlet, and includes planning, design, and construction of the  
2 pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

3 \* Sec. 9. AS 41.41.990 is amended by adding a new paragraph to read:

4 (4) "North Slope" means that part of the state that lies north of 68  
5 degrees North latitude and includes the Brooks Range foothills.

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

8 TRANSITIONAL PROVISIONS. (a) In discharging its obligations, the Joint In-State  
9 Gasline Development Team shall

10 (1) seek letters of intent from buyers and sellers of natural gas to ship gas  
11 using the facilities of the project and, from information obtained, by February 15, 2011,  
12 define the project parameters that would allow the project to be commercially viable;

13 (2) seek letters of interest from private pipeline construction and operating  
14 companies to develop the project; the work under this paragraph should be initiated between  
15 November 15, 2010, and shall be completed by March 15, 2011;

16 (3) prepare and submit to the governor and the presiding officer of each house  
17 of the legislature, by December 15, 2010, any initial legislation necessary to advance the  
18 project;

19 (4) prepare and submit a report at each of the dates set out in (1) - (3) of this  
20 subsection to the governor, the speaker of the house of representatives, and the president of  
21 the senate.

22 (b) The parties having responsibility for contracts, permit and acquisition  
23 applications, and studies in progress on the effective date of this Act initiated or entered into  
24 by the Office of the Governor or a state agency that relate to an in-state natural gas pipeline  
25 shall transfer those obligations and initiatives to the Alaska Housing Finance Corporation.  
26 Transfer of those obligations and initiatives may not be unreasonably delayed. If the  
27 corporation forms a subsidiary under AS 18.56.086 for the purpose of planning, constructing,  
28 and financing in-state natural gas pipeline projects or for aiding those projects, the corporation  
29 shall transfer the obligations and initiatives to its subsidiary.

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

1 ALASKA NATURAL GAS DEVELOPMENT AUTHORITY: LEGISLATIVE  
2 AUTHORIZATION AND APPROVAL OF BONDS FOR NATURAL GAS PROJECTS TO  
3 ENSURE ENERGY SUFFICIENCY. (a) Subject to (b) of this section, the Alaska Natural  
4 Gas Development Authority is authorized to issue bonds under the power granted to it in  
5 AS 41.41.300 to acquire a gas supply, develop the Cook Inlet and Fairbanks markets, and  
6 plan, permit, and design gas transmission systems to mitigate gas shortfalls, the effect on  
7 consumers, and the economy of high cost energy, and ensure energy sufficiency for Alaskans.  
8 The maximum principal amount of bonds that the Alaska Natural Gas Development Authority  
9 may issue under this section is \$250,000,000. The Alaska Natural Gas Development  
10 Authority may issue the bonds in a single issuance or in several issuances, without limitation  
11 as to number of issuances or timing, and as the Alaska Natural Gas Development Authority  
12 determines best furthers the purpose of financing the projects described in this section. The  
13 Alaska Natural Gas Development Authority shall negotiate with interested parties and shall  
14 enter into agreements with interested parties to provide revenue sufficient to accomplish the  
15 purposes described in this subsection.

16 (b) Unless the issuance is approved under this subsection by law, bonds may not be  
17 issued under (a) of this section without the prior written approval of the Legislative Budget  
18 and Audit Committee. If the Legislative Budget and Audit Committee approves or fails to  
19 approve the issuance of bonds, the committee shall notify the Alaska Natural Gas  
20 Development Authority and all members of the legislature in writing. On or before the fifth  
21 day of the next session that convenes after the day notice is received by the Alaska Natural  
22 Gas Development Authority, the authority may request the legislature to approve or  
23 disapprove the bond issue by law.

24 (c) This section constitutes the approval required by AS 41.41.320 for the issuance of  
25 the bonds described in this section.

26 \* **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).

Amendment #1

**PASSED**

Offered in the Senate

By Senator McGuire

To: SCS CSHB 369 (RES), Draft Version "W"

On page 5, line 20 following "natural gas pipeline" delete:

"that is compatible but not competitive with the project described in and authorized by AS 41.41 or the project described in and authorized by AS 43.90"

On page 2, following line 31, insert new subsection:

"(2) to give general direction to the Joint In-State Gasline Development Team that, to the maximum extent practicable, the plan for development of an in-state natural gas pipeline required under AS 38.34.040 is compatible but not competitive with the projects described in AS 41.41 and AS 43.90; and"

Renumber accordingly.

Amendment #2

PASSED

Offered in the Senate

By Senator McGuire

To: SCS CSHB 369 (RES), Draft Version "W"

On page 4, line 14 following "agencies" insert:

"or entities"

PASSED

Amendment #3

Offered in the Senate

By Senator McGuire

To: SCS CSHB 369 (RES), Draft Version "W"

On page ~~X~~<sup>10</sup>, line ~~X~~<sup>24</sup> following "state agency" insert:

"or entity"

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): SCS CSHB 369(RES)-OOG-EO-4-10-10  
Title: "An Act relating to an in-state natural gas pipeline, the office of the in-state gasoline project coordinator, ...."  
Sponsor: Reps. Chenault, Ramras, Olson, Johnson, Austerman, etc.  
Requester: (S) Resources  
Dept. Affected: OOG  
RDU: Executive Operations  
Component: Executive Office  
Component Number: 6

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

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

	Appropriation Required		Information				
	FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>							
Personal Services	229.7	229.7	232.1	239.5	242.0	250.2	250.2
Travel	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Contractual	52.0	52.0	52.0	52.0	52.0	52.0	52.0
Supplies	18.0	18.0	18.0	18.0	18.0	18.0	18.0
Equipment	16.0	16.0					
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>350.7</b>	<b>350.7</b>	<b>337.1</b>	<b>344.5</b>	<b>347.0</b>	<b>355.2</b>	<b>355.2</b>

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

1002 Federal Receipts							
1003 GF Match							
1004 GF	350.7	350.7	337.1	344.5	347.0	355.2	355.2
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>350.7</b>	<b>350.7</b>	<b>337.1</b>	<b>344.5</b>	<b>347.0</b>	<b>355.2</b>	<b>355.2</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

**POSITIONS**

Full-time	2	2	2	2	2	2	2
Part-time							
Temporary							

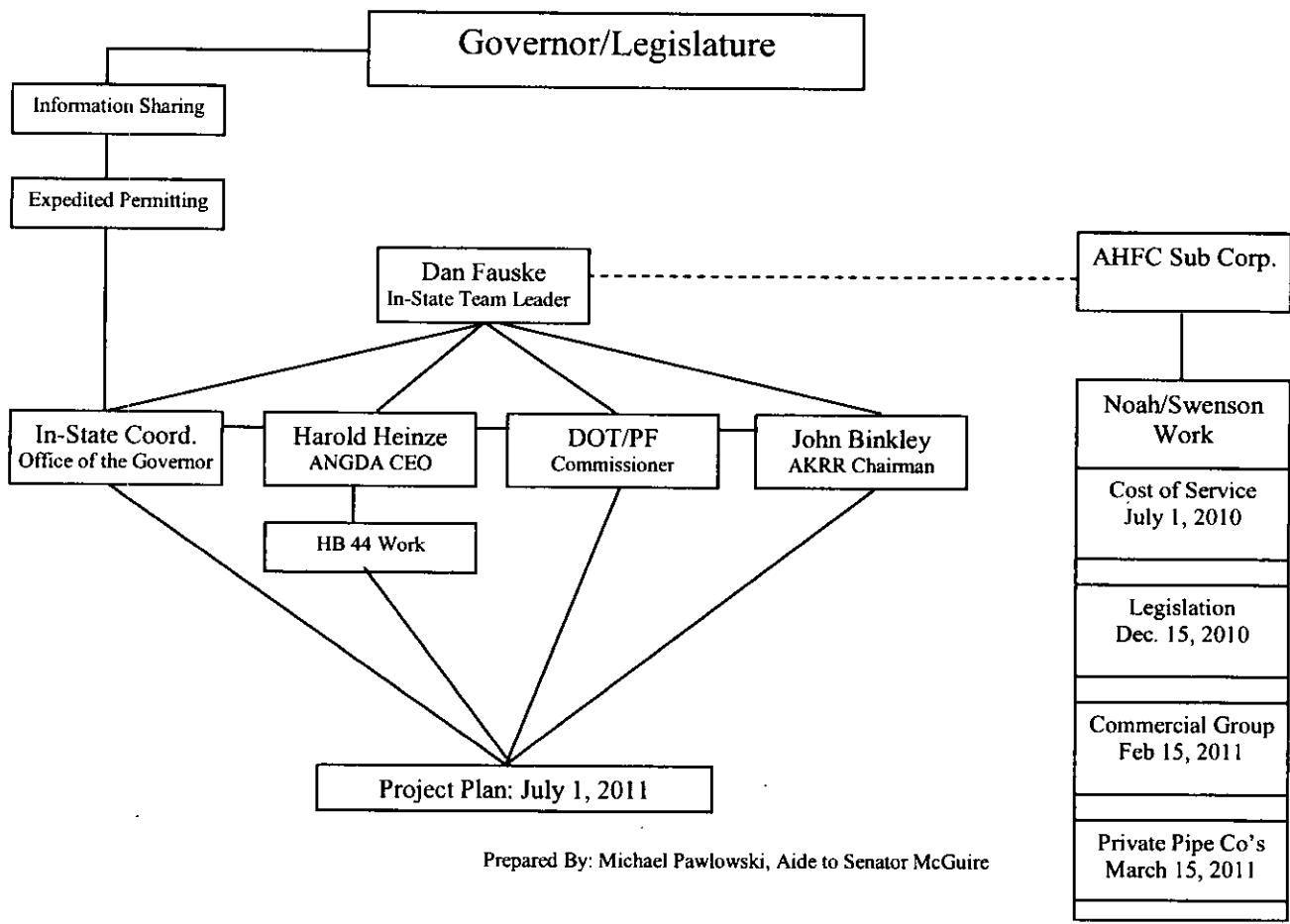
**ANALYSIS:** (Attach a separate page if necessary)

Fiscal impact consists of personal services for 2 staff: the in-state gasoline coordinator Rg 26, project assistant Rg 15; and related travel, contractual and supplies costs for in-state natural gas pipeline office activities.

Prepared by: Linda Perez, Administrative Director  
Division: Administrative Services  
Approved by: Linda Perez, Administrative Director  
Office of the Governor

Phone 465-3876  
Date/Time 4/10/10 10:30 AM  
Date 4/10/2010

### In-State Gas Pipeline Org. & Task Chart



Prepared By: Michael Pawlowski, Aide to Senator McGuire

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## REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE HOUSE

### SECTIONAL ANALYSIS

#### COMMITTEE SUBSTITUTE FOR HOUSE BILL 369 (FIN) am (Draft Version 1527\W)

*(Changes incorporated into 26-LS1527\W are highlighted and in bold)*

*"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project coordinator, the Joint In-State Gasline Development Team; requiring the development of an in-state natural gas pipeline plan, to be delivered to the legislature by July 1, 2011, that provides for a natural gas pipeline that is operational by December 31, 2015; directing the Joint In-State Gasline Development Team to assume responsibilities under sec. 19, ch. 14, SLA 2009; requiring expedited review and action by state agencies or entities relating to the in-state natural gas pipeline project; clarifying the purpose of the Alaska Natural Gas Authority; relating to definitions of certain terms that relate to a project that may be developed by the Alaska Natural Gas Development Authority; authorizing the Alaska Natural Gas Development Authority to issue bonds for energy projects; and providing for an effective date."*

**Section 1: Adds a new section to uncodified law. Legislative Findings and Purpose.**

**Section 2: Adds a new subsection to the bill by amending AS 18.56.086, Creation of subsidiaries. Allows AHFC to create a subsidiary within the corporation to plan, construct and finance an in-state gasline or to aid in planning, construction or financing of an in-state gasline. Exempts the subsidiary from Title 36, Public Contracts and AS 36.30.015 (d) and (f), Executive branch agencies.**

**Section 3: Adds a new subsection to AS 36.30.850(b), Application of this chapter. Adds a subsidiary of AHFC created under Section 2 to the list of those agencies or entities of which AS 36 does not apply.**

**Section 4: Adds a new chapter, Chapter 34: In-State Natural Gas Pipeline, to AS 38, Public Land.**

**Sec. 38.34.010. In-state gasline project coordinator.** (a) Creates the position of in-state gasline project coordinator within the Governor's Office. This position will continue until one year after commercial operation of the in-state natural gas pipeline begins. (b) The Governor appoints

an individual to the position of an in-state gasline coordinator and may be removed at the Governor's discretion. (c) Describes the duties of the in-state gasline project coordinator who is responsible for collaborating with other state agencies to coordinate and facilitate the provisions of section 4 of this bill. (Deletes Subsections 2 and 3.)

**Sec. 38.34.020. Expedited review and action by state agencies or entities.** (a) States that any state agency or entity conducting and taking action relating to the in-state gasline shall be expedited. (b) A state agency or entity may not include in any project certificate, right of way, permit or other authorization issued to a licensee a term or condition that is not required by law if the in-state project coordinator determines the term or condition would prevent or impair the expeditious construction and operation or expansion of the in-state gasline. (c) A state agency or entity may not, unless required by law, amend or abrogate any certificate, right of way, permit or other authorization issued to a licensee if the project coordinator determines the action would prevent or impair the expeditious construction and operation or expansion of the in-state gasline.

**Sec. 38.34.030. Joint In-state Gasline Development Team.** (a) Establishes the Joint In-state Gasline Development Team in the Alaska Housing Finance Corporation. The team consists of the commissioner of the Department of Transportation and Public Facilities or designee, the chair of the board of directors of the Alaska Railroad Corporation or the chair's designee, the chief executive officer of the Alaska Natural Gas Development Authority, the in-state gasline project coordinator and the chief executive officer of the Alaska Housing Finance Corporation. (b) Names the Alaska Housing Finance Corporation's chief executive officer as chair. (c) Allows the development team to hire staff, enter into contracts and exercise other powers to carry out its functions. The development team is to separately account for expenditures and submit a quarterly report of expenditures to the legislature. The development team is too also submit monthly reports to the legislature on the progress of the in-state gasline project.

**Sec. 38.34.040. Duties of the Development Team.** (a) Produce a project plan for the development of an in-state gasline that is compatible but not competitive with an ANGDA project (AS 41.41) or the AGIA project (AS 43.90) and that the project plan is completed and delivered to the legislature by July 1, 2011. The project plan must specify and document how an in-state gasline can be designed, financed, constructed and made operational by December 31, 2015. (b) The Joint In-State Gasline Development Team is to assume all executive authority over and managerial responsibility for all activities enumerated under sec. 19, ch. 14, SLA 2009, including work previously completed, work in process, and work for which money has been encumbered but that is not completed on the effective date of this subsection. (c) Describes specific plans that are to be included within the project plan for an in-state gasline that will serve Fairbanks, the Southcentral region of the state, and other communities whenever practicable, connecting with or enhancing the existing gas pipeline system, and reaching to tidewater. (d) The development team's work product is to include an analysis of alternative possible routes and select a route that is consistent with the following requirements: (1) is the most economical, (2) will provide gas to residents at a reasonable cost, (3) allows for connecting lines to serve industrial, residential and utility customers along the entire route and in other regions of the state that can be served at commercially feasible rates, (4) uses state land and existing state highway and railroad rights of way to the maximum extent feasible, (5) uses existing highway and railroad

bridges, gravel pits equipment yards and maintenance facilities and other existing facilities and resources to the maximum extent feasible. (e) With the intent that any project-related assets acquired or developed be available for transfer or sale to the entity best able to complete the project, the development team is to: (1) prepare plans and designs necessary for the construction of the in-state gasline; (2) coordinate with entities qualified to build, own and operate the gasline; (3) identify, apply for and obtain rights-of-way and other permits for the project route; (4) work with other entities to promote gas supply and purchase contracts required for the project to be commercially viable; (5) prepare cost estimates for project design, construction and operation to determine the project's feasibility and the projected cost of natural gas to consumers; (6) coordinate with and use, to the fullest extent, possible existing work by other state agencies and entities before contracting for new reports and research and analysis; (7) determine regulatory authority over the pipeline project and perform any necessary compliance requirements; (8) identify and apply for, or support extension of, existing permits for export of Alaska natural gas if that export improves project economics and will reduce the price of natural gas to in-state consumers. (f) Any rights to a gasline corridor obtained by a state agency under eminent domain may be transferred to a private entity. (g) Allows a state agency acquiring interest in land by eminent domain to grant a permit authorizing a private person to construct, manage and operate a gas pipeline on that land. (h) Describes the various aspects of the in-state gasline project the development team may consider. (i) States the development team is to take all action necessary to complete its responsibilities.

**Sec. 38.34.050. Cooperation and access to information.** (a) States the development team may have access to a state entity's information to include confidential information that may relate to the in-state gasline or prove useful in planning, design, construction or operation of the gasline. Confidential information received by the development team shall be kept confidential. (b) All state agencies are to cooperate and give priority to requests for information from the Development Team. The Development Team is to avoid duplicating studies, plans, and designs that have already been produced or otherwise obtained by state entities. **(c) DNR is to grant AHFC a right of way lease under AS 38.35 (Right of Way Leasing Act) for the gasline transportation corridor if: (1) the corporation submits a right of way application under AS 38.35.050 (Applications for right of way leases); (2) the lease application is made the subject of notice and other reasonable and appropriate publication requirements under AS 38.35.070 (Notice of application); and the corporation agrees to be bound by the right of way lease covenants set out in AS 38.35.120 (Covenants required to be included in the lease).** (d) **A right of way lease granted under (c) of this section is subject to AS 38.05 (Alaska Land Act) except the best interest findings requirements of AS 38.05 and the permit requirements of AS 38.05.850 (Permits) do not apply to a lease made under this section.**

**Sec. 38.34.060. Conflicts of interest.** (a) If a member of the development team acquires, owns or controls a direct or indirect interest in property, an organization or business that might be affected by the in-state gasline project or other matters under consideration by the Development Team shall immediately disclose the interest to the development team. This disclosure is part of the public record and shall be included in the minutes of the first meeting of the development team held after the disclosure. (b) Members of the development team are subject to AS 39.50 (Public Official Disclosure) and AS 39.52 (Alaska Executive Branch Ethics Act).

**Sec. 38.34.099. Definitions.** Defines the in-state natural gas pipeline and the North Slope.

**Section 5:** Amends AS 39.25.110, Exempt service. Adds the in-state gasline project coordinator to the exempt service list.

*(Sections 6, 7, 8, 9 and 11 are taken from HB 44)*

**Section 6:** Amends AS 41.41.010(a), Establishment of the authority. Adds language clarifying that ANGDA may bring natural gas from other regions of the state and not just the North Slope. Also clarifies that gas may be delivered to markets within the state and may include more than one pipeline project.

**Section 7:** Amends AS 41.41.010(d), Establishment of the authority. Expands the acquisition of natural gas to include other regions of the state to include the Alaska outer continental shelf and may be delivered to markets within the state.

**Section 8:** Amends AS 41.41.990(3), Definitions. Amends the definition of project to include other regions of the state to a market in the state or be available to markets within the state.

**Section 9:** Adds a new paragraph to AS 41.41.990 describing the North Slope to mean that part of the state that lies north of 68 degrees North latitude to include the Brooks Range foothills.

**Section 10:** New section to uncodified law, Transitional Provisions. (a) The development team shall: (1) seek letters of intent from buyers and sellers of natural gas to ship gas using the facilities of the project by February 15, 2011, and define the project parameters that would allow the project to be commercially viable; (2) seek letters of interest from private pipeline construction and operating companies to develop the project and should be initiated between November 15, 2010 and completed by March 15, 2011; (3) prepare and submit to the Governor and the presiding officer of each body of the legislature any initial legislation necessary to advance the project by December 15, 2010; (4) prepare and submit a report to the governor and the presiding officers of each body of the legislature at the dates established in 1 through 3 of this subsection. (b) The parties having responsibility for contracts, permits and acquisition applications and studies in progress on the effective date of this act initiated or entered into by the Governor or state agencies shall transfer these obligations and initiatives may not be unreasonably delayed and IF AHFC forms a subsidiary, these obligations and initiatives shall be transferred to the subsidiary.

**Section 11:** New section to uncodified law. Gives pre-authorization to the Alaska Natural Gas Development Authority to issue up to \$250 million in bonds in order to acquire a gas supply, develop the Cook Inlet and Fairbanks markets, and plan, permit and design gas transmission systems to mitigate gas shortfalls, the impact on consumers and the economy of high cost energy and ensure energy sufficiency for Alaskans. ANGDA must receive approval from the Legislative Budget and Audit Committee prior to issuing any bonds.

**Section 12: Immediate effective date.**

Sec. 38.35.050. Applications for right-of-way leases.

(a) A person or persons desiring to own a pipeline which is proposed to be located in whole or in part on state land, shall apply for a noncompetitive right-of-way lease of the state land.

(b) Applications under (a) of this section shall be made in a form and manner prescribed by regulation, and shall include any and all data, information, plans, and exhibits which the commissioner determines are necessary to prepare the analysis required by AS 38.35.080 and to make a decision under AS 38.35.100.

(c) Any amendment to an application filed under this section that constitutes a substantial change in the application is subject to all provisions of this chapter applying to an original application. For purposes of this subsection,

(1) an amendment constitutes a substantial change in the application only if the amendment proposes

(A) a net increase in the amount of state acreage to be leased for the right-of-way that exceeds by at least 10 percent the amount of the acreage in the applicant's original application;

(B) a change in the design of the pipeline that would use less effective environmental or safety mitigation measures or less advanced technology than proposed in the original application; or

(C) a fundamental change in the general route, which would include the origin or terminus, as set out in the original application;

(2) in calculating the percentage increase in acreage under (1)(A) of this subsection, each of the following must be excluded:

(A) the acreage attributable to an amendment of a right-of-way originally issued by the federal government, whether administered by the state or the federal government; and

(B) land subject to an existing federal right-of-way grant held by the applicant that is transferred to the state for its administration.

(d) All persons owning or planning to own an interest in a pipeline or proposed pipeline subject to a lease must join in the application under (a) of this section. Any person employed by the lessee in operating the pipeline is bound by the covenants of the lease applicable to functions within the scope of employment as if the person were an applicant under the lease and the state may enforce any breach of a covenant directly against an operator who is not in compliance with the covenant.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 5 ch 3 FSSLA 1973; am Sec. 1 ch 26 SLA 2001)

Amendment Notes -

The 2001 amendment, effective May 10, 2001, in subsection (c) added "For purposes of this subsection," at the end of the introductory language, added paragraphs (1) and (2), and made a stylistic change.

Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.

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

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

History -

(Sec. 1 ch 22 SLA 2007)

Sec. 43.90.260. Expedited review and action by state agencies.

(a) A review conducted and action taken by a state agency relating to the project shall be expedited in a manner consistent with the completion of the necessary approvals in accordance with this chapter.

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

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

History -

(Sec. 1 ch 22 SLA 2007)

Sec. 38.35.070. Notice of application.

Upon receiving an application under AS 38.35.050, the commissioner shall

(1) cause notice of it to appear in a daily newspaper of general circulation published in the vicinity of the location of the proposed pipeline, the notice to include:

(A) a general description of the land involved;

(B) a summary of the substance of the application;

(2) file copies of the application with each coordinate agency;

(3) furnish at cost copies of a notice or application to persons requesting them; and

(4) provide other publication and notice the commissioner considers reasonable and appropriate to inform the public of the application.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 7 ch 3 FSSLA 1973)

Sec. 18.56.086. Creation of subsidiaries.

The corporation may create subsidiary corporations for the purpose of financing or facilitating the financing of school construction, facilities for the University of Alaska, facilities for ports and harbors, prepayment of all or a portion of a governmental employer's share of unfunded accrued actuarial liability of retirement systems, or other capital projects. A subsidiary corporation created under this section may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of the corporation to a subsidiary created under this section. A subsidiary created under this section may borrow money and issue bonds as evidence of that borrowing, and has all the powers of the corporation that the corporation grants to it. However, a subsidiary created for the purpose of financing or facilitating the financing of prepayment of a governmental employer's share of unfunded accrued actuarial liability of retirement systems may borrow money and issue bonds only if the state bond rating is the equivalent of AA- or better and subject to AS 37.15.903. Unless otherwise provided by the corporation, the debts, liabilities, and obligations of a subsidiary corporation created under this section are not the debts, liabilities, or obligations of the corporation.

History -

(Sec. 7 ch 130 SLA 2000; am Sec. 1 ch 7 SLA 2006; am Sec. 3 ch 35 SLA 2008)

Cross References -

For sale to AHFC of right to receive revenue from the settlement of Alaska v. Philip Morris, Inc., No. 1JU-97-915 Civ. (First Jud. Dist. at Juneau), and special bonding provisions for AHFC or a subsidiary created under this section, see Sec. 9 and 10, ch. 130, SLA 2000 in the 2000 Temporary and Special Acts, Sec. 3, ch. 96, SLA 2001 in the 2001 Temporary and Special Acts, and Sec. 1 and 2, ch. 35, SLA 2006 in the 2006 Temporary and Special Acts.

Amendment Notes -

The 2006 amendment, effective July 1, 2006, added "or other capital projects" at the end of the first sentence, and make a corresponding stylistic change.

The 2008 amendment, effective May 23, 2008, inserted "prepayment of all or a portion of a governmental employer's share of unfunded accrued actuarial liability of retirement systems" in the first sentence, and inserted the next-to-last sentence.

Sec. 38.05.850. Permits.

(a) The director, without the prior approval of the commissioner, may issue permits, rights-of-way, or easements on state land for roads, trails, ditches, field gathering lines or transmission and distribution pipelines not subject to AS 38.35, telephone or electric transmission and distribution lines, log storage, oil well drilling sites and production facilities for the purposes of recovering minerals from adjacent land under valid lease, and other similar uses or improvements, or revocable, nonexclusive permits for the personal or commercial use or removal of resources that the director has determined to be of limited value. The commissioner, upon recommendation of the director, shall establish a reasonable rate or fee schedule to be charged for these uses, subject to the exception for nonprofit cooperative associations specified in (b) of this section. In the granting, suspension, or revocation of a permit or easement of land, the director shall give preference to that use of the land that will be of greatest economic benefit to the state and the development of its resources. However, first preference shall be granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land, that is seaward of the upland property of the upland owner and that is needed by the upland owner for any of the purposes for which the use may be granted.

(b) The fee charged for a right-of-way approved under (a) of this section shall be waived by the commissioner if the right-of-way is for a transmission or distribution line established by a nonprofit cooperative association organized under AS 10.25 for the purpose of supplying electric energy and power, or telephone service, to its members, and the waiver is considered by the commissioner to be in the best interests of the state.

(c) If the director determines, by evaluation of the nature and duration of the intended use, that an easement or right-of-way issued under this section will not be functionally revocable, the director shall provide public notice before issuing the easement or right-of-way.

History -

(Sec. 7 art III ch 169 SLA 1959; am Sec. 7 ch 61 SLA 1960; am Sec. 4 ch 72 SLA 1972; am Sec. 28 ch 3 FSSLA 1973; am Sec. 13 ch 257 SLA 1976; am Sec. 1, 2 ch 25 SLA 1979; am Sec. 26 ch 91 SLA 1997; am Sec. 4 ch 27 SLA 2000)

Revisors Notes -

Formerly AS 38.05.330. Renumbered in 1984.

Cross References -

For legislative intent in connection with this section, see Sec. 2, ch. 27, SLA 2000 in the 2000 Temporary and Special Acts.

Amendment Notes -

The 1997 amendment, effective July 1, 1997, rewrote the first sentence of subsection (a) and made minor stylistic changes.

The 2000 amendment, effective May 11, 2000, added subsection (c).

AG Opinions -

A special land use permit may be revoked or terminated given a permittee's death and his earlier unauthorized attempt to transfer it. December 15, 1983, Op. Att'y Gen.

Decisions -

Quoted in *Swindel v. Kelly*, 499 P.2d 291 (Alaska 1972).

Stated in *Northern Alaska Envtl. Ctr. v. State*, 2 P.3d 629 (Alaska 2000).

Cited in *Chevron U.S.A. Inc. v. LeResche*, 663 P.2d 923 (Alaska 1983).

Collateral Refs -

63C Am. Jur. 2d, Public Lands, Sec. 37, 46, 53 to 55, 74, 111.

Sec. 38.35.120. Covenants required to be included in lease.

(a) A noncompetitive lease of state land for a right-of-way for an oil or natural gas pipeline valued at \$1,000,000 or more may be granted only upon the condition that the lessee expressly covenants in the lease, in consideration of the rights acquired by it under the lease, that

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

(A) subject to regulation either under the Natural Gas Act (15 U.S.C. 717 et seq.) of the United States or by the state or political subdivisions with respect to rates and charges for the sale of natural gas, is, to the extent of that regulation, exempt from the common carrier requirement in this paragraph;

(B) that is a North Slope natural gas pipeline (i) is required to operate as a common carrier only with respect to the intrastate transportation of North Slope natural gas, as that term is defined in AS 42.06.630, and (ii) is not required to operate as a common carrier as to a liquefied natural gas facility or a marine terminal facility associated with the pipeline, and is not otherwise required to perform its functions under the lease as a common carrier; for purposes of this subparagraph, "North Slope natural gas pipeline" means all the facilities of a total system of pipe, whether owned or operated under a contract, agreement, or lease, used by a carrier for transportation of North Slope natural gas, as defined by AS 42.06.630, for delivery, for storage, or for further transportation, and including all pipe, pump, or compressor stations, station equipment, tanks, valves, access roads, bridges, airfields, terminals and terminal facilities, including docks and tanker loading facilities, operations control centers for both the upstream part of the pipeline and the terminal, tanker ballast treatment facilities, fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to carry out transportation, including an extension or enlargement of the line;

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

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

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

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

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

(7) it will construct and operate the pipeline in accordance with applicable state laws and lawful regulations and orders of the Regulatory Commission of Alaska;

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

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

(B) promptly repair or remedy any damage to the leasehold;

(C) promptly compensate for any damage to or destruction of property for which the lessee is liable resulting from damage to or destruction of the leasehold or pipeline;

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

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

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

(12) the granting of the right-of-way lease is subject to the express condition that the exercise of the rights and privileges granted under the lease will not unduly interfere with the

management, administration, or disposal by the state of the land affected by the lease, and that the lessee agrees and consents to the occupancy and use by the state, its grantees, permittees, or other lessees of any part of the right-of-way not actually occupied or required by the pipeline for the full and safe utilization of the pipeline, for necessary operations incident to land management, administration, or disposal;

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

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

(b) For a right-of-way lease granted under this chapter for an oil or natural gas pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An oil or natural gas pipeline right-of-way lease granted under this chapter that does not contain the required terms is null and void and without legal effect and does not vest any interest in state land or any authority in the carrier granted the lease.

(c) The commissioner may insert in any right-of-way lease other reasonable provisions and conditions required by the public interest.

(d) The lease will also contain terms and conditions that are reasonably necessary to obligate the lessee, to the extent reasonably practicable, to

(1) prevent conflicts with other existing uses of the land involving a superior public interest;

(2) protect state and private property interests;

(3) prevent any significant adverse environmental impact, including but not limited to the erosion of the surface of the land, and damage to fish and wildlife and their habitat;

(4) restore and revegetate during the term and at termination of the lease; and

(5) protect the interests of individuals living in the general area of the right of way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(e) In the event the commissioner proposes to offer a lease or leases to two or more lessees for the same pipeline, the commissioner may include terms in the lease or leases which establish the limit of the obligations and liabilities of each lessee arising under this chapter or under the lease or leases.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 11 ch 3 FSSLA 1973; am Sec. 2, 3 ch 110 SLA 1981; am Sec. 69 ch 59 SLA 1982; am Sec. 1 ch 56 SLA 2000; am Sec. 15 ch 22 SLA 2001)

Revisors Notes -

Former (f) of this section was renumbered as AS 38.35.122 in 1984.

In 1999, in paragraphs (a)(1), (a)(5), and (a)(7) "Regulatory Commission of Alaska" was substituted for "Alaska Public Utilities Commission" in accordance with Sec. 30(a), ch. 25, SLA 1999.

Amendment Notes -

The 2000 amendment, effective August 9, 2000, added subparagraph (a)(1)(B) and made stylistic changes.

The 2001 amendment, effective May 10, 2001, in paragraph (a)(1) moved the language beginning "it will accept" and ending "as a common carrier" from the end of subparagraph (a)(1)(A) to near the end of the introductory language.

40 SLA 1976)

Sec. 36.30.015. Executive branch agencies.

(a) The commissioner of transportation and public facilities may delegate to another agency the authority to contract for construction. Before delegating authority to an agency under this subsection, the commissioner of transportation and public facilities shall make a written determination that the agency is capable of implementing the delegated authority.

Notwithstanding delegation of authority under this subsection, contracts for construction are governed by this chapter and regulations adopted by the commissioner of administration under this chapter.

(b) The commissioner of administration may delegate to an agency the authority to contract for and manage services, professional services, and supplies. Notwithstanding delegation of authority under this subsection, an agency's exercise of the authority is governed by this chapter and regulations adopted by the commissioner under this chapter. Before delegating authority to an agency under this subsection, the commissioner shall make a written determination that the agency is capable of implementing the delegated authority.

(c) [Repealed, Sec. 48 ch 137 SLA 1996].

(d) An agency may not contract for the services of legal counsel without the approval of the attorney general. An agency may not contract for the services of a hearing officer or administrative law judge for an administrative, quasi-judicial hearing without the approval of the attorney general and the chief administrative law judge of the office of administrative hearings (AS 44.64.010).

(e) The board of directors of the Alaska Railroad Corporation and the board of directors of the Alaska Aerospace Corporation shall adopt procedures to govern the procurement of supplies, services, professional services, and construction. The procedures must be substantially equivalent to the procedures prescribed in this chapter and in regulations adopted under this chapter. Notwithstanding the other provisions of this subsection, the Alaska Railroad Corporation and the Alaska Aerospace Corporation shall comply with AS 36.30.170(b), and, when the Department of Transportation and Public Facilities authorizes the Alaska Railroad Corporation to perform construction work instead of the Department of Transportation and Public Facilities, the Alaska Railroad Corporation shall use competitive sealed bidding or competitive sealed proposals under AS 36.30.100 - 36.30.270 to procure the supplies, services, professional services, and construction services necessary for the work and, to ensure the state obtains the lowest cost for the project, may submit a bid or proposal for the work.

(f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding AS 18.56.088, and the board of directors of the Knik Arm Bridge and Toll Authority under AS 19.75.111, shall adopt regulations under AS 44.62 (Administrative Procedure Act) and the board of trustees of the Alaska Retirement Management Board shall adopt regulations under AS 37.10.240 to govern the procurement of supplies, services, professional services, and construction for the respective public corporation and board. The regulations must reflect competitive bidding principles and provide vendors reasonable and equitable opportunities to participate in the procurement process and must include procurement methods to meet

emergency and extraordinary circumstances. Notwithstanding the other provisions of this subsection, the Alaska Housing Finance Corporation, the Knik Arm Bridge and Toll Authority, and the Alaska Retirement Management Board shall comply with AS 36.30.170(b).

(g) The Department of Transportation and Public Facilities shall adopt regulations to manage the procurement of supplies, services, professional services, and construction for the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system. The regulations must be based on principles of competitive procurement consistent with this chapter to satisfy the special requirements of the Alaska marine highway system as determined by the Department of Transportation and Public Facilities.

(h) The board of directors of the Alaska Seafood Marketing Institute shall adopt procedures to govern the procurement of supplies, services, and professional services. The procedures must be similar to the procedures prescribed in this chapter and in regulations adopted under this chapter, except that the Alaska Seafood Marketing Institute shall comply with AS 36.30.170(b).

(i) Notwithstanding (e) of this section and the authority to delegate under (a) of this section, the Alaska Railroad Corporation, rather than the Department of Transportation and Public Facilities, shall perform signalization and flagging work, may perform the signalization and flagging work by itself or by using contractors, and, if it decides to use contractors for the work, it shall obtain the contractors by using its procurement procedures adopted under (e) of this section.

(j) Notwithstanding the other provisions of this chapter, when a project of the Department of Transportation and Public Facilities includes construction of rails, ties, or ballast for railroad tracks used by the Alaska Railroad Corporation, the Department of Transportation and Public Facilities may enter into an agreement with the Alaska Railroad Corporation for the Alaska Railroad Corporation to perform the work, and the Alaska Railroad Corporation may perform the work itself without procuring a contractor to provide the supplies, services, professional services, or construction services necessary for the work.

History -

(Sec. 2 ch 106 SLA 1986; am Sec. 8, 9 ch 30 SLA 1990; am Sec. 11 ch 168 SLA 1990; am Sec. 6 ch 88 SLA 1991; am Sec. 8 ch 31 SLA 1992; am Sec. 2 ch 94 SLA 1992; am Sec. 111 ch 4 FSSLA 1992; am Sec. 1 ch 102 SLA 1995; am Sec. 2 - 4, 48 ch 137 SLA 1996; am Sec. 1, 2 ch 73 SLA 1998; am Sec. 2 ch 77 SLA 2003; am Sec. 51 ch 163 SLA 2004; am Sec. 1 ch 177 SLA 2004; am Sec. 54 ch 9 FSSLA 2005)

Revisors Notes -

In 2003, in subsection (f), "AS 19.75.111" was substituted for "AS 44.90.111" to reflect the 2003 renumbering of AS 44.90.111.

In 2009, under Sec. 2, ch. 60, SLA 2009, in this section "Alaska Aerospace Corporation" was substituted for "Alaska Aerospace Development Corporation".

Amendment Notes -

The 2003 amendment, effective September 10, 2003, in subsection (f) inserted "and the board of directors of the Knik Arm Bridge and Toll Authority under AS 44.90.111," in the first sentence and ", the Knik Arm Bridge and Toll Authority," in the last sentence.

The first 2004 amendment, effective October 24, 2004, added subsection (j).

The second 2004 amendment, effective July 1, 2005, added the last sentence to subsection (d).

The 2005 amendment, effective July 28, 2005, in subsection (f) substituted "Alaska Retirement Management Board" for "Alaska State Pension Investment Board" in the first and last sentences.

Editors Notes -

Under Sec. 146, ch. 9, FSSLA 2005, the 2005 amendment of subsection (f) of this section made by ch. 9, FSSLA 2005, is retroactive to July 1, 2005.

Decisions -

Outside services of counsel. - The fact that the legislature provided a mechanism in this section for state agencies to procure personal services contracts demonstrates that the legislature contemplated retention of the services of counsel outside of the Department of Law. *State v. Breeze*, 873 P.2d 627 (Alaska Ct. App. 1994).

offerors of the intent to enter into a contract through competitive sealed proposals.

Sec. 36.30.850. Application of this chapter.

(a) This chapter applies only to contracts solicited or entered into after January 1, 1988, unless the parties agree to its application to a contract solicited or entered into before that date.

(b) This chapter applies to every expenditure of state money by the state, acting through an agency, under a contract, except that this chapter does not apply to

(1) grants;

(2) contracts for professional witnesses to provide for professional services or testimony relating to existing or probable lawsuits in which the state is or may become a party;

(3) contracts of the University of Alaska where the work is to be performed substantially by students enrolled in the university;

(4) contracts for medical doctors and dentists;

(5) acquisitions or disposals of real property or interest in real property, except as provided in AS 36.30.080 and 36.30.085;

(6) disposals under AS 38.05;

(7) contracts for the preparation and transportation of ballots under AS 15;

(8) acquisitions or disposals of property and other contracts relating to airports under AS 02.15.070, 02.15.090, 02.15.091, and AS 44.88;

(9) disposals of obsolete property under AS 19.05.060;

(10) disposals of obsolete material or equipment under AS 35.20.060;

(11) agreements with providers of services under AS 47.25.071 - 47.25.095; AS 47.07; AS 47.08; AS 47.10; AS 47.12; AS 47.14; AS 47.17; AS 47.24; and AS 47.27, including contractors under AS 47.27.050;

(12) contracts of the Department of Fish and Game for flights that involve specialized flying and piloting skills and are not point-to-point;

(13) purchases of income-producing assets for the state treasury or a public corporation of the state;

(14) [Repealed, Sec. 48 ch 137 SLA 1996].

(15) a contract that is a delegation, in whole or in part, of investment powers held by

(A) the commissioner of revenue under AS 14.42.200, 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

(B) the Board of Regents of the University of Alaska under AS 14.40.250 - 14.40.491;

(16) a contract that is a delegation, in whole or in part, of investment powers or fiduciary duties of

(A) the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;

(B) the Alaska Mental Health Trust Authority under AS 37.14.001 - 37.14.099;

(17) the purchase of books, book binding services, newspapers, periodicals, audio-visual materials, network information services access, approval plans, professional memberships, archival materials, objects of art, and items for museum or archival acquisition having cultural, historical, or archaeological significance; in this paragraph

(A) "approval plans" means book selection services in which current book titles meeting an agency's customized specifications are provided to the agency subject to the right of the agency to return those books that do not meet with the agency's approval;

(B) "archival materials" means the noncurrent records of an agency that are preserved after appraisal because of their value;

(C) "audio-visual materials" means nonbook prerecorded materials, including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact discs, laser discs, and items that require the use of equipment to render them usable;

(D) "network information services" means a group of resources from which cataloging information, holdings records, inter-library loans, acquisitions information, and other reference resources can be obtained;

(18) contracts for the purchase of standardized examinations for licensure under AS 08;

(19) contracts for home health care provided under regulations adopted by the Department of Health and Social Services and for adult residential care services provided under regulations adopted by the Department of Health and Social Services or by the Department of Administration;

(20) contracts for supplies or services for research projects funded by money received from the federal government or private grants;

(21) guest speakers or performers for an educational or cultural activity;

(22) contracts of the Alaska Industrial Development and Export Authority for a clean coal technology demonstration project that

(A) is attempting to develop a coal-fired electric generation project;

(B) uses technology that is capable of commercialization during the 1990's; and

(C) qualifies for federal financial participation under P.L. 99-190 as amended;

(23) operation and protection of assets or disposals of equipment and supplies acquired through foreclosure or other legal proceedings relating to loans issued under AS 03.10;

(24) purchases of curatorial and conservation services to maintain, preserve, and interpret

(A) objects of art; and

(B) items having cultural, historical, or archaeological significance to the state;

(25) acquisition of confidential seismic survey data necessary for pre-sale oil and gas lease or gas only lease analyses under AS 38.05.180;

(26) contracts for village public safety officers;

(27) purchases of supplies and services to support the operations of the Alaska state troopers or law enforcement officers engaged in fish and wildlife protection if the procurement officer for the Department of Public Safety makes a written determination that publicity of the purchases would jeopardize the safety of personnel or the success of a covert operation;

(28) expenditures when rates are set by law or ordinance;

(29) construction of new vessels by the Department of Transportation and Public Facilities for the Alaska marine highway system;

(30) contracts entered into with a regional development organization; in this paragraph, "regional development organization" has the meaning given in AS 44.33.895;

(31) contracts that are to be performed in an area outside of the country and that require a knowledge of the customs, procedures, rules, or laws of the area;

(32) contracts that are between the Department of Law and attorneys who are not employed by the state and that are for the review or prosecution of possible violations of the criminal law of the state in situations where the attorney general concludes that an actual or potential conflict of interest makes it inappropriate for the Department of Law to review or prosecute the possible violations;

(33) contracts between the Department of Natural Resources and contractors qualified to evaluate hydrocarbon development, production, transportation, and economics, to assist the commissioner of natural resources in evaluating applications for royalty increases or decreases or other royalty adjustments, and evaluating the related financial and technical data, entered into under AS 38.05.180(j);

(34) contracts of the Alaska Industrial Development and Export Authority made with the developer of an integrated transportation and port facility owned by the authority;

(35) procurements of contracts with the media for advertising;

(36) [Repealed, Sec. 10 ch 58 SLA 2006].

(37) contracts between the state medical examiner and a provider of medical services to perform or assist in performing the duties assigned to the state medical examiner in AS 12.65.020;

(38) contracts between the commissioner of revenue and an independent contractor under AS 43.82.240;

(39) contracts for a convener under AS 44.62.730 or for a facilitator under AS 44.62.760 related to a negotiated regulation making process under AS 44.62.710 - 44.62.800;

(40) [Repealed, Sec. 5 ch 173 SLA 2004].

(41) a tourism marketing contract awarded under AS 44.33.125;

(42) grants and contracts with qualified entities for services under AS 47.18.330 for the foster care transition program;

(43) contracts for travel services, including airplane travel, hotel accommodations, and travel agency services, but excluding motor vehicle rentals;

(44) contracts of the Alaska Commission on Postsecondary Education or the Alaska Student Loan Corporation for the guarantee and disbursing of financial aid money to institutions of postsecondary education under the financial aid programs under AS 14.43.091 - 14.43.750 and AS 14.44.025;

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

(46) contracts for delivery of home heating assistance under AS 47.25.626;

(47) contracts of the Alaska Pension Obligation Bond Corporation under AS 37.16.010 - 37.16.900.

(c) Except for AS 36.30.085 and 36.30.700 - 36.30.790, this chapter does not apply to contracts between two or more agencies, the state and its political subdivisions, or the state and other governments.

(d) Nothing in this chapter or in regulations adopted under this chapter prevents an agency or political subdivision from complying with the terms and conditions of a grant, gift, bequest, cooperative agreement, or federal assistance agreement.

(e) [Renumbered as AS 36.30.170(i)].

#### History -

(Sec. 2 ch 106 SLA 1986; am Sec. 21, 22 ch 65 SLA 1987; am Sec. 1 ch 38 SLA 1988; am Sec. 5 ch 73 SLA 1988; am Sec. 18 ch 141 SLA 1988; am Sec. 17 ch 102 SLA 1989; am Sec. 1, 2 ch 123 SLA 1990; am Sec. 4 ch 66 SLA 1991; am Sec. 9 ch 31 SLA 1992; am Sec. 1 ch 134 SLA 1992; am Sec. 9 ch 2 FSSLA 1992; am Sec. 10 ch 37 SLA 1993; am Sec. 3 ch 68 SLA 1993; am Sec. 8, 9 ch 75 SLA 1994; am Sec. 5 ch 130 SLA 1994; am Sec. 1 ch 85 SLA 1995; am ch 59 Sec. 8 SLA 1996; am Sec. 16 ch 103 SLA 1996; am Sec. 24 ch 107 SLA 1996; am Sec. 2 ch 111 SLA 1996; am Sec. 42, 43, 48 ch 137 SLA 1996; am E.O. No. 93 Sec. 3 (1996); am Sec. 12 ch 9 SLA 1997; am Sec. 37 ch 83 SLA 1998; am Sec. 7 ch 104 SLA 1998; am Sec. 3, 7 ch 117 SLA 1998; am Sec. 3 ch 29 SLA 1999; am Sec. 34, 35 ch 58 SLA 1999; am Sec. 89 ch 82 SLA 2000; am Sec. 1 ch 82 SLA 2002; am Sec. 1 ch 112 SLA 2002; am E.O. No. 108 Sec. 3 (2003); am Sec. 7, 8 ch 49 SLA 2004; am Sec. 30 ch 63 SLA 2004; am Sec. 20 ch 99 SLA 2004; am Sec. 5 ch 173 SLA 2004; am Sec. 10 ch 58 SLA 2006; am Sec. 2 ch 22 SLA 2007; am Sec. 2 ch 31 SLA 2008; am Sec. 7 ch 35 SLA 2008; am Sec. 37 ch 40 SLA 2008)

#### Delayed Amendment -

Under Sec. 53, ch. 35, SLA 2003, paragraph (b)(30) is amended to read as follows: "contracts entered into with a regional development organization; in this paragraph, 'regional development organization' means a nonprofit organization or nonprofit corporation formed to encourage economic development within a particular region of the state that includes the entire area of each municipality within that region and that has a board of directors that represents the region's economic, political, and social interests."

Under Sec. 75, ch. 35, SLA 2003 and Sec. 2, ch. 43, SLA 2000, as amended by Sec. 1, ch. 110, SLA 2003, Sec. 1, ch. 51, SLA 2005, and Sec. 1, ch. 69, SLA 2008, this amendment takes effect July 1, 2013.

#### Revisors Notes -

Paragraphs (b)(15) - (17) were enacted as (b)(14), (15), and (14), respectively. Renumbered in 1988. Paragraphs (b)(31) and (32) were enacted as (b)(30) and (31), respectively. Renumbered in 1993.

Paragraphs (b)(35) and (b)(37) were enacted as (b)(34) and paragraph (b)(36) was enacted as (b)(35); renumbered in 1996.

Paragraphs (b)(39) and (40) were enacted as (b)(38). Renumbered in 1998.

In 1999, in (b) of this section, "Department of Education" was changed to "Department of Education and Early Development" in accordance with Sec. 89, ch. 58, SLA 1999.

Paragraph (b)(43) was enacted as (b)(42); renumbered in 2002.

In 2003, "AS 47.12; AS 47.14; AS" was reinserted in (b)(11) of this section to correct an error in failing to reconcile chs. 59 and 107, SLA 1996.

In 2003, in paragraph (b)(11), "AS 47.25.071 - 47.25.095" was substituted for "AS 47.25.007 - 47.25.009" to reflect the 2003 renumbering of AS 47.25.007 - 47.25.009.

Paragraph (b)(47) was enacted as (b)(46); renumbered in 2008.

#### Cross References -

For provisions applicable to all insurance contracts involving state money, see AS 36.30.170.

#### Amendment Notes -

The 2000 amendment, effective July 1, 2000, in paragraph (b)(7) inserted "and transportation" and made a section reference substitution.

The first 2002 amendment, effective July 1, 2002, added paragraph (b)(42).

The second 2002 amendment, effective September 29, 2002, added paragraph (b)(43).

The 2003 amendment, effective July 1, 2003, updated a section reference in paragraph (b)(11).

The first 2004 amendment, effective June 5, 2004, inserted "or gas only lease" in paragraph (b)(25), and deleted "oil and gas" preceding "royalty increases" and "royalty adjustments" in paragraph (b)(33).

The second 2004 amendment, effective June 17, 2004, added paragraph (b)(44).

The third 2004 amendment, effective June 26, 2004, in paragraph (b)(11), transferred "AS 47.25.001 - 47.25.009" to its present location from its former location, following "services under."

The fourth 2004 amendment, effective July 27, 2004, repealed paragraph (b)(40), relating to contracts of the Department of Education and Early Development.

The 2006 amendment, effective June 14, 2006, repealed paragraph (b)(36).

The 2007 amendment, effective June 8, 2007, added paragraph (b)(45).

The first 2008 amendment, effective May 23, 2008, added paragraph (b)(46).

The second 2008 amendment, effective May 23, 2008, added paragraph (b)(46) [now (b)(47)].

The third 2008 amendment, effective May 23, 2008, substituted "law enforcement officers engaged in fish and wildlife protection" for "the division of fish and wildlife protection" in paragraph (b)(27).

#### Editors Notes -

Section 2, ch. 112, SLA 2002 provides that paragraph (b)(43) "does not apply to a contract entered into before September 29, 2002 if, by the terms of the contract, the contract continues to be effective on or after September 29, 2002."

Section 7, ch. 117, SLA 1998, which was to repeal (b)(39) of this section effective July 1, 2003, was repealed by Sec. 2, ch. 44, SLA 2003.

AG Opinions -

The exception in paragraph (b)(1) for grants applies where: 1) the legislature makes an appropriation to a specific program for a specific purpose; 2) the appropriation is for a donative purpose that would more traditionally be characterized as a grant (rather than the purchase of services or supplies); and 3) the nature of the program, known to the legislature, makes application of the procurement code difficult or unreasonable. Mar. 23, 1988 Op. Att'y Gen.

The State Procurement Code does not apply to decisions of the Department of Fish and Game (DF&G) concerning allocation to private nonprofit hatcheries of federal funds granted to the state in connection with the U.S./Canada Pacific Salmon Treaty, since the transaction that occurs when DF&G selects and allocates federal grant money to private nonprofit hatchery projects is not contractual under the State Procurement Code. Apr. 13, 1988 Op. Att'y Gen.

The Department of Transportation and Public Facilities (DOT/PF) is not required to make the Procurement Code a condition of a Transfer of Responsibility Agreement (TORA). DOT/PF has discretion to negotiate for the inclusion of all or portions of the code in a TORA. June 10, 1988 Op. Att'y Gen.

The Procurement Code does not apply to contract negotiations of the Alaska Marine Highway System (AMHS) with the Port of Bellingham to provide terminal services at Bellingham for the AMHS. However, the AMHS may contract for these services with the Port of Bellingham. Aug. 16, 1989 Op. Att'y Gen.

Although the procurement code mentions the expenditure of money, the procurement code must be read to cover cases where instead of money some other type of valuable consideration is provided by the state in exchange for a good or service. Apr. 17, 1991 Op. Att'y Gen.

AS 36.30.850(b)(16) does not exempt the Alaska Permanent Fund Corporation from the procurement requirements of AS 36.30, when the corporation retains certain advisory, consulting, auditing, legal and investment services. Jan. 26, 1993 Op. Att'y Gen.

The State Procurement Code would not apply to services truly donated to construction effort by Upper Susitna Soil and Water Conservation District to assemble a building received as a donation to the District, and the Department of Natural Resources can provide supervision and oversight of the project without formal involvement of the Department of Transportation and Public Facilities. Jan. 14, 1994 Op. Att'y Gen.

The Alaska Department of Fish and Game may comply with an express term or condition imposed by the Exxon Valdez Oil Spill Council that strictly requires a contract be awarded to a specific entity, but should not infer such an intent; if the Council fails to expressly impose the condition that a contract be awarded to a specific entity, the Department must comply with competitive requirements of the procurement code regarding the selection of the contract recipient, and the Department should comply with any other provision of the procurement code

that does not conflict with an express term or condition the Council imposes. Sept. 14, 1999 Op. Att'y Gen.

Decisions -

Cited in Laborers Local 942 v. Lampkin, 956 P.2d 422 (Alaska 1998).

Article Notes -

Administrative Code. For general provisions: definitions, see 2 AAC 12, art. 18.

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## REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE HOUSE SPONSOR STATEMENT

### COMMITTEE SUBSTITUTE FOR HOUSE BILL 369 (FIN) am

*"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project manager, the Joint In-State Gasline Development Team; requiring the development of an in-state natural gas pipeline plan, to be delivered to the legislature by July 1, 2011, that provides for a gasline that is operational by December 31, 2015; directing the Joint In-State Gasline Development Team to assume responsibilities under sec. 19, ch. 14, SLA 2009; requiring expedited review and action by state agencies or entities relating to the in-state natural gas pipeline project; and providing for an effective date."*

Committee Substitute for House Bill 369 (FIN) am was introduced as an effort to expedite the process for an in-state natural gas pipeline. The in-state gasline has been a topic of discussion in the Legislature and the Administration for a number of years. Currently, there are two separate state entities, the Alaska Natural Gas Development Authority and the in-state gasline coordinator, working on a project. House Bill 369 combines these two entities along with the Department of Transportation and Public Facilities, the Alaska Railroad Corporation and the Alaska Housing Finance Corporation to create a Joint In-state Gasline Development Team within the Office of the Governor. The Development Team is to ensure that a project plan is developed by July 1, 2011 with gas flowing by the end of 2015. It is my hope the Development Team will be able to focus the state's efforts in putting a project plan together and leverage the best ideas and data to get a gasline built.

The Department of Transportation and Public Facilities and the Alaska Railroad Corporation were included as members of the team due primarily to their having existing rights of way which could speed up any permitting process that may need to be undertaken. The Alaska Railroad Corporation also has bonding ability which could be an answer in financing a gasline. The addition of the chief executive officer of the Alaska Housing Finance Corporation is to help develop a financing plan for the in-state gasline. The CEO of AHFC will chair the Development Team.

The Development Team will cover all aspects of the line's development and are to select the most economically sound route that will deliver gas to Alaskans, plan permitting and design by using existing rights of way and take any action necessary to get a project plan in place by July 1 of next year. Additional duties of the Joint Development Gasline Development Team are also spelled out within the legislation.

The bill provides for an expedited review and action process and the sharing of information that may already have been accumulated or completed. The bill also requires that state agencies or entities cooperate with and give priority to requests for information from the Development Team.

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## REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE HOUSE

### SECTIONAL ANALYSIS

#### COMMITTEE SUBSTITUTE FOR HOUSE BILL 369 (FIN) am

*"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project manager, the Joint In-State Gasline Development Team; requiring the development of an in-state natural gas pipeline plan, to be delivered to the legislature by July 1, 2011, that provides for a gasline that is operational by December 31, 2015; directing the Joint In-State Gasline Development Team to assume responsibilities under sec. 19, ch. 14, SLA 2009; requiring expedited review and action by state agencies or entities relating to the in-state natural gas pipeline project; and providing for an effective date."*

**Section 1:** Adds a new chapter, Chapter 34: In-State natural Gas Pipeline, to AS 38, Public Land.

**Sec. 38.34.010. In-state gasline project manager.** (a) Creates the position of in-state gasline project manager within the governor's Office. This position will continue until one year after commercial operation of the in-state natural gas pipeline begins. (b) The Governor appoints an individual to the position of an in-state gasline manager and may be removed at the Governor's discretion. (c) Describes the duties of the in-state gasline project manager.

**Sec. 38.34.020. Expedited review and action by state agencies or entities.** (a) States that any state agency or entity conducting and taking action relating to the in-state gasline shall be expedited. (b) A state agency or entity may not include in any project certificate, right of way, permit or other authorization issued to a licensee a term or condition that is not required by law if the in-state project manager determines the term or condition would prevent or impair the expeditious construction and operation or expansion of the in-state gasline. (c) A state agency or entity may not, unless required by law, amend or abrogate any certificate, right of way, permit or other authorization issued to a licensee if the project manager determines the action would prevent or impair the expeditious construction and operation or expansion of the in-state gasline.

**Sec. 38.34.030. Joint In-state Gasline Development Team.** (a) Establishes the Joint In-State Gasline Development Team in the Governor's Office. The team consists of the commissioner of the Department of Transportation and Public Facilities or designee, the chief executive officer of the Alaska Railroad Corporation or designee, the chief executive officer of the Alaska Natural Gas Development Authority, the in-state gasline project manager and the chief executive officer

of the Alaska Housing Finance Corporation. (b) Names the Alaska Housing Finance Corporation's chief executive officer as chair. (c) Allows the development team to hire staff, enter into contracts and exercise other powers to carry out its functions.

**Sec. 38.34.040. Duties of the Development Team.** (a) Ensure a project plan for the development of an in-state gasline is completed and delivered to the legislature by July 1, 2011. The project plan must specify and document how an in-state gasline can be designed, financed, constructed and made operational by December 31, 2015. (b) The Joint In-State Gasline Development Team is to assume all executive authority over and managerial responsibility for all activities enumerated under sec. 19, ch. 14, SLA 2009, including work previously completed, work in process, and work for which money has been encumbered but that is not completed on the effective date of this subsection. (c) Describes specific plans that are to be included within the project plan for an in-state gasline that will serve Fairbanks, the southcentral region of the state, and other communities whenever practicable, connecting with or enhancing the existing gas pipeline system, and reaching to tidewater. (d) The development team's work product is to include an analysis of alternative possible routes and select a route that is consistent with the following requirements: (1) is the most economical, (2) will provide gas to residents at a reasonable cost, (3) allows for connecting lines to serve industrial, residential and utility customers along the entire route and in other regions of the state that can be served at commercially feasible rates, (4) uses state land and existing state highway and railroad rights of way to the maximum extent feasible, (5) uses existing highway and railroad bridges, gravel pits equipment yards and maintenance facilities and other existing facilities and resources to the maximum extent feasible. (e) With the intent that any project-related assets acquired or developed be available for transfer or sale to the entity best able to complete the project, the development team is to: (1) prepare plans and designs necessary for the construction of the in-state gasline; (2) coordinate with entities qualified to build, own and operate the gasline; (3) identify, apply for and obtain rights-of-way and other permits for the project route; (4) work with other entities to promote gas supply and purchase contracts required for the project to be commercially viable; (5) prepare cost estimates for project design, construction and operation to determine the project's feasibility and the projected cost of natural gas to consumers; (6) coordinate with and use, to the fullest extent, possible existing work by other state agencies and entities before contracting for new reports and research and analysis; (7) determine regulatory authority over the pipeline project and perform any necessary compliance requirements; (8) identify and apply for, or support extension of, existing permits for export of Alaska natural gas if that export improves project economics and will reduce the price of natural gas to in-state consumers. (f) Any rights to a gasline corridor obtained by a state agency under eminent domain may be transferred to a private entity. (g) Allows a state agency acquiring interest in land by eminent domain to grant a permit authorizing a private person to construct, manage and operate a gas pipeline on that land. (h) Describes the various aspects of the in-state gasline project the development team may consider.

**Sec. 38.34.050. Cooperation and access to information.** (a) States the development team may have access to a state entity's information to include confidential information that may relate to the in-state gasline or prove useful in planning, design, construction or operation of the gasline. Confidential information received by the Development Team shall be kept confidential. (b) All state agencies are to cooperate and give priority to requests for information from the

Development Team. The Development Team is to avoid duplicating studies, plans, and designs that have already been produced or otherwise obtained by state entities.

**Sec. 38.34.060. Conflicts of interest.** (a) If a member of the Development Team acquires, owns or controls a direct or indirect interest in property, an organization or business that might be affected by the in-state gasline project or other matters under consideration by the Development Team shall immediately disclose the interest to the Development Team. This disclosure is part of the public record and shall be included in the minutes of the first meeting of the Development Team held after the disclosure. (b) Members of the development team are subject to AS 39.50 (Public Official Disclosure) and AS 39.52 (Alaska Executive Branch Ethics Act).

**Sec. 38.34.099. Definitions.** Defines the in-state natural gas pipeline and the North Slope.

**Section 2:** Amends AS 39.25.110, Exempt service. Adds the in-state gasline project manager to the exempt service list.

**Section 3:** Immediate effective date.

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 369 (FIN)am  
 () Publish Date: \_\_\_\_\_

Identifier (file name): CSHB369 (FIN)-GOV-EO-03-30-10  
 Title: "An Act relating to in-state natural gas pipeline,...  
           ..project manager/team"  
 Sponsor: Representative Chenault  
 Requester: (S) Resources  
 Dept. Affected: OOG  
 RDU: Executive Operations  
 Component: AK Resources Mktg and Developmt  
 Component Number: 2774

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

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

	Appropriation Required	Information					
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>							
Personal Services	1,095.2	1,095.2	1,011.6	1,021.9	1,032.5	1,036.0	1,047.0
Travel	36.0	36.0	36.0	36.0	36.0	36.0	36.0
Contractual	9,408.8	9,408.8	***	***	***	***	***
Supplies	29.0	29.0	25.0	25.0	25.0	25.0	25.0
Equipment	84.3	84.3	0.0	0.0	0.0	0.0	0.0
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>10,653.3</b>	<b>10,653.3</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

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

1002 Federal Receipts							
1003 GF Match							
1004 GF	10,653.3	10,653.3	***	***	***	***	***
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>10,653.3</b>	<b>10,653.3</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2010) cost: 0.0

**POSITIONS**

Full-time	7	7	6	6	6	6	6
Part-time							
Temporary							

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

Please see attached 10 page analysis - includes breakdown for RSA to all agencies.

Prepared by: Linda Perez, Director  
 Division: Administrative Services  
 Approved by: Bob Swenson, Project Manager  
                   Office of the Governor

Phone: 465-3876  
 Date/Time: 3/30/10 3:30 PM  
 Date: 3/30/2010

# STATE OF ALASKA

## ALASKA NATURAL GAS DEVELOPMENT AUTHORITY

**SEAN PARNELL, GOVERNOR**

411 WEST 4<sup>th</sup> AVENUE, FIRST FLOOR  
ANCHORAGE, ALASKA 99501

TELEPHONE: (907) 257-1393

March 24, 2010

Representative Mike Chenault  
Speaker of the House  
State Capitol, Room 423  
Juneau, AK 99801-1182

Re: In-State Gas Pipeline Legislation

Dear Representative Chenault:

ANGDA was formed in 2002 by a vote of 138,000 Alaskans to spur development of an Alaskan gas pipeline and to insure that Alaskans benefited from the gas line. ANGDA has stayed true to that mission over our history and the large body of completed public work that has been built will contribute to any in-state gas pipeline project.

Over time, there has been a range of support for ANGDA's efforts throughout several administrations and legislative sessions. Suffice it to say, ANGDA is very pleased to see the current legislative focus on pulling together all elements of a team to help facilitate an in-state gas pipeline to serve residential, industrial, and export gas uses. We stand prepared to take any actions asked of us to help bring this priority project about.

Some specific items that ANGDA is currently working on that could help any in-state gas project and should be continued to the benefit of Alaskans are:

1. Organizing the gas supply cooperative of electric utilities (NGSC) to help aggregate gas demand that could then in turn make shipping commitments to a gas pipeline;
2. Providing a range of value added opportunities that could provide a gas line anchor tenant to make gas more affordable to Alaskans;
3. Production and distribution of propane or other gases to all rural, river, and coastal communities to reduce the energy costs in western and interior Alaska;
4. The analysis of a potential split-line gas pipeline through Glennallen to Cook Inlet and to Valdez for LNG export shipments and thereby making gas more affordable to Alaskans; and
5. Working with the electric utilities on partnering in the Kenai LNG plant to maintain winter gas deliverability and serve as a bridge supply of gas until a gas line can be built.

The current legislation focuses on specific objectives to be achieved in the next fiscal year. ANGDA's experience can make major contributions to the efficiency of these efforts by shortening timelines and avoiding duplication. ANGDA's existing pipeline business relationships and special statutory authorities can compliment and work in synergy with the other team members.

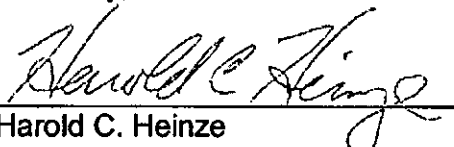
Specific task areas in the legislation that ANGDA is uniquely able to contribute to with its experienced staff, individual expert contractors, and contractor firms are:

1. Identify opportunities for delivering North Slope gas to rural & maritime Alaska;
2. Identify and negotiate with potential gas suppliers and potential gas consumers;
3. Develop pro-forma financials for the project;
4. Develop a partnering agreement with a pipeline company;
5. Provide a design, construction schedule, permitting plan, and cost estimate for an LNG plant; and
6. Develop and execute a public information and outreach plan.

A huge body of pipeline design knowledge has already been analyzed by ANGDA and the urgency of the tasks could lead to duplication if ANGDA is not strongly represented in all tasks. The desired comparison of project choices will require a full vetting of a Valdez LNG plant design and ANGDA is the only team member with prior experience on this portion of the project. ANGDA is currently dealing on a commercial basis with gas suppliers, gas consumers, and pipeline companies.

We believe all these elements are critical to any of the in-state gas projects being contemplated and we are prepared to be part of the team to help move Alaska's in-state gas line agenda forward. We ask for your support of ANGDA's involvement.

Sincerely,

  
Harold C. Heinze  
CEO

  
Scott Heyworth  
Board Chairman

CC: Representative Alan Austerman  
Representative Bob Buch  
Representative Sharon Cissna  
Representative Harry Crawford  
Representative Nancy Dahlstrom  
Representative Mike Doogan  
Representative Bryce Edgmon  
Representative Anna Fairclough  
Representative Neal Foster  
Representative Les Gara  
Representative Max Gruenberg  
Representative Carl Gatto  
Representative John Harris  
Representative Mike Hawker  
Representative Pete Petersen  
Representative Jay Ramras  
Representative Woodie Salmon  
Representative Paul Seaton  
Representative Kurt Olson  
Representative Bob Lynn

Representative Bob Herron  
Representative Lindsey Holmes  
Representative Kyle Johansen  
Representative Craig Johnson  
Representative Reggie Joule  
Representative Scott Kawasaki  
Representative Wes Keller  
Representative Mike Kelly  
Representative Beth Kerttula  
Representative Berta Gardner  
Representative David Guttenberg  
Representative Charisse Millett  
Representative Cathy Munoz  
Representative Mark Neuman  
Representative Bill Thomas, Jr  
Representative Chris Tuck  
Representative Peggy Wilson  
Representative Tammie Wilson  
Representative Bill Stoltze

**Office of Governor FY11: 8,053.7 plus 2,599.6 additional contractual for RSA needs for a total request of 10,653.3.**

To ensure that an in-state natural gas pipeline plan is delivered to the legislature by July 1, 2011 as set out in HB 369 (FIN), the in-state gas line project team has identified general work products, materials, and a minimum staffing level needed to direct the work for the project team. The cost associated with contractual services to perform environmental work and support of permitting, cost of service analysis, continued refinement of pipeline engineering, and development and management of development plan in FY11 will be approximately \$6.5 million. A cost of transportation estimate to provide pipeline and facility costs are scheduled to be completed by July 1, 2010, which will provide partial data for cost of service models. These costs will help determine commercial viability of a pipeline. The additional \$2.6 million is for RSA monies to agencies duties outlined below.

**OFFICE OF THE GOVERNOR:**

**PERSONAL SERVICES: 1,095.2** - increased to include 7 staff for first year as follows:

Project Manager Rg 26

Engineering Manager Rg 26

Commercial Manager Rg 26

Legislative Liaison/Public Outreach Officer Rg 23

Finance/budget analyst Rg 22

Schedule Coordinator Rg 21

Technical Writer Rg 19 (first year only)

Current 6500.0 operating budget request includes 322.2 for personal services. Fiscal note increases total personal services to 1,095.2 for 7 staff in first year. Following years reduce staff to 6 and include scheduled merit increases for all but professional staff.

**TRAVEL: 36.0** – reflects original travel request in FY2011 Governor's budget request.

**CONTRACTUAL: 6,809.2 + 2,599.6 (Total 9,408.8)**

Current 6500.0 operating budget request includes 6,130.0 for contractual. Fiscal note increases contractual to include commercial analysis of downstream industrial opportunities, public outreach and information dissemination, and annual lease space for 7 staff during the first year. Second and subsequent fiscal year contractual costs are indeterminate.

500.00 for FY2011, 2012 and 2013 for commercial analysis of downstream industrial opportunities; reduced to 200.0 for 2014 thru 2016.

Contractual (continued)

100.0 for public outreach, information dissemination, printing, advertising, postage.

79.2 first year office lease space – reduces to 75.3 for second and subsequent years

2599.6 RSA funding requirements – see below

**SUPPLIES: 29.0** increases FY2011 operating budget request to 29.0 for increased staff and fast-track activities, reducing to 25.0 for second and subsequent years.

**EQUIPMENT: 84.3** one-time office set-up.

**Office of Governor FY12 & Beyond: Contractual; Indeterminate**

Fiscal responsibility for FY12 and beyond is indeterminate at this time. These costs may include preconstruction engineering, procurement of natural gas, purchase of ENSTAR Bullet Line data package, potential application for extension of LNG export license, and other engineering and commercial activities that provide for a gasline that is operational by December 31, 2015. The State's ability to transfer the project to private investors is likewise unknown. If unsuccessful, the State may assume liability for a portion, or all of the construction costs. These costs will depend on what is determined and approved from the development plan, if anything, and could range from tens of millions to over 5 billion dollars, depending on the level of participation by the State.

**Breakdown of RSAs to state agencies: 2599.6 as follows:**

**AHFC FY11: 500.0**

This fiscal note is an estimate of what funds would be necessary for the Alaska Housing Finance Corporation should House Bill 369 become law. The preparation of a comprehensive financing plan would be completed once cost estimates for the project are available.

Contractual services will consist of Financial Advisors and legal counsel.

FY12: 0

**DEC FY11: 121.1**

The Department of Environmental Conservation (DEC) fiscal note reflects a project coordinator to be located in the Office of the Commissioner to coordinate with the joint in-state pipeline development team in evaluation of necessary environmental permitting, environmental impact statement review, Alaska Coastal Management

DEC (continued)

Program coordination, as well as compliance and enforcement activities for an in-state natural gas pipeline.

**FY12+: Indeterminate**

The costs of the environmental permitting for pipeline construction is indeterminate at this time, this fiscal note does not account for any permitting activities that may occur after the in-state pipeline plan is submitted to the legislature by July 1, 2011.

**DOR FY11: 1000.0**

Travel 50.0

Contractual 950.0

Department of Revenue working as part of the development team with experienced contractors and contractor firms to execute major elements of the assigned tasks.

1. Identify opportunities for delivering North Slope gas to rural & maritime Alaska
2. Identify and negotiate with potential gas suppliers and potential gas consumers
3. Develop pro-forma financials for the project
4. Develop a partnering agreement with a pipeline company
5. Provide a design, construction schedule, and cost estimate for an LNG plant
6. Develop and execute a public information and outreach plan

**DOT FY11: 610.8 plus 367.7 for DNR State Pipeline Coordinators Office**

The Department is a member of the joint pipeline development team and is the applicant for the right-of-way (ROW). A Engineer V will serve as the technical expert for the commissioner and as the technical lead for the Department's responsibilities. As the applicant for the ROW, a ROW agent will coordinate the ROW portions of the plan, providing the technical expertise to assist in determining the intricacies associated with potential routes, and will start initial coordination with utilities that are currently in the ROW. An environmental impact analysis manager will oversee and provide technical expertise for the environmental impacts and permits needed for activities in the department's ROW. Additional, costs are for

Personnel Services 418.7

Travel 45.0

Contractual 87.1

Supplies 60.0

**ADDITIONAL CONTRACTUAL FOR DOT: 367.7** needed for interagency funding to DNR State Pipeline Coordinators Office to be used by DNR as detailed below.

**DOT FY12 +: Indeterminate**

The costs for activities after the plan is submitted on July 1, 2011 are undetermined at this time.

**(DNR FY11): 367.7**

All State Pipeline Coordinator Office (SPCO) costs associated with the right-of-way permitting process, preparation of the Commissioner's Analysis, Proposed Decision and Action, construction oversight, and operational oversight are reimbursable pursuant to AS 38.35.140(b). Costs reflected in this fiscal note are reimbursable under AS38.35.140(b). Positions and efforts identified for SPCO work will utilize existing positions to the greatest extent possible. If additional SPCO or MLW positions are necessary they will be established as Long Term Non-Perm positions.

In the preparation of this fiscal note certain assumptions have been made:

**State Pipeline Coordinators Office (SPCO)**

1) Participating state agencies (ADF&G, ADEC, etc.) will provide separate fiscal notes, although their costs associated with permitting the right-of-way may be reimbursable by the applicant through the SPCO.

## DNR (continued)

- 2) The right-of-way lease applicant, pursuant to AS 38.35. 140(b), will reimburse DNR's (and other participating state agencies as well) work associated with delivery of a right-of-way lease.
- 3) DLMW has completed a separate fiscal note, however portions of their costs may be reimbursable by the applicant through the SPCO.
- 4) Existing Program Receipt Authority will be used for the project.
- 5) DGGs cost estimate assumes that the state needs to understand the geohazards to ensure the applicant has identified and considered all geologic hazards along the route.
- 6) Construction and operational oversight begins in FY2012 and FY2014, respectively. The cost estimate for these activities is for DNR only and does not include estimates for other state agencies (ADF&G, ADEC, etc.), although their costs may be reimbursable by the applicant through the SPCO.
- 7) Assume SPCO will administer material sites after initial sale.
- 8) Assume a two-year construction schedule segregated into four geographic areas.

FY2011 costs to DNR/SPCO would include expenses to support the duties of the development team in preparing the project plan and the Analyses necessary to prepare project applications, supporting documentation, and the preparation for an expedited state review of the proposed actions. Costs for FY2011 do not include any expenses towards processing a right-of-way lease applications. Expenses associated with the right-of-way permitting process are projected to start in FY2012.

**FY2011 PERSONAL SERVICES COST - \$ 200.3 total (for 12 months)****BREAKDOWN of DNR FY11 costs****1- STATE PIPELINE COORDINATOR'S OFFICE**

Positions in Anchorage; for preparing the project plan and analyses.

- one State Pipeline Coordinator (SPC) (range 26) - total 1 month at \$9.7/month = \$9.7
- one Natural Resource Specialist (NRS) III (range 18)- total 3 months/yr at 7.31/month = \$21.93
- one Natural Resource Manager (NRM) II (range 20) - total 1 month at \$9.41/month = \$9.41
- one Engineer IV (range 27) - total 3 months at 13.70/month = \$41.1
- Administrative Support - total = \$8.20

**\$90.34 for FY 11 Total**

**2- OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

Position in Anchorage; for coordination of a project Health Impact Assessment.

- Natural Resource Specialist (NRS) III (range 18) - total = \$10.0

**\$10.0 for FY 11 Total**

DNR (continued)

**3 - DIVISION OF COASTAL AND OCEAN MANAGEMENT**

One position in Anchorage; for conducting the project Alaska Coastal Management Program process.

-one Natural Resource Specialist (NRS) III (range 18)-

total 1 month at 7.31/month = \$7.31

**\$7.31 for FY 11 Total**

**3- STATE HISTORIC PRESERVATION OFFICE**

Position in Anchorage; for review and monitoring the cultural resource project program. - one Archeologist = \$20.0

**\$20.0 for FY 11 Total**

**4- DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS**

Positions in Fairbanks; for management of geohazards project related studies and review of existing information.

- one Geologist IV (range 21) - total 4 months = \$35.80

- one LTNP Geologist III (range 19) - total 4 months = \$25.52

- one Graduate Intern - total 4 months = \$11.32

**\$72.64 for FY 11 Total**

**TRAVEL, CONTRACTUAL, SUPPLIES - \$70.0 total for FY11**

Travel, contractual, and supplies to support the duties of the development team in preparing the project plan and the Analyses necessary to prepare project applications, supporting documentation, and the preparation for an expedited state review of the proposed actions.

Other miscellaneous, contractual and supply costs include office space, telephones, core service charges and related expenses.

**5- DIVISION OF MINING LAND & WATER**

Assumptions

1) that DNR/DMLW will be required to prepare a title report regarding state owned lands in the pipeline ROW,

2) that DNR will not be required to transfer title to any state lands to DOT/PF,

3) that DOT/PF will be responsible for all title or ROW acquisitions from entities other than DNR managed state lands including lands owned by private persons, boroughs, ANCSA corporations, native allotments, and the federal government,

4) that DNR/DMLW will review and approve all land surveys associated with granting an in-state gasline ROW and developing an in-state gasline across state land,

DNR (continued)

5) DNR DMLW will participate in the ROW planning effort to some degree across state land, the review of the

AS 38.35 R/W lease to be prepared by SPCO for issuance to DOT/PF, and the ACMP review of the ROW, and

6) SPCO will issue AS 38.35 ROW across state lands to DOT/PF.

The costs to DMLW would include expenses during FY 11 for providing assistance during the development teams planning efforts and preapplication meetings

**PERSONAL SERVICES COST - \$86.4 total (for 12 months in FY11)**

One Natural Resource Specialist (NRS) III (range 18) - total 12 months at \$86.4/year for assistance with the planning effort and preparation for the authorization work in FY12.

**TRAVEL, CONTRACTUAL, SUPPLIES - \$2.0 total**

Travel would be for planning and public meetings. \$2.0 in FY11

Other contractual costs include \$5.2 for office space, telephones, core service charges and related

expenses for the new positions in FY11.

Supplies are budgeted at \$3.8 for FY11, and includes one-time start-up costs for new computers and office equipment .

### **DNR FY12 & Beyond**

The FY2012 costs to DNR/SPCO would include expenses to coordinate the participation of state agencies in the right-of-way permitting process, prepare the Commissioner's Analysis, Proposed Decision and Action, develop the draft lease and, if necessary, hold public hearings. In addition the costs include right-of-way permitting expenses for the participation of the State Historic Preservation Office (SHPO), Division of Coastal and Ocean Management (DCOM), Office of Project Management and Permitting (OPMP) and the Division of Geological and Geophysical and Surveys (DGGs). It should be noted that the proposed schedule is aggressive and in order to meet the specified timeline the right-of-way permitting process will need to be conducted independent of the federal NEPA process. The FY2012 and 13 costs reflect construction oversight activities by DNR. Operational oversight costs begin in FY2014 and continue forward.

**FY2012 PERSONAL SERVICES COST - \$ 522.42 total (for 12 months)**

DNR (continued)

**Breakdown of DNR FY12 and beyond.**

STATE PIPELINE COORDINATOR'S OFFICE

Positions in Anchorage; for completing the right-of-way leasing process.

- one Natural Resource Specialist (NRS) IV (range 21) - total 10 months at \$9.95/month= \$99.50
- one Natural Resource Manager (NRM) II (range 20) - total 1 month at \$9.41/month = \$9.41
- one Natural Resource Specialist (NRS) III (range 18)- total 6 months at 7.31/month = \$43.86
- one Engineer IV (range 27) - total 3 months at 13.70/month = \$41.1
- Administrative Support - total = \$38.77

**\$232.64 for FY 12 Total**

Positions in Anchorage; for construction oversight.

- two Natural Resource Specialist (NRS) III (range 18)- total 6 months/yr at 7.31/month = \$87.72
- one Natural Resource Manager (NRM) II (range 20) - total 1 month at \$9.41/month = \$9.41
- one Engineer IV (range 27) - total 2 months at 13.70/month = \$27.4
- Administrative Support - total = \$24.9

**\$149.43 for FY 13 and 14**

Positions in Anchorage; for operational oversight.

- one Natural Resource Specialist (NRS) III (range 18)- total 4 months/yr at 7.31/month = \$29.24
- one Natural Resource Manager (NRM) II (range 20) - total 1 month at \$9.41/month = \$9.41
- one Engineer IV (range 27) - total 1 months at 13.70/month = \$13.70
- Administrative Support - total = \$10.47

**\$62.82 for FY15 Forward**

STATE HISTORIC PRESERVATION OFFICE

Position in Anchorage; for review and monitoring the cultural resource project program.

- one Archeologist = \$20.0

**\$20.0 for FY 12 Total**

Positions in Anchorage; for construction oversight.

- one Archeologist = \$20.0

**\$20.0 for FY 13 and 14 Totals**

DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS

Positions in Fairbanks; for management of geohazards project related studies and review of existing information.

- one Geologist IV (range 21) - total 12 months = \$107.4
- one LTNP Geologist III (range 19) - total 12 months = \$76.45
- one Graduate Intern - total 12 months = \$34.0

**\$217.85 for FY 12 Total**

DNR (continued)

**OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

Position in Anchorage; for coordination of a project Health Impact Assessment.

- Natural Resource Specialist (NRS) III (range 18) - total = \$30.0

**\$30.0 for FY 12 Total**

**DIVISION OF COASTAL AND OCEAN MANAGEMENT**

One position in Anchorage; for conducting the project Alaska Coastal Management Program process.

-one Natural Resource Specialist (NRS) III (range 18)- total 3 months at 7.31/month = \$21.93

**\$21.93 for FY 12 Total**

**TRAVEL, CONTRACTUAL, SUPPLIES - \$322.2 total for FY 12**

Travel would be for public meeting, public hearings, agency coordination and monitoring of contractors performing field work. In addition, DGGs will require travel to complete field studies. **\$30.0 in FY12**

Contractual costs include helicopter support for DGGs studies, office space, telephones, core service charges and related

Miscellaneous costs include aerial photos, satellite imagery, field supplies and maps.

Other miscellaneous, contractual and supply costs include office space, telephones, core service charges and related expenses.

**TRAVEL, CONTRACTUAL, SUPPLIES - \$70.0 total for FY 13 and 14**

**TRAVEL, CONTRACTUAL, SUPPLIES - \$10.0 total for FY 15 Forward**

**DIVISION OF MINING LAND& WATER, FY12**

**PERSONAL SERVICES COST - \$465.7 total (for 12 months in FY12)**

**LAND TITLE ACTIONS**

Four positions Anchorage; for land title review and report preparation and document review and processing.

-three Natural Resource Specialist (NRS) III (range 18) - total 6 months each at \$7.24/month= \$130.32

-one Natural Resource Specialist (NRS) II (range 16) - - total 6 months each at \$6.40/month = \$38.4

**\$168.72 for FY 12 Total**

**LAND SURVEY REVIEW**

Two positions Anchorage; for reviewing land and project surveys .

-Two land surveyor II (LS) III (range 22) - 1 year each at \$109.1/year

**\$218.2 for FY 12 Total**

DNR (continued)

**MATERIAL SALES**

Two positions; for preparing and executing material sales for use in pipeline R/W.

- One Natural Resource Specialist (NRS) III (range 18) - total 12 months at \$89.2/year for Northern Region Office Fairbanks = \$89.2

- One Natural Resource Specialist (NRS) III (range 18) - total 12 months at \$86.4/year for South Central Region Office Anchorage = \$86.4

**\$175.6 for FY 12 Total**

**PROJECT REVIEWS**

One position; to participate in the R/W planning effort, the review of the AS 38.35 ROW lease, and the ACMP review of the R/W.

- One Natural Resource Specialist (NRS) III (range 18) - total 8 months each at \$86.4/year for South Central Region Office Anchorage = \$57.6

**\$86.4 for FY 12 Total**

**TRAVEL, CONTRACTUAL, SUPPLIES - \$143.0 total (for 12 positions)**

Travel would be for land survey review purposes, preparation of material sales, and planning, ROW and ACMP review. \$35.0 in FY12

Other contractual costs include \$52.0 for office space, telephones, core service charges and related

expenses for the new positions in FY12 at a rate of \$5.2 per new position.

Supplies are budgeted at \$38.0 per year FY12, and includes one-time start-up costs for new computers and office equipment of \$3.8 per each new position.

Sec. 39.25.110. Exempt service.

Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
- (2) justices, judges, magistrates, and employees of the judicial branch including employees of the judicial council;
- (3) employees of the state legislature and its agencies;
- (4) the head of each principal department in the executive branch;
- (5) officers and employees of the University of Alaska;
- (6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;
- (7) certificated teachers employed by the Department of Education and Early Development as correspondence teachers, teachers in skill centers operated by the Department of Education and Early Development or by the Department of Labor and Workforce Development, or in Mt. Edgecumbe School;
- (8) patients and inmates employed in state institutions;
- (9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;
- (10) members of boards, commissions, or authorities;
- (11) the officers and employees of the following boards, commissions, and authorities:
  - (A) [Repealed, Sec. 13 ch 43 SLA 1994].
  - (B) Alaska Permanent Fund Corporation;
  - (C) Alaska Industrial Development and Export Authority;
  - (D) Alaska Commercial Fisheries Entry Commission;
  - (E) Alaska Commission on Postsecondary Education;
  - (F) Alaska Aerospace Corporation;
  - (G) Alaska Natural Gas Development Authority;
- (12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;
- (13) the state medical examiner, deputy medical examiner, and assistant medical examiners appointed under AS 12.65.015 and pharmacists and physicians licensed to practice in this state and employed by the Department of Health and Social Services or by the Department of Corrections;
- (14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Alaska Oil and Gas Conservation Commission, except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;
- (15) [Repealed, Sec. 1 ch 32 SLA 1999].
- (16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;
- (17) officers and employees of the state who reside in foreign countries;
- (18) employees of the Alaska Seafood Marketing Institute;

- (19) emergency fire-fighting personnel employed by the Department of Natural Resources for a fire emergency or for fire prevention and related activities conducted under AS 41.15.030;
- (20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;
- (21) [Repealed, Sec. 47 ch 99 SLA 2004].
- (22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs;
- (23) [Repealed, Sec. 6 ch 28 SLA 2003].
- (24) students employed by the state institutions in which the students are enrolled;
- (25) [Repealed, Sec. 8 ch 2 SLA 2004].
- (26) investment officers in the Department of Revenue;
- (27) [Repealed, Sec. 10 ch 29 SLA 1999].
- (28) persons engaged in employment or pre-employment training programs operated by the Department of Military and Veterans' Affairs;
- (29) [Repealed, Sec. 9 ch 115 SLA 1989].
- (30) a person employed as an actuary or assistant actuary by the division of insurance in the Department of Commerce, Community, and Economic Development;
- (31) [Repealed, Sec. 91 ch 163 SLA 2004].
- (32) a participant in the Alaska temporary assistance program under AS 47.27 who holds a temporary position with the state in order to obtain job training or experience;
- (33) a person employed as a convener under AS 44.62.730 or as a facilitator under AS 44.62.760 related to a negotiated regulation making process under AS 44.62.710 - 44.62.800;
- (34) the chief executive officer and employees of the Alaska Mental Health Trust Authority employed under AS 47.30.026(b);
- (35) the assistant adjutant general for space and missile defense appointed under AS 26.05.185;
- (36) the victims' advocate established under AS 24.65.010 and the advocate's staff;
- (37) employees of the Alaska mental health trust land unit established under AS 44.37.050;
- (38) the executive director of the Council on Domestic Violence and Sexual Assault established under AS 18.66.010;
- (39) the executive director and employees of the Knik Arm Bridge and Toll Authority under AS 19.75.051 and 19.75.061;
- (40) the chair of the Workers' Compensation Appeals Commission (AS 23.30.007);
- (41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250;
- (42) oil and gas audit masters employed in a professional capacity by the Department of Revenue and the Department of Natural Resources to collect oil and gas revenue by developing policy, conducting studies, drafting proposed regulations, enforcing regulations, and directing audits by oil and gas revenue auditors.

History -

(Sec. 5 ch 144 SLA 1960; am Sec. 1 ch 48 SLA 1961; am Sec. 1 ch 133 SLA 1961; am Sec. 3 ch 93 SLA 1962; am Sec. 3 ch 24 SLA 1966; am Sec. 31 ch 46 SLA 1970; am Sec. 65 ch 69 SLA 1970; am Sec. 13 ch 113 SLA 1970; am Sec. 3 ch 78 SLA 1971; am Sec. 18 ch 78 SLA 1974; am Sec. 42 ch 127 SLA 1974; am Sec. 2 ch 32 SLA 1975; am Sec. 2 ch 79 SLA 1975; am Sec. 37 ch 124 SLA 1975; am Sec. 1 ch 157 SLA 1976; am Sec. 3

ch 90 SLA 1978; am Sec. 7 ch 18 SLA 1980; am Sec. 43 ch 106 SLA 1980; am Sec. 10 ch 131 SLA 1980; am Sec. 4 ch 148 SLA 1980; am Sec. 4 ch 106 SLA 1981; am Sec. 2, 3 ch 37 SLA 1982; am Sec. 7 ch 112 SLA 1982; am Sec. 1 ch 11 SLA 1983; am Sec. 1 ch 103 SLA 1984; am Sec. 58 ch 21 SLA 1985; am Sec. 1 ch 50 SLA 1985; am Sec. 69 ch 14 SLA 1987; am Sec. 1 ch 61 SLA 1987; am Sec. 2 ch 37 SLA 1988; am Sec. 2 ch 78 SLA 1988; am Sec. 26 ch 141 SLA 1988; am E.O. No. 72 Sec. 2 (1989) am Sec. 11 ch 95 SLA 1989; am Sec. 7, 9 ch 115 SLA 1989; am Sec. 10 ch 88 SLA 1991; am Sec. 1 ch 17 SLA 1992; am Sec. 4 ch 47 SLA 1993; am Sec. 13 ch 43 SLA 1994; am Sec. 111 ch 62 SLA 1995; am Sec. 17 ch 103 SLA 1996; am Sec. 25 ch 107 SLA 1996; am Sec. 6 ch 108 SLA 1996; am Sec. 1 ch 121 SLA 1996; am Sec. 4 ch 117 SLA 1998; am Sec. 10 ch 29 SLA 1999; am Sec. 1 ch 32 SLA 1999; am Sec. 1 ch 15 SLA 2001; am Sec. 2 ch 30 SLA 2001; am Sec. 20 ch 92 SLA 2001; am Sec. 1 ch 27 SLA 2002; am Sec. 2 ch 91 SLA 2002; am Sec. 3 2002 Ballot Measure No. 3; am Sec. 6 ch 28 SLA 2003; am Sec. 5 ch 49 SLA 2003; am Sec. 3 ch 77 SLA 2003; am Sec. 8 ch 2 SLA 2004; am Sec. 91 ch 163 SLA 2004; am Sec. 69 ch 10 FSSLA 2005; am Sec. 1 ch 48 SLA 2006; am Sec. 4 ch 22 SLA 2007; am Sec. 10 ch 1 SSSLA 2007; am Sec. 50 ch 41 SLA 2009; am Sec. 5 ch 47 SLA 2009)

#### Revisors Notes -

Former paragraph (29) was enacted as (28). Renumbered in 1989. Paragraph (32) was enacted as (31); renumbered in 1996. Paragraphs (35) and (36) were enacted as (34); renumbered in 2001.

In 1999, "Department of Commerce and Economic Development" was changed to "Department of Community and Economic Development" in paragraph (30) in accordance with Sec. 88, ch. 58, SLA 1999, and "Department of Education" was changed to "Department of Education and Early Development" in paragraph (7) in accordance with Sec. 89, ch. 58, SLA 1999.

Paragraph (38) was enacted as paragraph (37) and renumbered in 2002.

In 2003, in paragraph (39), "AS 19.75.051 and 19.75.061" was substituted for "AS 44.90.051 and 44.90.061" to reflect the 2003 renumbering of AS 44.90.051 and 44.90.061.

In 2004, in paragraph (30) of this section, "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development", in accordance with Sec. 3, ch. 47, SLA 2004.

In 2009, under Sec. 2, ch. 60, SLA 2009, in paragraph (11) of this section "Alaska Aerospace Corporation" was substituted for "Alaska Aerospace Development Corporation".

#### Cross References -

For statement of legislative intent regarding the oil and gas revenue audit master positions authorized by paragraph (42) of this section, see Sec. 69, ch. 1, SSSLA 2007.

#### Amendment Notes -

The first 2001 amendment, effective April 28, 2001, added paragraph (34).

The second 2001 amendment, effective May 25, 2001, added paragraph (35).

The third 2001 amendment, effective July 1, 2002, added paragraph (36).

The first 2002 amendment, effective August 16, 2002, added paragraph (37).

The second 2002 amendment, effective June 28, 2002, added paragraph (38).

The third 2002 amendment, effective February 25, 2003, added subparagraph (11)(G).

The first 2003 amendment, effective July 1, 2003, repealed paragraph (23).

The second 2003 amendment, effective July 1, 2003, inserted "or by the Department of Labor and Workforce Development" in paragraph (7).

The third 2003 amendment, effective September 10, 2003, added paragraph (39).

The first 2004 amendment, effective May 16, 2004, repealed paragraph (25), relating to the executive director and staff of the Alaska Science and Technology Foundation.

The second 2004 amendment, effective June 26, 2004, repealed paragraph (21), relating to employees of the Citizens' Advisory Commission on Federal Areas in Alaska.

The third 2004 amendment, effective July 1, 2005, repealed paragraph (31), relating to administrative law judges appointed to the office of tax appeals.

The 2005 amendment, effective November 7, 2005, added paragraph (40).

The 2006 amendment, effective August 30, 2006, inserted "and pharmacists" in paragraph (13), and deleted "the Division of Mental Health and Developmental Disabilities in" preceding "the Department of Health" in that paragraph.

The first 2007 amendment, effective June 8, 2007, added paragraph (41).

The second 2007 amendment, effective December 20, 2007, added paragraph (42).

The first 2009 amendment, effective June 21, 2009, in (14), added "Alaska" preceding "Oil and Gas Conservation Commission".

The second 2009 amendment, effective July 1, 2009, in (38), deleted "and staff" following "the executive director".

#### Editors Notes -

Section 7, ch. 117, SLA 1998, which was to repeal paragraph (33) of this section effective July 1, 2003, was repealed by Sec. 2, ch. 44, SLA 2003.

#### History Reports -

For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, a proposal relating to classification of petroleum revenue auditors under the State Personnel Act, see 2007 House Journal 1547 - 1550.

#### AG Opinions -

Staff administering the Alaska Military Youth Academy are members of the classified service, and are not in the exempt service, because they are not "persons engaged" in the employment training program, as required by subsection (28). Oct. 13, 2000, Op. Att'y Gen.

#### Decisions -

The thrust of the exemptions in this chapter, the Public Employees Retirement System, former AS 39.35.680(5)(c), and the statutory leave provisions for state employees, AS 39.20.310, is to provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. *Hafling v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

No inconsistency between ferry crew exemption of this section and inclusion of such personnel with Public Employment Relations Act, AS 23.40.070 et seq. - See *Hafling v. Inlandboatmen's Union*, 585 P.2d 870 (Alaska 1978).

National Guard exempt from Personnel Act. - Because of the state's adoption of federal personnel rules and regulation regarding promotion and separation in the Alaska National Guard, it has "otherwise provided by law" that members of the National Guard are exempt from the Alaska Personnel Act. *State, Dep't of Military & Veterans Affairs v. Bowen*, 953 P.2d 888 (Alaska 1998).

Effect of being in exempt service. - The "exempt service" is a category of jobs which, for whatever reason, the Legislature wanted to exclude from the state personnel system. Not every person

in the exempt service is a confidential employee. The fact that plaintiff was in the exempt service did not mean that the Alaska Energy Center lacked the power to give him a three-year contract. *Zerbetz v. Alaska Energy Ctr.*, 708 P.2d 1270 (Alaska 1985).

Cited in *State v. Haley*, 687 P.2d 305 (Alaska 1984); *McGrath v. University of Alaska*, 813 P.2d 1370 (Alaska 1991).

1 (23) sec. 100, ch. 2, FSSLA 1999, page 69, lines 29 - 30, and allocated on  
2 page 69, lines 31 - 32 (Department of Transportation and Public Facilities, National Highway  
3 System (NHS) state match - \$22,602,059).

4 (b) The unexpended and unobligated balance, not to exceed \$98,056, of the  
5 appropriation made in sec. 60, ch. 3, FSSLA 2005, page 140, lines 24 - 26 (Alaska Gateway,  
6 Dot Lake School mechanical upgrade - \$1,087,118) is reappropriated to the Alaska capital  
7 income fund (AS 37.05.565).

8 (c) The unexpended and unobligated balance, not to exceed \$54,753, of the  
9 appropriation made in sec. 60, ch. 3, FSSLA 2005, page 142, lines 13 - 14 (Southeast Island,  
10 Thorne Bay house access ramp - \$141,415) is reappropriated to the Alaska capital income  
11 fund (AS 37.05.565).

12 \* Sec. 19. NATURAL GAS PIPELINE. (a) The sum of \$4,322,000 is appropriated from the  
13 Alaska capital income fund (AS 37.05.565) to the Office of the Governor for the development  
14 of an in-state natural gas pipeline.

15 (b) The unexpended and unobligated balance, estimated to be \$2,700,000, of the  
16 appropriation made in sec. 8, ch. 1, 4SSLA 2008 (Department of Natural Resources, gas  
17 pipeline implementation - \$5,500,000) is reappropriated to the Office of the Governor for the  
18 development of an in-state natural gas pipeline.

19 (c) For the appropriations made in (a) and (b) of this section, it is the intent of the  
20 legislature that

21 (1) the funds be used solely to plan, coordinate, and facilitate construction,  
22 ownership, and management of a natural gas pipeline serving Fairbanks, the Southcentral  
23 region of the state, and other communities wherever practicable, connecting with or  
24 enhancing the existing gas pipeline system, and reaching to tidewater;

25 (2) the funds be used for a full alternative analysis of possible routes;

26 (3) an economically feasible in-state pipeline and any connecting lines serve  
27 industrial, residential, and utility customers along the entire route, including any other regions  
28 of the state that could be served at commercially feasible rates;

29 (4) the Office of the Governor use the appropriations to

30 (A) coordinate with entities that could build, own, and operate the line;

31 (B) assist with preparing cost estimates for the project to determine its

1 economic feasibility and cost to consumers;

2 (C) apply for and obtain right-of-way permits for the project route,  
3 with the intent that the state would transfer the permits to, and receive compensation  
4 for the permits from, the entity best able to complete the project;

5 (D) work with other entities to promote the gas supply and gas  
6 purchase contracts that would be required for the project to be commercially viable;

7 (5) the coordination effort by the Office of the Governor use, to the fullest  
8 extent possible, any and all existing work by other state agencies before contracting for new  
9 reports, research, and analyses, and that the coordination effort by the Office of the Governor  
10 not expand beyond the scope of coordinating interests to build, own, and operate the gas  
11 pipeline;

12 (6) the Office of the Governor submit written monthly reports to the president  
13 of the senate, the speaker of the house of representatives, and all legislators, listing all current  
14 and future contracts executed for development of an in-state natural gas pipeline and  
15 specifying the scope of work and contract amount, a cumulative total monthly of all funds  
16 spent for development of an in-state natural gas pipeline, reporting progress to date on the  
17 project work plan, and presenting a work plan for each subsequent month.

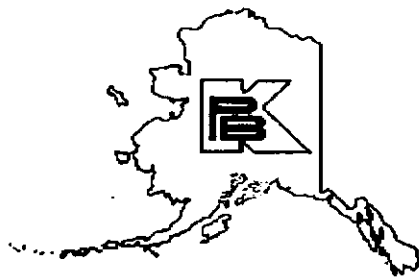
18 \* **Sec. 20. FUND TRANSFER.** An amount equal to 20 percent of the revenue collected  
19 under AS 43.55.011(g), not to exceed \$60,000,000, is appropriated from the general fund to  
20 the community revenue sharing fund (AS 29.60.850).

21 \* **Sec. 21. CONTINGENCIES.** (a) Sections 14(f) and 14(g) of this Act are contingent on  
22 ratification by the members of the respective collective bargaining unit of its collective  
23 bargaining agreement.

24 (b) Section 7(e) of this Act is contingent on passage by the Twenty-Sixth Alaska State  
25 Legislature in the First Regular Session and enactment into law of a version of HB 172  
26 relating to the education loan fund.

27 (c) Section 11(b) of this Act is contingent on passage by the Twenty-Sixth Alaska  
28 State Legislature in the First Regular Session and enactment into law of a version of SB 89  
29 relating to retirement benefits for members of the Alaska Territorial Guard.

30 (d) Section 8(f) of this Act is contingent on passage by the Twenty-Sixth Alaska State  
31 Legislature in the First Regular Session and enactment into law of a version of HB 141



## **KENAI PENINSULA BOROUGH**

*Mayor's Office*

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March 11, 2010

Honorable Mike Chenault  
Speaker, Alaska House of Representatives  
State Capitol Room 208  
Juneau, AK 99801

Dear Speaker Chenault:

I am pleased to offer my support of House Bill 369: An Act relating to an in-state natural gas pipeline.

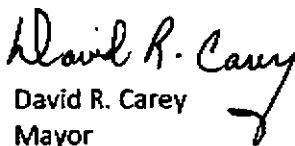
The Kenai Peninsula Borough and the entire South Central region of Alaska has long relied on the natural gas production from the Cook Inlet basin to heat our homes, schools and businesses; generate electrical energy and employment of thousands of workers. As the Cook Inlet supply is dwindling, a new source of natural gas is paramount to our economic stability and prosperity. I believe an "in-state" gas line will accomplish that.

Many Alaskan's have become frustrated by the apparent lack of movement by our elected officials to head off the day when a reliable source of natural gas ceases to exist here; in my view HB 369 attempts to consolidate the multiple and individual efforts into one common direction and does so with measurable timeframes for action.

The Kenai Peninsula Borough supports the construction of a natural gas spur pipeline, or "bullet line", connecting the North Slope to Cook Inlet. This pipeline would address Alaskan economic concerns and long-term energy needs. The Kenai Peninsula Borough supports the efforts of the Alaska Natural Gas Development Authority (ANGDA) to develop a spur pipeline, to bring North Slope natural gas to Southcentral Alaska, specifically to the Nikiski area, which is an established hub in Cook Inlet.

The Kenai Peninsula Borough welcomes the opportunity to be included as part of the Joint In-state Gasline Development Team as described in HB 369. Please consider this letter as my firm support of House Bill 369.

Sincerely,

  
David R. Carey  
Mayor

## Senate Resources Testimony

Offered by David Gottstein

04/01/2010

Thank you to the Chair, and members of the committee for offering me the opportunity to share my views today regarding CSHB 369, and a gas pipeline in general. My name is David Gottstein and I reside in Anchorage, Alaska. I come at the gas pipeline questions not only as an interested Alaskan, but as a twenty year company analyst and Registered Investment Advisor with a finance degree from Wharton, having also been a logistics and supply chain manager in a major grocery operation for almost ten years. Perhaps the intersection of these two disciplines allows me to look at the question at hand differently than most, because any pipeline project is largely a combination of economics, logistics and finance.

The most important thing I have to say regarding logistics is, since logistics is mostly about moving weight and cubic volumes at the lowest cost per unit of distance, that any effort to get Alaskan's gas to Alaskans that doesn't include material export capacity will be terribly short-sighted and will cost the State of Alaska at least tens of billions of dollars over time in lost opportunity, in addition to saddling most Alaskans with much higher energy costs for decades to come, than they would have to pay by otherwise piggybacking on top of an export volume-based and efficient, distribution network. **That means at the very minimum, a large diameter pipeline from the North Slope to a logistical "Sweet Spot" in the Interior must be the anchor of any pipeline project.** We should concurrently spur to Fairbanks and South Central, and then let the markets determine the fate of the remaining logistical foot-print, or rather sizing and routing, of any further distribution. When economics justify it, albeit Canada, Valdez/LNG, and any value added processing.

The oil companies and pipeline companies must wait until they fill a pipeline through the open season process before they can commit to build because they are looking for immediate economic rent and returns on capital. And they can't otherwise finance such a project. Therefore, regardless of how they may be posturing now, uncertainty about intermediate to long-term gas pricing and demand means it could be a decade or more before boards of directors will be in a position to vote to dedicate the large capital investments necessary for a massive project such as the Canadian route. Everything they do in the meantime is a cost of posturing to maintain an "Option" to actually build only when they want to. Whenever that might be.

We can't afford though to freeze in the dark waiting. Only the State of Alaska has the vested interest in making sure we get Alaskan's gas to Alaskans in the shortest amount of time, and provide for an efficient distribution network. One not offered by a small diameter line. We also need not leave our destiny to the calendars of outside boards of directors with very different interests. CSHB 369 recognizes that, and therefore could be the right instrument to move forward on; with some critical adjustments. But the document must first conform to the economics I believe, and not the other way around.

The most important thing I have to say regarding the economics, and I am not suggesting this position, but rather just offering the base-line economics, is that the State of Alaska, again just as a baseline, not a goal, is the only entity, as the owner of the resource, who could write a check for cash to pay for the pipeline, charge zero for the tariff, and make \$50-100 billion. That is because we make the vast majority of our money selling the resource, not in the transportation of it. When you start off with that economic focus, and calculate what you get by investing the \$3 billion extra it would take to increase the size of a pipe from the North Slope to the Interior suitable for export capacity, the economic and business decision becomes quite simple because the returns are enormous. Only the State can afford to incubate, or have a portion of the pipe idle for a period of time, and wait for the rest of the market to come to it. It puts us in a very powerful negotiating position. How long can we wait until the pipe needs to be filled before we lose the bet? The answer is 50-100 years if you look at it from an economic and financial perspective. I would be happy to share with staff how to make those financial calculations.

And I am not talking about having the State take any construction risk, or to design, build, maintain or manage the project. That would be done by private sector partners who gain rights to future tariffs as negotiated. Hopefully this would include The Big Three and maybe TransCanada. And we can further separate economic rights from governance rights in our negotiations.

So here are 12 things that the State of Alaska gets if it underwrites, and elevates to *Investment Grade*, a gas pipeline with efficient export potential, made possible by \$3 billion extra and patient development capital, which could be financed a number of different ways;

1. We avoid saddling Alaskans with high energy costs for thirty years, or however long it might take to pay off the bonds necessary for a small diameter high cost per unit line. Only when export volumes are achieved will economies-of-scale be available to pass on to consumers in the form of lower energy tariffs and costs.
2. We avoid putting an export project at materially greater risk in terms of time and money by moving from a highly inefficient logistical foot-print to a highly efficient one. Since we won't then have to build two sets of pipe to move the same amount of gas that could much more efficiently pass through one.
3. We get gas to Alaskans in as little as six to eight years.
4. We put our future and destiny on our timeframe instead of that necessary for an alignment of uncontrollable, unpredictable, disparate, and naturally competing factors and interests outside of our control.
5. By announcing to the energy community that we are prepared now to build, and we invite them to participate, we force them to act, for fear of being left behind.
6. We greatly invigorate the potential for adding volumes not only to the gas pipeline, but the oil pipeline as well. This is because not only will we have finally, after decades, brought our gas to market, but we will also make it possible for new oil and gas explorers, on a spot basis, not having participated in an open season necessary to secure capacity, the opportunity to explore and produce, knowing they can get their product to market. And when they look for gas, they

will find more oil, and vice versa. Yesterday's continental shelf rulings magnify this potential.

7. The Oil & Gas Commission, for the first time will be empowered to maximize their mandate by maximizing the trade-off of oil and gas values, un-constrained by capacity limitations.
8. We position many parts of rural Alaska to benefit with reliable access to lower cost energy over time because of economies-of-scale.
9. We create the opportunity to approach Hawaii most importantly, about Alaska being a long-term significant solution to their energy needs with a project that could actually happen. Unfettered with any export limitations.
10. We will jump start the economy and generate decades of improved prosperity for all Alaskans. With a long-term fiscal plan based upon the rational management of our energy wealth, resulting in being able to continue contributing to the Permanent in material ways for many years to come.
11. We avoid to a considerable degree, exposing the State to long-term fiscal decay, and hopefully put off until long in the future, pressures to use the Permanent Fund to help pay for state government.
12. If we have buyers, and a pipeline, the producers will have no choice but to supply our gas. The view that the producers hold the key to everything doesn't have to be.

So how do we do we earn all this? By doing the following;

**Appropriate enough money this session to fully vet this approach. This can be done separately or by amending HB369 to focus on a large capacity line from the North Slope to an interior hub. Including what role the State of Alaska could play in order to insure the project moves forward as soon as possible, on an INVESTMENT GRADE basis. No research being done at the state level currently contemplates this scenario.**

**If we get our gas to a hub, the rate payers can afford to take it the rest of the way. Just doing this alone this year will put pressure on the majors to take this upcoming season more seriously.**

We can wait for multiple open seasons before we get started, adding at least one to two years to a project, or we can start now. The sooner we announce to the world we are doing this, the sooner serious negotiations can begin with potential buyers.

In terms of the legislation, I support legislation that attempts to do something, but without focusing on the economics, we lose the economics. Putting a time limit on the process, handicaps and limits the results. I would rather see us engage in an expedited process rather than mandate a timeframe that limits a result.

I have no prejudice in terms of what State entity manages the process as long as the members are qualified, coupled with any extra advantages that might be inherent in a particular entity. I will offer that one could, it would seem, greatly expedite the process simply by renegotiating the AGIA license with TransCanada, as authorized within AGIA,

to convert the State of Alaska to a co-developer of the big pipe to the Interior, owning whatever rights the private sectors chooses not to adequately bid on. In the end, that could even be very little.

The only way we lose this bet is if China and India don't grow sufficiently in the next 50-100 years to make North Slope gas economic. That should be an easy bet. The only tough decision there might be is if we generate perhaps 2 BCF a day of demand from in-state use and Hawaii, along with Japan and South Korea perhaps, with an 80-90% chance of success, and we are also faced with a much larger Canadian opportunity, and there isn't enough gas for both projects. Only if the Canadian option rises significantly above the 50% likelihood in a predictable timeframe might there be a real choice to make. But we don't have to make that decision, until we are faced with that option.

Thank you members of the committee for allowing me to present.