

HB

4

<TARGET><BILL>HB 4</BILL><SUBJECT>HB
4</SUBJECT><COMM>SRES28</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 4/2/13

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/4/13

Resources Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4(FIN)
HB 4-IN-STATE GASLINE DEVELOPMENT CORP

"An Act relating to the Alaska Gasline Development Corporation; establishing the Alaska Gasline Development Corporation as an independent public corporation of the state; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to judicial review of a right-of-way lease or an action or decision related to the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement by the Alaska Gasline Development Corporation; relating to the review by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline project developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by contract carriage; repealing the statutes relating to the Alaska Natural Gas Development Authority and making conforming changes; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date."

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
H.FIN	✓			2
H.FIN	✓			3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	MICCICME			✓	
	French		✓		
	McCreche	✓			
Anna Fairclough	FAIRCLOUGH			✓	
	DYSON	✓			
CHAIR:	Biessel	✓			

ALASKA STATE LEGISLATURE

Sen. Cathy Giessel, Chair
Sen. Fred Dyson, Vice Chair
Sen. Lesil McGuire
Sen. Anna Fairclough
Sen. Click Bishop
Sen. Peter Micciche
Sen. Hollis French



State Capitol, Room 427
Juneau AK 99801-1182
907-465-4843
Fax: 907-465-3871
800-465-4843

Senate Resources Committee

Butrovich Room 205
Tuesday, April 2, 2013
3:30-5:00 p.m.

AGENDA

➤ **HB 4 In-State Gasline Development Corp Sponsor Presentation**

Invited Testimony

Teleconference

ALASKA STATE LEGISLATURE

Sen. Cathy Giessel, Chair
Sen. Fred Dyson, Vice Chair
Sen. Lesil McGuire
Sen. Anna Fairclough
Sen. Click Bishop
Sen. Peter Micciche
Sen. Hollis French



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Senate Resources Committee

Butrovich Room 205
Wednesday, April 3, 2013
3:30-5:30 p.m.
6:00 - Public

AGENDA

- **NPRA Travesty Wells, Alaska's Options**
Michael Geraghty, Attorney General

- **HB 4 In-State Gasline Development Corp**
 - **Continue Sponsor Presentation**
 - **Alaska Gas Development Corp**
Frank Richards, Pipeline Engineering Manager
Darryl Kleppin, Commercial Manager
 - **Dept. of Natural Resources - for Questions**
Mike Thompson, State Pipeline Coordinator
(online)
 - **Dept. of Law – for Questions**
Cori Badgley Mills, Asst. AG
John Hutchins, Asst. AG, ROW leasing
Stuart Goering, Asst. AG, RCA, (online)
Bonnie Harris, Asst. AG, Oil & Gas, (online)

 - **6:00 PM Public Testimony**

Teleconference

ALASKA STATE LEGISLATURE

Sen. Cathy Giessel, Chair
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Senate Resources Committee

Butrovich Room 205
Thursday, April 4, 2013
3:30-6:00 p.m.

AGENDA

- **HB 4 In-State Gasline Development Corp**
 - **Alaska Gas Development Corp Presentation on Common/Contract Carriers and Confidentiality**
Frank Richards, Pipeline Engineering Manager
Darryl Kleppin, Commercial Manager
 - **Dept. of Natural Resources - for Questions**
Mike Thompson, State Pipeline Coordinator
(online)
 - **Dept. of Law – for Questions**
Cori Badgley Mills, Asst. AG
John Hutchins, Asst. AG, ROW leasing
Stuart Goering, Asst. AG, RCA, (online)
Bonnie Harris, Asst. AG, Oil & Gas, (online)

Teleconference

Representative Mike Hawker
Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
907 465-4949 office
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

House District 27:

Anchorage
Glen Alps
Rainbow
Indian
Bird
Girdwood

BILL HEARING REQUEST

TO: Sen. Cathy Giessel, Chair
Senate Resources Committee

FROM: Rep. Mike Hawker

A handwritten signature in black ink that reads "Mike".

DATE: April 1, 2013

RE: CS for Sponsor Substitute for House Bill 4 (FIN) \I

I request that the CS for Sponsor Substitute for House Bill 4 (FIN) /I (HB4), In-State Gasline Development Corp., be scheduled for a hearing at your earliest convenience.

HB4 establishes AGDC as an independent public corporation of the state, charged with developing, financing, constructing and operating instate natural gas pipelines that deliver gas to Fairbanks, Southcentral, and other communities where possible, at the lowest possible costs.

Specifically, HB4 directs AGDC to implement a plan for an instate natural gas pipeline; creates a regulatory framework for a contract carrier pipeline; and provides AGDC tools to accomplish its mission, including the ability to hold certain information confidential; to issue revenue bonds backed only by investor commitments; and to pursue development of additional instate natural gas pipelines in the future.

A sponsor statement, a copy of the bill, and a sectional will be forwarded to your offices as soon as possible.

Please feel free to contact me, or my legislative aide Rena Delbridge, at 465-4949 for any additional information, or to request additional background materials.



Representative Mike Hawker Alaska State Legislature

Sponsor Statement

CS for Sponsor Substitute for House Bill 4 (FIN)
In-state Gasline Development Corp

House Bill 4 (HB 4) creates an entity charged with getting Alaska's natural gas into the hands of Alaskans. HB 4 empowers the Alaska Gasline Development Corporation (AGDC) to lead Alaska into a natural gas future.

For decades, Alaskans have looked to natural gas to ease crippling instate energy costs and air quality problems; to support new industry and jobs; to promote economic development; and to generate state revenue as the resource is commercialized. HB 4 provides AGDC the authority and resources to develop, finance, and operate a 500 million cubic feet per day gas pipeline from the North Slope, serving Fairbanks and Southcentral, at the lowest possible cost, without delay. While pursuing this project, AGDC is structured to be responsive if alternatives materialize that provide greater benefit to Alaskans, including potential partnership with industry on a large-diameter export pipeline. Finally, HB 4 enables AGDC to consider future pipelines that extend the benefits of natural gas to more Alaskans.

This legislation includes ways for the state to support AGDC and an instate natural gas pipeline and to alleviate uncertainty and risk, thereby minimizing the prices Alaskans pay for natural gas. HB 4 maximizes state efforts; separates AGDC from political influence; and creates a regulatory environment for a contract carrier pipeline that encourages future development of oil and gas resources. HB 4 also provides crucial checks and balances to ensure AGDC is accountable to Alaskans – for state money, for state oversight, and for the costs of gas to consumers.

To date, private sector companies have not built a gas pipeline of this magnitude. The risks and costs associated with a pipeline spanning the 700-mile-plus length of Alaska are significant for any private sector entity. Yet, Alaskans remain in critical need of natural gas for instate use. The state can act now to bring a project together, opening new private sector development opportunities while addressing our instate energy issues.

This is Alaska's opportunity to advance the state's interests to get Alaskan gas into the hands of Alaskans on our schedule, without waiting for others to determine our future.

Bill Index: House Bill 4, Version I

Section	Page	Subject	Intent
1	2	Findings and Intent	Legislative findings and intent
2	3	Reflects Sec 3	Amend AS 18.56.086 (AHFC gas pipeline subsidiaries)
3	4	New corporation	Enact AS 31.25 (AGDC)
4	25	Procurement code	Amend AS 36.30.850(b) (Procurement code exemptions)
5	25	Conforming to Sec 21	Amend AS 37.05.146(c)(22) (RCA exemption Executive Budget Act)
6	25	Conforming to Sec 11	Amend AS 38.05.180(bb)(1)
7	25	Conforming to Sec 3	Repeal and reenact AS 38.34.099 (Definitions)
8	25	Conforming to Sec 11	Amend AS 38.35.100(d)
9	26	Conforming to Sec 11	Amend AS 38.35.120(a) (Lease covenants)
10	29	Conforming to Sec 11	Amend AS 38.35.120(b) (Validity of lease absent covenants)
11	30	Contract carrier covenants	Enact AS 38.35.121 (Contract carrier lease covenants)
12	31	Reinforces Sec 3	Amend AS 38.35.140 (No-cost lease to AGDC)
13	31	Judicial review	Enact AS 38.35.200(c)-(d) (Limitation period for judicial challenges to lease actions)
14	32	State Personnel Act exemption	Amend AS 39.25.110(11)(H) (Exempt service)
15	32	Public Official Financial Disclosure	Amend AS 39.50.200(b) (Public official financial disclosure definitions)
16	32	Public record disclosures	Amend AS 40.25.120(a) (Public Records)
17	34	Conforming to Sec 21	Amend AS 42.04.080(a) (RCA decision-making procedures)
18	35	RCA public utilities review under 42.08	Enact AS 42.05.433 (RCA review of utility contracts)
19	35	42.08 exempt from 42.05 regulation	Enact AS 42.05.711(t) (Contract carrier exemption from regulation as a public utility)
20	35	42.08 exempt from 42.06 regulation	Enact AS 42.06.601 (Contract carrier exemption from regulation as pipeline carrier under AS 42.06)
21	36	Instate gas pipeline contract carrier (RCA)	Enact AS 42.08 (In-State Pipeline Contract Carrier)
22	53	Property tax exemption	Enact AS 43.56.020(d) (Property tax exemption)
23	53	Repealer	Repeals multiple sections
24	54	Repealer	Repeals 2002 Ballot Measure 3, Sections 1 and 5
25	54	Transition / intent	Transition and legislative intent
26	55	Revisor's instructions	Revisor's instructions
27	55	Effective date	Immediate effective date

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR FRENCH

TO: CSSH B 4(FIN)

1 Page 54, line 15, following "14":

2 Insert a new paragraph to read:

3 "(1) "affiliated interest" has the meaning given in AS 42.06.630;"

4

5 Renumber the following paragraphs accordingly.

AMENDMENT

OFFERED IN THE SENATE
TO: CSSSHB 4(FIN)

BY SENATOR FRENCH

1 Page 4, line 26:

2 Delete "or is no longer receiving the inducements in AS 43.90.110(a)"

3 Insert "under AS 43.90.240 or has commenced commercial operations"

4

5 Page 10, lines 11 - 12:

6 Delete "or is no longer receiving the inducements in AS 43.90.110(a)"

7 Insert "under AS 43.90.240 or has commenced commercial operations"

8

9 Page 31, line 29:

10 Delete "or is no longer receiving the inducements in AS 43.90.110(a)"

11 Insert "under AS 43.90.240 or has commenced commercial operations"

12

13 Page 41, lines 25 - 26:

14 Delete "or is no longer receiving the inducements in AS 43.90.110(a)"

15 Insert "under AS 43.90.240 or has commenced commercial operations"

16

17 Page 49, line 13:

18 Delete "or is no longer receiving the inducements in AS 43.90.110(a)"

19 Insert "under AS 43.90.240 or has commenced commercial operations"

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSH 4(FIN)

BY SENATOR FRENCH

1 Page 36, line 5:

2 Delete "AS 42.08.320(b) - (d)"

3 Insert "AS 42.08.320(b) and (c)"

4

5 Page 43, lines 2 - 6:

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

10 (2)"

11

12 Page 43, lines 14 - 25:

13 Delete all material.

14

15 Reletter the following subsection accordingly.

16

17 Page 43, line 26:

18 Delete "If a precedent agreement or related contract is not arm's length, the"

19 Insert "The"

20

21 Page 43, lines 28 - 31:

22 Delete "normally applied under AS 42.06.140. If the commission is reviewing a
23 precedent agreement under (c)(2) of this section, the commission may consider the in-state

- 1 natural gas pipeline carrier's approved recourse tariff, including the cost data underlying that
- 2 tariff"
- 3 Insert "applied under AS 42.06.140"

AMENDMENT

OFFERED IN THE SENATE
TO: CSSH B 4(FIN)

BY SENATOR FRENCH

1 Page 1, line 10:

2 Delete **"that is a contract carrier"**

3

4 Page 1, line 12, through page 2, line 5:

5 Delete **"relating to the review by the Regulatory Commission of Alaska of natural**
6 **gas transportation contracts; relating to the regulation by the Regulatory Commission**
7 **of Alaska of an in-state natural gas pipeline project developed by the Alaska Gasline**
8 **Development Corporation; relating to the regulation by the Regulatory Commission of**
9 **Alaska of an in-state natural gas pipeline that provides transportation by contract**
10 **carriage;"**

11

12 Page 8, lines 22 - 23:

13 Delete all material.

14

15 Renumber the following paragraphs accordingly.

16

17 Page 11, lines 26 - 29:

18 Delete all material.

19 Insert "AS 38.35.120."

20

21 Page 25, line 27, through page 26, line 6:

22 Delete all material.

23

1 Renumber the following bill sections accordingly.

2

3 Page 26, line 13, through page 32, line 2:

4 Delete all material.

5

6 Renumber the following bill sections accordingly.

7

8 Page 35, line 13, through page 55, line 6:

9 Delete all material.

10

11 Renumber the following bill sections accordingly.

12

13 Page 55, lines 27 - 29:

14 Delete "AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as
15 amended by sec. 9 of this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and
16 AS 38.35.121, enacted by sec. 11 of this Act,"

17

18 Page 55, line 30:

19 Delete "dates of secs. 3 and 8 - 11"

20 Insert "date of sec. 3"

21

22 Page 55, line 31:

23 Delete "dates of secs. 3 and 8 - 11"

24 Insert "date of sec. 3"

25

26 Page 56, lines 1 - 4:

27 Delete ", AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as
28 amended by sec. 9 of this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and
29 AS 38.35.121, enacted by sec. 11 of this Act"

30

31 Page 57, lines 12 - 16:

1 Delete "lines of
2 (1) AS 38.35.120 from "Covenants required to be included in lease" to
3 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline
4 contract carrier"; and
5 (2)"
6 Insert "line of"

28-LS0021\PI

Bullock

3/4/13

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE ~~RESOURCES~~FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES HAWKER AND CHENAULT, Millett, Johnson, Neuman, Hughes, Olson, Gattis, Reinbold, Holmes, Tammie Wilson, Thompson**A BILL****FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (1) five public members; and

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

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

1 natural gas pipeline construction, operation and marketing; finance; large project
2 management; and other expertise and experience that is relevant to the purpose,
3 powers, and duties of the corporation. ~~Members~~Public members of the board serve
4 staggered ~~seven~~five-year terms. A public member ~~may be removed from office~~
5 ~~by~~serves at the governor only for cause. A removal by~~pleasure~~ of the governor ~~must~~
6 ~~be in writing, must state the reason for the removal, and must be made available to the~~
7 ~~public.~~ A vacancy shall be filled in the same manner as the original appointment.

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

12 (d) The public members of the board ~~described in (a) of this section~~ receive
13 \$400 compensation for each day spent on official business of the corporation and may
14 be reimbursed by the corporation for actual and necessary expenses at the same rate
15 paid to members of state boards under AS 39.20.180.

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

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

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

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

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

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

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

4 (e) An affirmative vote of at least ~~three~~four members of the board is required
5 to approve

6 (1) the sale and issuance of bonds;

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

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

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

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

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

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

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

30 **Sec. 31.25.045. Executive director.** The corporation shall employ an
31 executive director, who may not be a member of the board. The executive director

1 shall be appointed by the board and serves at the pleasure of the board.

2 **Sec. 31.25.050. Legal counsel.** The corporation shall retain ~~an attorney as~~
3 legal counsel ~~for the corporation. The attorney retained by the corporation shall~~to
4 advise the corporation in legal matters and represent it in ~~suits~~litigation.

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

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

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

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

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

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

31 **Sec. 31.25.080. Powers and duties.** (a) In addition to other powers granted in

1 this chapter, the corporation may

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

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

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

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

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

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

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

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

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

1 (10) advocate for new pipeline capacity before the Federal Energy
2 Regulatory Commission;

3 (11) make and execute agreements, contracts, and other instruments
4 necessary or convenient in the exercise of the powers and functions of the corporation
5 under this chapter, including a contract with a person, firm, corporation, governmental
6 agency, or other entity;

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

8 (13) adopt an official seal;

9 (14) adopt bylaws for the regulation of its affairs and the conduct of its
10 business and adopt regulations and policies in connection with the performance of its
11 functions and duties;

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

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

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

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

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

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

27 (21) invest or reinvest, subject to its contracts with noteholders and
28 bondholders, money or funds held by the corporation, including funds in the in-state
29 natural gas pipeline fund (AS 31.25.100), in obligations or other securities or
30 investments in which banks or trust companies in the state may legally invest funds
31 held in reserves or sinking funds or funds not required for immediate disbursement,

1 and in certificates of deposit or time deposits secured by obligations of, or guaranteed
2 by, the state or the United States.

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

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

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

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

29 **Sec. 31.25.090. Confidentiality; interagency cooperation.** (a) The
30 corporation shall have access to information of departments, agencies, and public
31 corporations of the state that is directly related to the planning, financing,

1 development, acquisition, maintenance, construction, or operation of an in-state
2 natural gas pipeline. The corporation shall avoid duplicating studies, plans, and
3 designs that have already been provided or obtained by other state entities. All
4 departments, agencies, and public corporations of the state shall cooperate with and
5 shall provide information, services, and facilities to the corporation upon its request
6 and, except for requests from the Alaska Gasline Inducement Act coordinator
7 (AS 43.90.250), give priority to requests of the corporation.

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

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

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

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

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

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

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

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

3 (e) After approval by the commissioner of natural resources, a right-of-way
4 lease received by the corporation under (d) of this section may be transferred to a
5 successor in interest under the same terms and conditions applicable to the right-of-
6 way lease granted to the corporation.

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

13 (1) identify the applicable law or contract provision to the corporation;
14 and

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

18 (g) ~~Information~~The portions of records containing information acquired or
19 provided by the corporation under a confidentiality agreement is~~are~~ not subject to
20 ~~disclosure under AS 40.25.110.~~ The corporation may enter into confidentiality
21 agreements with a public agency, as defined in AS 40.25.220, to allow release of
22 confidential information. The portions of the records and files of a public agency
23 bound by a confidentiality agreement that reflect, incorporate, or analyze information
24 subject to a confidentiality agreement under this subsection are not public records.
25 Confidentiality agreements entered into under this subsection are valid and binding
26 against all parties in accordance with the terms of the confidentiality agreement.

27 ~~(h) The conduct of and results from field studies and other technical~~
28 ~~information; trade secrets; and information~~(h) Information and trade secrets of the
29 corporation are confidential and not subject to AS 40.25 if the corporation determines
30 that disclosure would cause commercial or competitive harm or damage to the
31 corporation. Information that discloses the particulars of a business or the affairs of a

1 private enterprise, investor, advisor, consultant, counsel, or manager that is developed
2 or obtained by the corporation ~~relating and related~~ to the development, financing,
3 construction, or operation of an in-state natural gas pipeline project by the corporation
4 ~~are~~ is confidential and not subject to ~~disclosure under AS 40.25.110~~. The corporation
5 may waive the confidentiality ~~of the information~~ described in this subsection, except
6 for information that is confidential under another provision of state law or under a
7 federal law or regulation and except for information acquired from another person that
8 is subject to a confidentiality agreement, if the waiver is consistent with the interests
9 of the state and will facilitate the development, financing, or construction of an in-state
10 natural gas pipeline. On the date that the in-state natural gas pipeline project becomes
11 operational, the corporation shall make available ~~to the public information, upon~~
12 request under AS 40.25, records that ~~would otherwise be~~ were exempt from ~~public~~
13 ~~disclosure~~ AS 40.25 under this subsection or (g) of this section, unless the corporation
14 determines that

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

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

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

30 **Sec. 31.25.120. Creation of subsidiaries.** The corporation may create
31 subsidiary corporations for the purpose of developing, constructing, operating, and

1 financing in-state natural gas pipeline projects; for the purpose of aiding in the
2 development, construction, operation, and financing of in-state natural gas pipeline
3 projects; or for the purpose of acquiring the state's royalty share of natural gas, natural
4 gas from the North Slope, and natural gas from other regions of the state, including the
5 state's outer continental shelf, and making that natural gas available to markets in the
6 state or for export, including the delivery of natural gas, including propane and other
7 hydrocarbons associated with natural gas other than oil, to coastal communities in the
8 state, or for export. A subsidiary corporation created under this section may be
9 incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer assets of
10 the corporation to a subsidiary created under this section. A subsidiary created under
11 this section may borrow money and issue bonds as evidence of that borrowing and has
12 all the powers of the corporation that the corporation grants to it. Unless otherwise
13 provided by the corporation, the debts, liabilities, and obligations of a subsidiary
14 corporation created under this section are not the debts, liabilities, or obligations of the
15 corporation.

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

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

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

26 (d) Except as provided in (e) of this section, at least 15 days before the
27 adoption, amendment, or repeal of a regulation, the board shall give public notice of
28 the proposed action by posting notice on the corporation's Internet website and on the
29 Alaska Online Public Notice System and by mailing a copy of the notice to every
30 person who has filed a request for notice of proposed regulations with the board or the
31 corporation. The public notice must include a statement of the time, place, and nature

1 of the proceedings for the adoption, amendment, or repeal of the regulation and must
2 include an informative summary of the proposed subject of the regulation. On the date
3 and at the time and place designated in the notice, the board shall give each interested
4 person or an authorized representative, or both, the opportunity to present statements,
5 arguments, or contentions in writing and shall give members of the public an
6 opportunity to present oral statements, arguments, or contentions for a total period of
7 at least one hour. The board shall consider all relevant matter presented to it before
8 adopting, amending, or repealing a regulation. At a hearing under this subsection, the
9 board may continue or postpone the hearing to a time and place that it determines. A
10 regulation that is adopted, or its amendment or repeal, may vary in content from the
11 informative summary specified in this subsection if the subject matter of the
12 regulation, or its amendment or repeal, remains the same and the original notice was
13 written to ensure that members of the public are reasonably notified of the proposed
14 subject of the board's action in order for them to determine whether their interests
15 could be affected by the board's action on that subject.

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

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

28 **Sec. 31.25.140. Exemption from the State Procurement Code**~~and;~~
29 **application of the Executive Budget Act; corporation finances.** (a) The corporation
30 and its subsidiaries are exempt from the provisions of AS 36.30 (State Procurement
31 Code)~~and AS 37.07 (Executive Budget Act).~~

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

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

5 (1) annually review the corporation's assets, including the assets of the
6 in-state natural gas pipeline fund under AS 31.25.100, to determine whether assets of
7 the corporation exceed an amount required to fulfill the purposes of the corporation as
8 defined in this chapter; in making its review, the board shall determine whether, and to
9 what extent, assets in excess of the amount required to fulfill the purposes of the
10 corporation during the next fiscal year are available without

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

12 (B) materially impairing the operations or financial integrity of
13 the corporation; or

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

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

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

23 **Article 2. Bonds and Notes.**

24 ~~**Sec. 31.25.150. Federal taxation of interest on bonds and bond anticipation**~~
25 ~~**notes.**~~ ~~If the interest on bonds or bond anticipation notes of the corporation becomes~~
26 ~~taxable under the income tax laws of the United States, the legislature may appropriate~~
27 ~~an amount sufficient to pay the outstanding principal of and interest on the bonds or~~
28 ~~bond anticipation notes. Nothing in this section creates a debt or liability of the state.~~

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

31 (b) The principal of and interest on the bonds or notes are payable from

1 corporation funds. Bond anticipation notes may be payable from the proceeds of the
2 sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the
3 event bond or bond anticipation note proceeds are not available, from other funds or
4 assets of the corporation. Bonds or notes may be additionally secured by a pledge of a
5 grant or contribution from the federal government, or a corporation, association,
6 institution, or person, or a pledge of money, income, or revenue of the corporation
7 from any source.

8 (c) Bonds or bond anticipation notes may be issued in one or more series and
9 shall be dated, bear interest at the rate or rates a year or within the maximum rate, be
10 in the denomination, be in the form, either coupon or registered, carry the conversion
11 or registration provisions, have the rank or priority, be executed in the manner and
12 form, be payable from the sources in the medium of payment and place or places
13 within or outside the state, be subject to authentication by a trustee or fiscal agent, and
14 be subject to the terms of redemption with or without premium, as the resolution of the
15 corporation may provide. Bond anticipation notes shall mature at the time or times that
16 are determined by the corporation. Bonds shall mature at a time, not exceeding 50
17 years from their date, that is determined by the corporation. Before the preparation of
18 definitive bonds or bond anticipation notes, the corporation may issue interim receipts
19 or temporary bonds or bond anticipation notes, with or without coupons, exchangeable
20 for bonds or bond anticipation notes when the definitive bonds or bond anticipation
21 notes have been executed and are available for delivery.

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

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

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

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

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

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

8 (4) to covenant as to establishment of reserves or sinking funds and the
9 making of provision for and the regulation and disposition of the reserves or sinking
10 funds;

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

13 (6) to covenant as to bonds and notes to be issued, and their
14 limitations, terms, and condition, and as to the custody, application, and disposition of
15 the proceeds of the bonds and notes;

16 (7) to covenant as to the issuance of additional bonds or notes or as to
17 limitations on the issuance of additional bonds or notes and the incurring of other
18 debts;

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

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

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

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

29 (12) to covenant to create or authorize the creation of special funds of
30 money to be held in pledge or otherwise for operating expenses, payment or
31 redemption of bonds or notes, reserves, or other purposes, and as to the use and

1 disposition of the money held in the funds;

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

6 (14) to covenant as to the custody of any of its properties or
7 investments, the safekeeping and insurance of its properties or investments, and the
8 use and disposition of insurance money;

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

13 (16) to provide for the rights, liabilities, powers, and duties arising
14 upon the breach of a covenant, condition, or obligation, and to prescribe the events of
15 default and the terms and conditions on which any or all of the bonds, notes, or other
16 obligations of the corporation become or may be declared due and payable before
17 maturity and the terms and conditions on which a declaration and its consequences
18 may be waived;

19 (17) to vest in a trustee or trustees within or outside the state the
20 property, rights, powers, and duties in trust as the corporation may determine, which
21 may include any or all of the rights, powers, and duties of a trustee appointed by the
22 holders of the bonds or notes, and to limit or abrogate the right of the holders of the
23 bonds or notes of the corporation to appoint a trustee under this chapter or limit the
24 rights, powers, and duties of the trustee;

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

28 (19) to agree with a corporate trustee, which may be a trust company
29 or bank having the powers of a trust company within or outside the state, as to the
30 pledging or assigning of revenue or funds to which or in which the corporation has any
31 rights or interest; the agreement may further provide for other rights and remedies

1 exercisable by the trustee as may be proper for the protection of the holders of the
 2 bonds or notes of the corporation and not otherwise in violation of law and may
 3 provide for the restriction of the rights of an individual holder of bonds or notes of the
 4 corporation;

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

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

10 (22) to make covenants other than and in addition to the covenants
 11 expressly authorized in this section, of like or different character, and to make
 12 covenants to do or refrain from doing acts and things as may be necessary, or as may
 13 be convenient and desirable, to better secure bonds or notes or that, in the absolute
 14 discretion of the corporation, would tend to make bonds or notes more marketable,
 15 notwithstanding that the covenants, acts, or things may not be enumerated in this
 16 section.

17 **Sec. 31.25.170. Independent financial advisor.** In negotiating the ~~private~~ sale
 18 of bonds or bond anticipation notes to an underwriter, the corporation may retain a
 19 financial advisor. A financial advisor retained under this section must be independent
 20 from the underwriter.

21 **Sec. 31.25.180. Validity of pledge.** The pledge of assets or revenue of the
 22 corporation to the payment of the principal of or interest on an obligation of the
 23 corporation is valid and binding from the time the pledge is made, and the assets or
 24 revenue are immediately subject to the lien of the pledge without physical delivery or
 25 further act. The lien of the pledge is valid and binding against all parties having claims
 26 of any kind in tort, contract, or otherwise against the corporation, regardless of
 27 whether those parties have notice of the lien of the pledge. This section does not
 28 prohibit the corporation from selling assets subject to a pledge, except that the sale
 29 may be restricted by the trust agreement or resolution providing for the issuance of the
 30 obligations.

31 **Sec. 31.25.190. Capital reserve funds.** ~~(a) For~~(a) The corporation may not

1 establish a capital reserve fund as described in this section except as expressly
2 authorized by law. The enactment of this section does not express that authorization.
3 Upon enactment of a law expressly authorizing the establishment of a capital reserve
4 fund described in this section and for the purpose of securing one or more issues of its
5 obligations, the corporation may establish one or more special funds, called "capital
6 reserve funds," and shall pay into those capital reserve funds

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

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

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

13 (b) All money held in a capital reserve fund, except as provided in this section,
14 shall be used as required, solely for the payment of the principal of obligations or of
15 the sinking fund payments with respect to those obligations; the purchase or
16 redemption of obligations; the payment of interest on obligations; or the payment of a
17 redemption premium required to be paid when those obligations are redeemed before
18 maturity. However, money in a fund may not, at any time, be withdrawn from the fund
19 in an amount that would reduce the amount of that fund to less than the capital reserve
20 requirement set out in (c) of this section, except for the purpose of making, with
21 respect to those obligations, payment, when due, of principal, interest, redemption
22 premiums, and the sinking fund payments for the payment of which other money of
23 the corporation is not available. Income or interest earned by, or increment to, a capital
24 reserve fund, because of the investment of the fund or other amounts in it, may be
25 transferred by the corporation to other funds or accounts of the corporation to the
26 extent that the transfer does not reduce the amount of the capital reserve fund below
27 the capital reserve fund requirement.

28 (c) If the corporation decides to issue obligations secured by a capital reserve
29 fund, the obligations may not be issued if the amount in the capital reserve fund is less
30 than a percentage, not exceeding 10 percent of the principal amount of all of those
31 obligations secured by that capital reserve fund then to be issued and then outstanding

1 in accordance with their terms, as may be established by resolution of the corporation
 2 (called the "capital reserve fund requirement"), unless the corporation, at the time of
 3 issuance of the obligations, deposits in the capital reserve fund from the proceeds of
 4 the obligations to be issued or from other sources, an amount that, together with the
 5 amount then in the fund, would not be less than the capital reserve fund requirement.

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

12 (e) The chair of the corporation shall annually, not later than January 2, make
 13 and deliver to the governor and chairs of the house and senate finance committees a
 14 certificate stating the sum, if any, required to restore a capital reserve fund to the
 15 capital reserve fund requirement. The legislature may appropriate that sum, and the
 16 corporation shall deposit all sums appropriated by the legislature during the then
 17 current fiscal year for the restoration in the proper capital reserve fund. Nothing in this
 18 section creates a debt or liability of the state.

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

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

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

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

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

9 **Sec. 31.25.230. Refunding obligations.** (a) The corporation may provide for
10 the issuance of refunding obligations for the purpose of refunding obligations then
11 outstanding that have been issued under this chapter, including the payment of the
12 redemption premium on them and interest accrued or to accrue to the date of
13 redemption of the obligations. The issuance of the obligations, the maturities and other
14 details of them, the rights of the holders of them, and the rights, duties, and obligations
15 of the corporation with respect to them are governed by the provisions of this chapter
16 that relate to the issuance of obligations, insofar as those provisions may be
17 appropriate.

18 (b) Refunding obligations may be sold or exchanged for outstanding
19 obligations issued under this chapter and, if sold, the proceeds may be applied, in
20 addition to other authorized purposes, to the purchase, redemption, or payment of the
21 outstanding obligations. Pending the application of the proceeds of refunding
22 obligations, with other available funds, to the payment of the principal of, accrued
23 interest on, and any redemption premium on the obligations being refunded and, if so
24 provided or permitted in the resolution authorizing the issuance of the refunding
25 obligations or in the trust agreement securing them, to the payment of any interest on
26 the refunding obligations and any expenses in connection with the refunding, the
27 proceeds may be invested in direct obligations of, or obligations the principal of and
28 the interest on which are unconditionally guaranteed by, the United States that mature
29 or that will be subject to redemption, at the option of the holders of them, not later
30 than the respective dates when the proceeds, together with the interest accruing on
31 them, will be required for the purposes intended.

1 **Sec. 31.25.240. Credit of state not pledged.** (a) Obligations issued under this
2 chapter do not constitute a debt, liability, or obligation of the state or of a political
3 subdivision of the state or a pledge of the faith and credit of the state or of a political
4 subdivision of the state but are payable solely from the revenue or assets of the
5 corporation. Each obligation issued under this chapter shall contain on its face a
6 statement that the corporation is not obligated to pay the obligation or the interest on
7 the obligation except from the revenue or assets of the corporation and that neither the
8 faith and credit nor the taxing power of the state or of any political subdivision of the
9 state is pledged to the payment of the principal of or the interest on the obligation.
10 This subsection applies to all debt, obligations, and liabilities of the corporation
11 regardless of how the debt, obligations, or liabilities are created, including by contract,
12 tort, or bond or note issuance. Except as provided in this subsection, a person may not
13 bring suit against the state or a political subdivision of the state other than the
14 corporation in the courts of the state to enforce or seek a remedy with respect to a
15 debt, obligation, or liability of the corporation.

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

19 **Article 3. General Provisions.**

20 **Sec. 31.25.250. Limitation on personal liability.** A member of the board or
21 other officer of the corporation or a subsidiary of the corporation is not subject to
22 personal liability or accountability because the member or officer executed or issued
23 an obligation.

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

31 (b) All obligations issued under this chapter are declared to be issued by a

1 body corporate and public of the state and for an essential public and governmental
2 purpose, and the obligations, and the interest and income on and from the obligations,
3 and all fees, charges, funds, revenue, income, and other money pledged or available to
4 pay or secure the payment of the obligations, or interest on the obligations, are exempt
5 from taxation except for transfer, inheritance, and estate taxes.

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

10 (b) By January 10 of each year, the board shall prepare a report of the
11 corporation. The board shall notify the governor and the legislature that the report is
12 available, and publish notice to the public on the Alaska Online Public Notice System
13 under AS 44.62.175 that the report is available on the corporation's Internet website.
14 The report shall be written in easily understandable language. The report must include
15 a financial statement audited by an independent outside auditor, ~~a comparison of the~~
16 ~~corporation's performance with the goals of the corporation,~~ and any other information
17 the board believes would be of interest to the governor, the legislature, and the public.
18 The annual income statement and balance sheet of the corporation shall be published
19 on the Internet. The board may also publish electronically or in print, at the
20 corporation's discretion, other reports it considers desirable to carry out its purpose.

21 **Sec. 31.25.390. Definitions for AS 31.25.010 - 31.25.390.** In AS 31.25.010 -
22 31.25.390, unless the context clearly indicates a different meaning,

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

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

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

28 (4) "governmental agency" means a department, division, public
29 agency, political subdivision, or other public instrumentality of the state or the federal
30 government;

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

1 transporting natural gas in the state;

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

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

8 (46) the Alaska Gasline Development Corporation (AS 31.25) and
9 subsidiaries of the Alaska Gasline Development Corporation.

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

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

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

14 (1) "gas or electric utility" includes an electric cooperative organized
15 under AS 10.25, a municipal utility, and a gas or electric utility regulated under
16 AS 42.05; [PROVIDED THAT,] if the contract gas is transmitted to consumers
17 through a pipeline and the gas utility either owns the pipeline or is related in
18 ownership to the owner of the pipeline, then the gas utility qualifies as a "gas or
19 electric utility" within the meaning of this paragraph only if it is bound or agrees to be
20 bound by the covenants set out in AS 38.35.120 or 38.35.121, as applicable;

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

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

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

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

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

28 (d) The commissioner shall include in a conditional lease each requirement
29 and condition of the covenants established under AS 38.35.120 or 38.35.121, as
30 applicable. The commissioner may also require that the lessee agree to additional
31 conditions that the commissioner finds to be in the public interest. In place of the

1 covenant established under AS 38.35.120(a)(9), the commissioner shall require the
2 lessee to agree that it will not transfer, assign, pledge, or dispose of in any manner,
3 directly or indirectly, its interest in a conditional right-of-way lease or a pipeline
4 subject to the conditional lease, unless the commissioner, after considering the public
5 interest and issuing written findings to substantiate a decision to allow the transfer,
6 authorizes the transfer. The commissioner shall also require the lessee to agree not to
7 allow the transfer of control of the lessee without the approval of the commissioner; as
8 used in this subsection, "transfer of control of the lessee" means the transfer of 30
9 percent or more, in the aggregate, of ownership interest in the lessee in one or more
10 transactions to one or more persons by one or more persons.

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

12 (a) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**
13 **a** [A] noncompetitive lease of state land for a right-of-way for an oil or natural gas
14 pipeline valued at \$1,000,000 or more may be granted only upon the condition that the
15 lessee expressly covenants in the lease, in consideration of the rights acquired by it
16 under the lease, that

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

30 (A) subject to regulation either under **15 U.S.C. 717 et seq.**
31 **(Natural Gas Act)** [THE NATURAL GAS ACT (15 U.S.C. 717 ET SEQ.) OF

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THE UNITED STATES] or by the state or a political **subdivision** [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

1 agents and auditors the right of access to its property and records, of inspection of its
2 property, and of examination and copying of records;

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

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

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

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

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

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

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

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

1 consent to the transfer, assignment, or disposal;

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

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

10 (12) the granting of the right-of-way lease is subject to the express
11 condition that the exercise of the rights and privileges granted under the lease will not
12 unduly interfere with the management, administration, or disposal by the state of the
13 land affected by the lease, and that the lessee agrees and consents to the occupancy
14 and use by the state, its grantees, permittees, or other lessees of any part of the right-
15 of-way not actually occupied or required by the pipeline for the full and safe
16 utilization of the pipeline, for necessary operations incident to land management,
17 administration, or disposal;

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

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

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

28 (b) **Except as provided for a natural gas pipeline subject to AS 38.35.121,**
29 **for** [FOR] a right-of-way lease granted under this chapter for an oil or natural gas
30 pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain
31 the terms required to be inserted under the provisions of AS 38.35.110 - 38.35.140. An

1 oil or natural gas pipeline right-of-way lease granted under this chapter **and subject to**
2 **this section** that does not contain the required terms is null and void and without legal
3 effect and does not vest any interest in state land or any authority in the carrier granted
4 the lease.

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

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

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

14 (2) it will interchange natural gas and provide connections with each
15 public utility pipeline, common carrier pipeline, or contract carrier pipeline, and
16 facilities for the interchange of natural gas at every locality reached by both pipelines
17 when the necessity exists, as provided in contracts on file with the Regulatory
18 Commission of Alaska;

19 (3) it assumes the status of and will perform all of its functions
20 undertaken under the lease as a contract carrier and, subject to contracts with shippers,
21 will accept, convey, and transport, without discrimination, natural gas delivered to it
22 for transportation from fields in the vicinity of the pipeline subject to the right-of-way
23 lease throughout the pipeline route, both on state land obtained under the lease and on
24 other land, and that, subject to contracts with shippers, it will accept, convey, and
25 transport natural gas without unjust or unreasonable discrimination in favor of itself or
26 one producer or person against another, but will take the natural gas delivered or
27 offered without unreasonable discrimination;

28 (4) it will expand the natural gas pipeline on commercially reasonable
29 terms that, when possible, encourage exploration and development of gas resources in
30 this state without increasing transportation costs for a shipper except as provided for in
31 the contract with the shipper; in this paragraph, "commercially reasonable terms"

1 means terms that produce sufficient revenue from transportation contracts to cover the
2 cost of the expansion, including increased fuel costs and a reasonable return on capital,
3 without impairing the ability of the pipeline to recover the costs of existing facilities;

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

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

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

14 (1) "competing natural gas pipeline project" has the meaning given in
15 AS 43.90.440;

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

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

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

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

22 (c) Except as provided for an applicant in (a) of this section and
23 notwithstanding any contrary provision of law, an action or decision of the
24 commissioner or other state officer or agency concerning the issuance or approval of a
25 necessary right-of-way, permit, lease, certificate, license, or other authorization for the
26 planning, financing, acquisition, maintenance, development, construction, or initial
27 operation of a natural gas pipeline by the Alaska Gasline Development Corporation
28 under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to
29 judicial review, except that a claim alleging the invalidity of this subsection must be
30 brought within 60 days after the effective date of this Act, and a claim alleging that an
31 action will deny rights under the Constitution of the State of Alaska must be brought

1 within 60 days following the date of that action. A claim that is not filed within the
2 limitations established in this subsection is barred. A complaint under this subsection
3 must be filed in superior court, and the superior court has exclusive jurisdiction.
4 Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a
5 claim filed under this subsection, the superior court may not grant injunctive relief,
6 including a temporary restraining order, preliminary injunction, permanent injunction,
7 or stay, against the issuance of a necessary right-of-way, permit, lease, certificate,
8 license, or other authorization for the planning, financing, acquisition, maintenance,
9 development, construction, or initial operation of a natural gas pipeline by the Alaska
10 Gasline Development Corporation. In this subsection, "natural gas pipeline" has the
11 meaning given in AS 38.34.099.

12 (d) An appeal of a permitting decision or authorization by the Department of
13 Environmental Conservation under AS 46.03 or AS 46.14 that is made under a
14 program approved or delegated by the United States Environmental Protection Agency
15 is not

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

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

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

19 (H) Alaska Gasline Development Corporation and subsidiaries
20 of the Alaska Gasline Development Corporation;

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

22 (64) the board of directors of the Alaska Gasline Development
23 Corporation or the board of directors of a subsidiary of the Alaska Gasline
24 Development Corporation.

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

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

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

30 (2) records pertaining to juveniles unless disclosure is authorized by
31 law;

- 1 (3) medical and related public health records;
- 2 (4) records required to be kept confidential by a federal law or
3 regulation or by state law;
- 4 (5) to the extent the records are required to be kept confidential under
5 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
6 or retain federal assistance;
- 7 (6) records or information compiled for law enforcement purposes, but
8 only to the extent that the production of the law enforcement records or information
- 9 (A) could reasonably be expected to interfere with enforcement
10 proceedings;
- 11 (B) would deprive a person of a right to a fair trial or an
12 impartial adjudication;
- 13 (C) could reasonably be expected to constitute an unwarranted
14 invasion of the personal privacy of a suspect, defendant, victim, or witness;
- 15 (D) could reasonably be expected to disclose the identity of a
16 confidential source;
- 17 (E) would disclose confidential techniques and procedures for
18 law enforcement investigations or prosecutions;
- 19 (F) would disclose guidelines for law enforcement
20 investigations or prosecutions if the disclosure could reasonably be expected to
21 risk circumvention of the law; or
- 22 (G) could reasonably be expected to endanger the life or
23 physical safety of an individual;
- 24 (7) names, addresses, and other information identifying a person as a
25 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
26 advance college tuition savings program under AS 14.40.803 - 14.40.817;
- 27 (8) public records containing information that would disclose or might
28 lead to the disclosure of a component in the process used to execute or adopt an
29 electronic signature if the disclosure would or might cause the electronic signature to
30 cease being under the sole control of the person using it;
- 31 (9) reports submitted under AS 05.25.030 concerning certain

1 collisions, accidents, or other casualties involving boats;

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

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

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

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

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

18 (12) records that are

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

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

23 **(13) information of the Alaska Gasline Development Corporation**
24 **created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development**
25 **Corporation that is confidential by law or under a valid confidentiality**
26 **agreement.**

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

28 (a) Except as provided in AS 42.05.171 or AS 42.06.140, when a matter
29 comes for decision before the commission under AS 42.05, [OR] AS 42.06, **or**
30 **AS 42.08,** the chair shall appoint a hearing panel composed of three or more members
31 to hear, or if a hearing is not required, to otherwise consider, and decide the case. The

1 panel shall exercise the powers of the commission with respect to the matter.

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

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

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

13 (c) A public utility negotiating to contract for the storage of natural gas
14 shipped in an in-state natural gas pipeline regulated under AS 42.08 shall submit the
15 contract to the commission before the contract takes effect.

16 (d) The commission shall review and may conduct an investigation and
17 hearing to determine whether a contract submitted under (b) or (c) of this section is
18 just and reasonable. The review and determination shall be conducted as provided in
19 AS 42.08.320(b) - (d). The commission shall either approve the contract as presented
20 or, if the commission finds that a contract is not just and reasonable, disapprove the
21 contract. Notwithstanding AS 42.05.175, if the commission has not acted within 180
22 days after the contract is submitted, the contract shall be considered approved and
23 shall take effect immediately. The commission may, by order, extend the 180-day
24 review period by the duration of a delay caused by a failure of the public utility to
25 submit supplemental information that is available to the public utility. A contract that
26 is approved or considered approved under this section is not subject to further review
27 by the commission.

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

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

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

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

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

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

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

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

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

12 **Sec. 42.08.020. Qualification of the Alaska Gasline Development**
13 **Corporation; findings.** (a) The Alaska Gasline Development Corporation is
14 financially fit, willing, and able to take the actions, perform the service, and conform
15 to the requirements of this chapter.

16 (b) The board of directors and the officers of the Alaska Gasline Development
17 Corporation are managerially fit, willing, and able to manage the Alaska Gasline
18 Development Corporation and to take the actions, perform the service, and conform to
19 the requirements of this chapter.

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

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

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

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

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

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

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

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

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

20 (b) The commission may

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

23 (2) review and approve contracts;

24 (3) investigate on its own motion or after receiving a complaint, a
25 dispute

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

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

31 (C) related to the conduct of an in-state natural gas pipeline

1 carrier's open season under AS 42.08.300; ~~to~~ to resolve the dispute, the
2 commission may order an expansion of an in-state natural gas pipeline or order
3 an open season under the terms provided for an expansion or open season in
4 this chapter or AS 38.35.121(a)(4) and (c); or

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

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

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

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

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

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

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

29 ~~(c)~~ Except with regard to a precedent agreement under AS 42.08.320(a) that
30 is filed before the issuance of a certificate, consideration of an application for a
31 contract carriage certificate under AS 42.08.330, and an initial recourse tariff under

1 AS 42.08.350(a), the commission may extend a timeline required under this chapter if
2 all parties of record consent to the extension or if, for one time only, before the
3 timeline expires, the

4 (1) commission reasonably finds that good cause exists to extend the
5 timeline;

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

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

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

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

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

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

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

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

20 **Sec. 42.08.240. Publication of reports, orders, decisions, and regulations.**
21 All reports, orders, decisions, and regulations of the commission shall be in writing.
22 The commission shall notify all affected operators of in-state natural gas pipeline
23 facilities and interested parties of reports, orders, decisions, and regulations as they are
24 issued and adopted and, when appropriate, publish them in a manner that will
25 reasonably inform the public or the affected consumers of the services of an in-state
26 natural gas pipeline facility. The commission may set charges for costs of printing or
27 reproducing and furnishing copies of reports, orders, decisions, and regulations. The
28 publication requirement, as it pertains to regulations, does not supersede the
29 requirements of AS 44.62 (Administrative Procedure Act).

30 **Sec. 42.08.250. Application of Administrative Procedure Act.** (a) The
31 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)

1 do not apply to adjudicatory proceedings of the commission under this chapter, except
2 that final administrative determinations by the commission are subject to judicial
3 review under AS 44.62 (Administrative Procedure Act) as provided in AS 42.08.530.

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

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

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

13 **Sec. 42.08.300. Open seasons.** (a) An in-state natural gas pipeline carrier shall
14 include in its approved recourse tariff the procedures for conducting open seasons for
15 uncommitted firm transportation service and for expansion. At a minimum, the in-state
16 natural gas pipeline carrier shall publish reasonable public notice in advance of an
17 open season. The notice shall contain the approved recourse tariff, the proposed form
18 of the precedent agreement, the proposed form of the firm transportation service
19 agreement, and other information sufficient to show the proposed route, capacity,
20 operating pressures, in-service date, quality specifications, and other operating
21 conditions that the pipeline carrier determines are relevant to an evaluation of the
22 proposed service. The notice shall also state the methods for awarding capacity and
23 whether presubscription agreements have been executed. An in-state natural gas
24 pipeline carrier shall provide a mechanism for providing additional relevant
25 information requested by potential shippers.

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

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

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

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

12 (f) An in-state natural gas pipeline carrier shall file revised recourse rates
13 before conducting an open season under (c) and (d) of this section unless the in-state
14 natural gas pipeline carrier filed revised recourse rates during the immediately
15 preceding two-year period.

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

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

25 (c) An in-state natural gas pipeline carrier may contract to provide firm
26 transportation service for rates and containing provisions different than those in the
27 recourse tariff. For purposes of this subsection, "provisions" are limited to those terms
28 and conditions that directly relate to the rate and ~~are distinct from~~ do not include the
29 general operating terms and conditions of the recourse tariff.

30 (d) An in-state natural gas pipeline carrier shall provide interruptible
31 transportation service through capacity not used for firm transportation service. An in-

1 state natural gas pipeline carrier shall establish means for routinely advising potential
2 shippers of the availability of interruptible transportation service and of uncommitted
3 firm transportation capacity.

4 **Sec. 42.08.320. Review of certain contracts by the commission.** (a) An in-
5 state natural gas pipeline carrier shall submit each of its precedent agreements for firm
6 transportation service and any substantial amendments to the commission. A precedent
7 agreement negotiated with an entity that is not a public utility regulated by the
8 commission may be filed under seal. Under AS 42.08.400, the commission shall keep
9 confidential a precedent agreement filed under seal. Submission of precedent
10 agreements to the commission is permissible before construction of an in-state natural
11 gas pipeline and before a request for certification under this chapter. In this subsection,
12 "substantial amendment" means an amendment that materially changes a rate or term
13 and condition of service.

14 (b) In the review of a precedent agreement submitted under (a) of this section
15 or a related contract submitted under AS 42.05.433(b) or (c), the commission shall

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

20 (2) review and may conduct an investigation and hearing to determine
21 whether a contract submitted under (a) of this section is just and reasonable; the
22 commission shall either approve the contract as presented or, if the commission finds
23 that a contract is not just and reasonable, disapprove the contract; if the commission
24 has not acted within 180 days after the submission of a contract, the contract shall be
25 considered approved and shall take effect immediately; a contract that is approved or
26 considered approved under this paragraph and the associated firm transportation
27 service agreement are not subject to further review by the commission.

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

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

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

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

3 (B) the parties are not affiliated; or

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

9 (d) If a precedent agreement or related contract is not arm's length, the
10 commission shall determine whether the precedent agreement or related contract is
11 just and reasonable using the standards normally applied under AS 42.06.140. If the
12 commission is reviewing a precedent agreement under (c)(2) of this section, the
13 commission may consider the in-state natural gas pipeline carrier's approved recourse
14 tariff, including the cost data underlying that tariff. When considering whether to
15 approve a contract as just and reasonable under this subsection, the commission shall
16 consider the consequences of failing to approve the contract.

17 **Sec. 42.08.330. Contract carriage certificate.** (a) The owner of an in-state
18 natural gas pipeline subject to this chapter may not engage in the transportation of
19 natural gas or undertake the construction of a natural gas pipeline facility for that
20 purpose, or acquire or operate an in-state natural gas pipeline facility, unless a
21 certificate of public convenience and necessity by the commission authorizing contract
22 carriage is in force with respect to that owner. A certificate shall describe the nature
23 and extent of the authority granted, including, as appropriate for the services involved,
24 a description of the authorized area and scope of operation for the in-state natural gas
25 pipeline facility.

26 (b) Application for a certificate shall be made in writing to the commission
27 and verified under oath. The commission by regulation shall establish the
28 requirements for the form of the application and the information to be contained in the
29 application. Notice of the application shall be provided to interested parties in the
30 manner provided by regulation.

31 (c) Within 180 days after receiving an application under this chapter, the

1 commission shall issue a contract carriage certificate authorizing, in whole or in part,
2 the operation, service, construction, or acquisition covered by the application to a
3 qualified applicant if the commission finds that the applicant is fit, willing, and able to
4 do the acts, perform the proposed service, and conform to the provisions of this
5 chapter and the requirements of the commission, and that the proposed service,
6 operation, construction, extension, or acquisition, to the extent authorized by the
7 certificate, is or will be required by the present or future public convenience and
8 necessity. The commission may, by order, extend the 180-day period for considering
9 an application by the duration of a delay caused by the failure of the applicant to
10 provide additional information reasonably required by the commission. If, within the
11 180-day period and any extension of the period for considering the application, the
12 commission fails to issue a contract carriage certificate and does not make a finding
13 that the applicant is not fit, willing, and able under this subsection or that the proposed
14 service is not required by public convenience and necessity, the application shall be
15 considered approved and the contract carriage certificate shall take effect immediately.

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

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

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

- 29 (1) misrepresentation of a material fact in obtaining the certificate;
30 (2) unauthorized discontinuance or abandonment of all or part of a
31 service that is the subject of the certificate;

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

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

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

12 **Sec. 42.08.340. Filing requirements; recourse tariffs.** (a) An in-state natural
13 gas pipeline carrier shall file with the commission a complete recourse tariff
14 containing rates, rules, regulations, terms, and conditions pertaining to service
15 provided under the certificate and copies of all contracts with shippers that in any way
16 affect or relate to the carrier's rates, tariffs, charges, classifications, rules, regulations,
17 terms, and conditions to service provided under the certificate.

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

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

31 (d) The commission may reject the filing of all or part of a recourse tariff that

1 is not consistent with this chapter. A recourse tariff rate or provision so rejected is
2 void.

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

5 **Sec. 42.08.350. Initial or revised rates.** (a) An in-state natural gas pipeline
6 carrier may not establish or place in effect an initial recourse tariff containing rates,
7 charges, rules, regulations, conditions of service, or practices without providing notice
8 to the commission and to the public at least 30 days before establishing or placing in
9 effect the initial recourse tariff. Notice shall be filed with the commission before an
10 open season and by making the recourse tariff provisions available for public
11 inspection. The notice shall plainly indicate the time when the recourse tariff will go
12 into effect and include a supporting cost model. The commission may prescribe
13 additional requirements for the notice and the form in which the notice must be
14 provided. The commission, for good cause shown, may allow initial recourse tariffs to
15 take effect on less than 30 days' notice under conditions the commission prescribes by
16 order. Submission of a precedent agreement or an associated contract is not subject to
17 this section.

18 (b) The commission shall review the proposed initial recourse tariff and verify
19 that the proposed terms and conditions of service are not unduly discriminatory. The
20 commission also shall review the supporting cost model provided with an initial
21 recourse tariff filing and verify, taking into consideration the expected risks, that the
22 proposed rate of return on equity is within the range of permissible rates of return as
23 determined by the Federal Energy Regulatory Commission in recent decisions related
24 to the construction of natural gas pipelines, that the cost model incorporates a
25 reasonable depreciation methodology and ~~economic~~depreciable life, and that the cost
26 model uses a reasonable capital structure. A proposed depreciation methodology,
27 economic life, or capital structure is reasonable if it is commonly accepted or used by
28 the commission or the Federal Energy Regulatory Commission.

29 (e)(c) Upon written complaint or in its own motion, and after reasonable notice,
30 the commission may conduct a hearing to determine whether the initial recourse tariff
31 filed with the commission complies with the requirements in (b) of this section.

1 Pending a hearing the commission may, by order stating the reasons for its action,
2 suspend the operation of the initial recourse tariff for a period not longer than 90 days
3 beyond the time when the initial recourse tariff would otherwise go into effect. An
4 order suspending an initial recourse tariff filing may be vacated if, after investigation,
5 the commission finds that it is in all respects proper. Otherwise the commission shall
6 hold a hearing on the suspended filing and issue its order, before the end of the
7 suspension period, granting or denying the suspended initial recourse tariff.

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

14 (de) An in-state natural gas pipeline carrier may not establish or place in effect
15 a revised rate, charge, rule, regulation, condition of service, or practice contained in a
16 recourse tariff before providing notice to the commission and to the public at least 90
17 days before taking the action. After construction or an expansion of the pipeline, and
18 at any time thereafter that a carrier files for a revised recourse rate, the carrier shall file
19 a supporting cost study. Notice shall be given by filing with the commission and
20 keeping open for public inspection the revised recourse tariff provisions, which shall
21 plainly indicate the changes to be made in the schedules then in force and the time
22 when the changes will go into effect. The commission may prescribe additional means
23 of giving notice. The commission, for good cause shown, may allow changes to take
24 effect on shorter notice under conditions the commission prescribes by order.
25 Submission of a precedent agreement or an associated contract is not subject to this
26 subsection.

27 (ef) The commission shall review ~~the~~a proposed revised recourse tariff and
28 ~~verify that a new or revised term or condition of service is not unduly discriminatory.~~
29 ~~The commission shall in the same manner as the review the cost study supporting of a~~
30 ~~revised~~proposed initial recourse tariff filing and verify that, for the rate elements
31 ~~specified in under~~ (b) of this section, except that the depreciable life may be adjusted

1 in accordance with the time period between the approval of the recourse tariff and the
2 approval of the revised recourse tariff. The commission shall verify that the carrier is
3 using the same elements that were last approved by the commission. A proposed
4 recourse tariff with a new or revised term or condition of service that is unduly
5 discriminatory shall be denied. The commission also shall deny a revised tariff rate
6 that does not use the previously approved value of the specified rate element, unless
7 the carrier proves that the new value is just and reasonable. If the commission does not
8 issue its ruling within 90 days, the revised recourse tariff filing shall be considered
9 approved.

10 (fg) A person initiating a change in an existing recourse tariff bears the burden
11 of proving the reasonableness of the change. The in-state natural gas pipeline carrier
12 bears the burden of proving the recourse tariff terms and conditions are not unduly
13 discriminatory.

14 (gh) An in-state natural gas pipeline carrier shall provide for separate rates for
15 one or more classes of firm transportation service and for interruptible transportation
16 service in a recourse tariff filed with the commission under (a) of this section. An in-
17 state natural gas pipeline carrier may impose a reservation fee or similar charge for
18 reservation of capacity in an in-state natural gas pipeline as a condition of providing
19 firm transportation service, but may not impose a reservation fee or similar charge for
20 reservation of capacity in an in-state natural gas pipeline for interruptible
21 transportation service.

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

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

31 (b) The recourse tariff or a contract filed by an in-state natural gas pipeline

1 carrier may include a dispute resolution procedure. A dispute resolution procedure
2 shall

- 3 (1) provide that notice of a dispute be given to all shippers;
- 4 (2) culminate in a process that is determined by an independent third
5 party or panel; and
- 6 (3) permit the participation of existing shippers and creditworthy
7 potential shippers that have previously made good faith requests for firm
8 transportation service; a participant must satisfy the commission's standard for
9 intervention in an adjudicatory proceeding and demonstrate that the participant has a
10 property, financial, or other significant interest in the dispute.

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

- 18 (1) 0.7 percent to fund the operations of the commission; and
- 19 (2) 0.17 percent to fund operations of the public advocacy function
20 under AS 42.04.070(c) and AS 44.23.020(e) in the Department of Law.

21 (b) The commission shall by regulation establish a method to determine
22 annually the amount of the regulatory cost charge that will apply to a pipeline
23 regulated under this chapter. If the amount the commission expects to collect under (a)
24 of this section, AS 42.05.254(a), and AS 42.06.286(a) exceeds the authorized budgets
25 of the commission and the Department of Law public advocacy function under
26 AS 42.04.070(c) and AS 44.23.020(e), the commission shall, by order, reduce the
27 percentage determined under a regulation adopted under this subsection so that the
28 total amount of the fees collected approximately equals the authorized budgets of the
29 commission and the Department of Law public advocacy function under
30 AS 42.04.070(c) and AS 44.23.020(e) for the fiscal year.

31 (c) The commission shall administer the charge imposed under this section.

1 The Department of Revenue shall collect and enforce the charge imposed under this
2 section. The Department of Administration shall identify the amount of the operating
3 budgets of the commission and the Department of Law public advocacy function
4 under AS 42.04.070(c) and AS 44.23.020(e) that lapse into the general fund each year.
5 The legislature may appropriate an amount equal to the lapsed amount to the
6 commission and to the Department of Law public advocacy function under
7 AS 42.04.070(c) and AS 44.23.020(e) for operating costs for the next fiscal year. If the
8 legislature does so, the commission shall reduce the total regulatory cost charge
9 collected for that fiscal year by a comparable amount.

10 (d) The commission may adopt regulations under AS 44.62 (Administrative
11 Procedure Act) necessary to administer this section, including procedures and
12 requirements for reporting information and a requirement for paying the regulatory
13 cost charge in quarterly payments. The Department of Revenue may adopt regulations
14 under AS 44.62 (Administrative Procedure Act) for investigating the accuracy of filed
15 information and for collecting required payments.

16 **Sec. 42.08.390. Effect of chapter on taxes and royalties.** Nothing in this
17 chapter shall alter the calculation of a production tax under AS 43.55.011 - 43.55.180
18 or the calculation of a royalty due for a lease issued under AS 38.05.180.

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

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

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

26 (c) A record filed with the commission that is a precedent agreement between
27 an in-state natural gas pipeline carrier and an unregulated entity is a privileged record
28 that is not open to the public for inspection. For a record that relates to a precedent
29 agreement, or is or relates to a contract other than a precedent agreement between an
30 in-state natural gas pipeline carrier and an unregulated entity, if an in-state natural gas
31 pipeline carrier identifies the provisions of the record that contain information that, if

1 disclosed, could adversely affect the competitive position of the shipper or could cause
2 commercial or competitive harm or damage if disclosed and the commission agrees,
3 the information shall be treated by the commission as confidential.

4 (d) A person may make written objection to the public disclosure of
5 information contained in a record filed under this chapter or of information obtained
6 by the commission or by the attorney general under this chapter, stating the grounds
7 for the objection. When an objection is made, the commission shall order the
8 information withheld from public disclosure if the information adversely affects the
9 interest of the person making written objection and disclosure is not required in the
10 interest of the public.

11 (e) A commissioner may certify as to all official records of the commission
12 under this section and may certify as to all official acts of the commission under this
13 chapter.

14 **Sec. 42.08.410. Investigations.** The commission may investigate any matter
15 for which an investigation is authorized under this chapter. An investigation may be
16 public, nonpublic, or both. In conducting an investigation, the commission may
17 compel the attendance and testimony of witnesses and the production of records and
18 testimony before the commission or its designee. In the course of an investigation, the
19 commission may, subject to AS 44.23.020(e), exclude from attendance at the taking of
20 investigative testimony all persons except a person compelled to attend, that person's
21 attorney, members of the commission or the commission's staff, and a person
22 authorized to transcribe the proceedings.

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

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

27 (1) the commission may by regulation require an in-state natural gas
28 pipeline carrier or affiliated interest engaged in activities relating to pipelines to
29 establish and maintain as part of its system of accounts continuing property records
30 showing, as to property that is actually being used in pipeline activity in this state, the
31 year of placement in service, original cost, and current location, and, as to a pipeline

1 system, accounts and records in a manner showing, on a current basis, the original cost
2 of the system in the state and related reserves for depreciation;

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

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

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

14 (C) file a report with the commission that contains an updated
15 cost study and a calculation of the three-year average actual return on equity;
16 the report shall be filed every three years after the pipeline begins operations,
17 within 90 days after the close of the annual accounting period for the in-state
18 natural gas pipeline carrier, or within additional time granted by the
19 commission upon a showing of good cause.

20 (b) The commission shall review the cost study described in (a)(2)(C) of this
21 section and verify that, for the rate elements specified in AS 42.08.350(b), the carrier
22 is using the same elements that were last approved by the commission. If the carrier
23 does not use the correct rate elements in its triennial report, the commission may
24 require the carrier to recalculate and file a corrected report. If, on the date the report
25 described in (a)(2)(C) of this section is delivered, the report reflects that the three-year
26 average actual return on equity exceeds the approved rate of return, the carrier shall,
27 not later than 90 days after the date the report is delivered, deposit an amount equal to
28 the excess in a segregated operating reserve fund. The carrier shall continue to deposit
29 the excess described in this subsection at the times described in this subsection until
30 the amount in the operating reserve fund is equal to 20 percent of the most recent
31 three-year average of the carrier's annual operating costs. The carrier may use money

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in the operating reserve fund to offset any shortage in the recovery of operating costs set out in another triennial report. If a deposit will cause the operating reserve fund to exceed 20 percent of the most recent three-year average of the carrier's annual operating costs, the amount exceeding 20 percent must be used to reduce, on a volumetric basis, the firm transportation service rates for all shippers for the next three-year period.

Article 6. General Provisions.

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

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

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

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

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

Sec. 42.08.900. Definitions. In this chapter,

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

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

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

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

11 (5) "in-state natural gas pipeline carrier" means the owner, including a
12 corporation, company, or other entity organized under the laws of the United States or
13 of any state, of an in-state natural gas pipeline or an interest in it, or a person,
14 including a corporation, company, or other entity organized under the laws of the
15 United States or of any state, that transports or will transport natural gas as a contract
16 carrier;

17 (6) "natural gas pipeline" has the meaning given in
18 AS ~~38.34.0993~~31.25.390;

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

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

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

26 (d) Taxable property of a natural gas pipeline project owned or financed by
27 the Alaska Gasline Development Corporation or a joint venture, partnership, or other
28 entity that includes the Alaska Gasline Development Corporation is exempt from state
29 taxes levied or authorized under AS 43.56.010(a) and local taxes levied or authorized
30 under AS 43.56.010(b) before the commencement of commercial operations of that
31 natural gas pipeline project. In this subsection, "commencement of commercial

1 operations" means the first flow of natural gas in the project that generates revenue to
2 the owners of the natural gas pipeline project.

3 * **Sec. 23.** AS 36.30.850(b)(45); AS 38.34.030, 38.34.040, 38.34.050, 38.34.060;
4 AS 39.25.110(11)(G); AS 39.50.200(b)(57); AS 41.41.010, 41.41.020, 41.41.030, 41.41.040,
5 41.41.050, 41.41.060, 41.41.070, 41.41.080, 41.41.090, 41.41.100, 41.41.110, 41.41.120,
6 41.41.130, 41.41.140, 41.41.150, 41.41.200, 41.41.300, 41.41.310, 41.41.320, 41.41.330,
7 41.41.340, 41.41.350, 41.41.360, 41.41.370, 41.41.380, 41.41.390, 41.41.400, 41.41.410,
8 41.41.450, 41.41.500, 41.41.900, and 41.41.990 are repealed.

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

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

12 **TRANSITION AND LEGISLATIVE INTENT.** (a) It is the intent of the legislature
13 that a right-of-way lease subject to AS 31.25.090(d), enacted by sec. 3 of this Act,
14 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of
15 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by
16 sec. 11 of this Act, that is entered into between the commissioner of natural resources and the
17 Alaska Gasline Development Corporation before the effective dates of secs. 3 and 8 - 11 of
18 this Act be amended as soon as practicable after the effective dates of secs. 3 and 8 - 11 of this
19 Act to conform to the requirements of AS 31.25.090(d), enacted by sec. 3 of this Act,
20 AS 38.35.100(d), as amended by sec. 8 of this Act, AS 38.35.120(a), as amended by sec. 9 of
21 this Act, AS 38.35.120(b), as amended by sec. 10 of this Act, and AS 38.35.121, enacted by
22 sec. 11 of this Act.

23 (b) The transition of the Alaska Gasline Development Corporation from a subsidiary
24 of the Alaska Housing Finance Corporation to an independent public corporation of the state
25 may not disrupt, interfere, or alter the work of the Alaska Gasline Development Corporation.
26 The governor shall appoint the board of the Alaska Gasline Development Corporation as soon
27 as practicable after the effective date of this Act. It is the intent of the legislature that the
28 governor appoint the new board of the Alaska Gasline Development Corporation within 90
29 days after the effective date of this Act. The board of the Alaska Housing Finance
30 Corporation shall serve as the board of the Alaska Gasline Development Corporation until the
31 governor appoints the board of the Alaska Gasline Development Corporation under this

1 subsection. The board of directors of the Alaska Gasline Development Corporation shall work
2 with the board of directors of the Alaska Housing Finance Corporation and the commissioner
3 of commerce, community, and economic development to ensure the smooth transition of the
4 Alaska Gasline Development Corporation to being an independent public corporation,
5 including modifying the articles of incorporation of the Alaska Gasline Development
6 Corporation.

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

12 (d) It is the intent of the legislature that the Alaska Housing Finance Corporation, the
13 board of directors of the Alaska Gasline Development Corporation as a subsidiary created
14 under AS 18.56.086 by the Alaska Housing Finance Corporation, and the commissioner of
15 commerce, community, and economic development expeditiously amend the articles of
16 incorporation, the bylaws, and other documents of the Alaska Gasline Development
17 Corporation to reflect the change in the placement of the Alaska Gasline Development
18 Corporation from being a subsidiary of the Alaska Housing Finance Corporation to being an
19 independent public corporation of the state as provided in AS 31.25, enacted by sec. 3 of this
20 Act.

21 (e) It is the intent of the legislature that the Alaska Housing Finance Corporation and
22 the commissioner of commerce, community, and economic development coordinate the
23 transition of the Alaska Gasline Development Corporation to its new placement within the
24 state as an independent public corporation of the state and assist the newly appointed board of
25 directors of the Alaska Gasline Development Corporation to ensure that the development of
26 an in-state natural gas pipeline is not unreasonably delayed because of the change in
27 placement within the state of the corporation.

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

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

31 (1) AS 38.35.120 from "Covenants required to be included in lease" to

1 "Covenants required to be included in lease to a pipeline that is not a natural gas pipeline
2 contract carrier"; and

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

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

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSSHB 4 (FIN)
Fiscal Note Number: 2
(H) Publish Date: 4/1/13

Identifier: HB004-Revenue-AHFC-3-19-13
Title: IN-STATE GASLINE DEVELOPMENT CORP
Sponsor: HAWKER, CHENAULT
Requester: House Finance
Department: Various
Appropriation: Various
Allocation: Various
OMB Component Number:

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services	4,058.3	1,212.1	5,320.4	5,195.4	4,895.4	4,895.4	4,895.4
Travel							
Services	1,104.9	2,422.2	1,908.1	4,069.6	6,042.0	6,208.5	3,853.2
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	5,163.2	3,634.3	7,228.5	9,265.0	10,937.4	11,103.9	8,748.6

Fund Source (Operating Only)

1061 CIP Rcpts	(3,634.3)	3,634.3					
1178 temp code	8,797.5		7,228.5	9,265.0	10,937.4	11,103.9	8,748.6
Total	5,163.2	3,634.3	7,228.5	9,265.0	10,937.4	11,103.9	8,748.6

Positions

Full-time	31.0	7.0	39.0	50.0	63.0	64.0	56.0
Part-time							
Temporary							

Change in Revenues							

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 25,000.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? /

Why this fiscal note differs from previous version:

Updated version - This revised fiscal note reflects the fiscal impact to all agencies effected by HB4. It includes a fund source change from CIP Receipts to a duplicated fund source from the new In-State Natural Gas Pipeline Fund and the FY14 Capital costs included in the Governor's Request for \$25 million AHCC Receipts.

Prepared By: Co-Chair Representative Austerman Phone: (907)465-6258
House Finance Committee Date: 03/27/2013
Co-Chair Representative Stolze
House Finance Committee

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSSHB 4(FIN)

Analysis

This omnibus bill allows the Alaska Gasline Development Corporation (AGDC) to continue its statutory mission of delivering natural gas from Alaska's North Slope to Fairbanks and Southcentral Alaska. In it's current form, the bill does the following:

- Creates an in-state natural gas pipeline fund;
- Creates a new independent state corporation and moves AGDC as a subsidiary of the Alaska Housing Finance Corporation to the new independent corporation;
- Makes certain information provided to or created by the Alaska Gasline Development Corporation exempt from inspection as a public record;
- Exempts property of a project developed by AGDC from property taxes before commencement of commercial operations;
- Exempts a pipeline owned by AGDC from common-carrier restrictions;
- Limits the review of natural gas transportation contracts by the Regulatory Commission of Alaska;
- Modifies the Alaska Natural Gas Development Authority statutes to allow it to act as a gas marketing entity for AGDC;

This legislation will have a fiscal impact for the following state agencies:

Department of Law

Regulatory Affairs and Public Advocacy Section

Department of Natural Resources

State Pipeline Coordinators Office

Office of History and Archaeology

Division of Geological and Geophysical Surveys

Division of Mining, Land and Water

Department of Environmental Conservation

Division of Environmental Health - Air Quality

Division of Environmental Health - Drinking Water

Division of Environmental Health - Food Safety and Sanitation

Division of Environmental Health - Solid Waste Management

Division of Spill Prevention and Response - Contaminated Sites

Division of Spill Prevention and Response - Industry Preparedness & Pipeline Operations

Division of Spill Prevention and Response - Prevention and Emergency Response Program

Division of Water

Department of Transportation & Public Facilities

Statewide Engineering and Design Services

See attachment for budget details for each agency.

Department	FY14	FY14	FY15	FY16	FY17	FY18	FY19
AGDC	4,058.3	3,634.3	5,320.4	5,195.4	4,895.4	4,895.4	4,895.4
DOL	102.3		136.4	136.4	136.4	136.4	136.4
DNR			670.3	2,434.4	2,786.7	2,786.7	408.9
DEC	290.8		410.6	808.0	2,428.1	2,594.6	2,617.1
DOT&PF	711.8		690.8	690.8	690.8	690.8	690.8
Total:	5,163.2	3,634.3	7,228.5	9,265.0	10,937.4	11,103.9	8,748.6

Fiscal Note Attachment

File Name: HB004CSSS(RES)-REV- AHFC-AGDC 3-25-13
Title: In State Gasline Development Corp.
Sponsor: Representative Hawker; Representative Chenault

Alaska Gasline Development Corporation

Component 2986

	FY14 Appropriation Requested	Included in Governor's base budget for FY14	Out-Year Cost Estimates					
			FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES								
Personal Services	4,058.3	1,212.1	5,320.4	5,195.4	4,895.4	4,895.4	4,895.4	
Travel								
Services		2,422.2						
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	4,058.3	3,634.3	5,320.4	5,195.4	4,895.4	4,895.4	4,895.4	
Positions	25	7	32	32	32	32	32	

This bill creates an In-state Natural Gas Pipeline Fund but does not capitalize the fund. Assuming the fund is capitalized, AGDC will begin to utilize the fund during FY2014.

The total project costs for AGDC to project sanction, including prior year appropriations, are \$400 million. Other state agency needs through FY19 (as detailed in this attachment) are an additional \$27 million. AGDC would reimburse agencies for their costs through reimbursable service agreements. Capital expenditures from the In-state Natural Gas Pipeline Fund and additional appropriations are anticipated according to the following schedule (in million \$):

AGDC total project cost to project sanction:	\$400,000.0
*Agencies need through construction (FY14 - FY19):	<u>\$27,000.0</u>
	\$427,000.0
Prior year appropriations:	<u>(\$72,000.0)</u>
Funding needed:	\$355,000.0
FY14 Capital:	<u>-\$25,000.0</u>
Funds needed to project sanction/construction:	\$330,000.0

* Includes cost for AGDC, DEC, DNR, DOT/PF and LAW and assumes costs beyond FEL 3 and through FY19.

Acquisition of Natural Gas

An AGDC gas marketing subsidiary will pursue natural gas purchases and could act as a gas consolidator for gas sales contracts. The subsidiary will evaluate the natural gas reserves purchased to meet aggregated electric utility needs. The role of an AGDC subsidiary would be one of a gas marketer and would also include the negotiation of gas contracts with entities interested in an aggregated approach to contractual negotiations. Staff will include a natural gas marketing manager and a natural gas marketing analyst.

To continue the project, AGDC will need 25 additional staff to be added during FY 2014 at an average annual fully-loaded cost of approximately \$145,158 per year.

Positions	Position description	Salary only
1	President	\$375,000
2	Vice President	\$285,000
3	Director, Administrative Services	\$120,000
4	Controller	\$95,000
5	Financial Accounting Manager	\$73,000
6	Financial Accountant	\$57,000
7	Financial Accountant	\$57,000
8	Financial Accountant	\$57,000
9	Accounts Payable Manager	\$71,000
10	A/P Clerk	\$43,000
11	A/P Clerk	\$43,000
12	Community Relations Representative	\$49,000
13	Stakeholder Engagement	\$57,000
14	Admin Support	\$43,000
15	Admin Support	\$43,000
16	Procurement Manager	\$73,000
17	Risk Manager	\$73,000
18	Human Resources	\$73,000
19	Payroll Manager	\$71,000
20	IT/IS Manager	\$73,000
21	Desktop Support	\$57,000
22	Desktop Support	\$57,000
23	Network Supervisor	\$57,000
24	Gas Marketing Manager	\$125,000
25	Gas Marketing Analyst	\$90,000

The operating budget costs identified (personal services) will be expended in support of the capital budget items in each of the subsequent fiscal years.

Total AGDC expenditures are budgeted in the following categories:

Project Plan Completion	\$ 30,000,000
Commercial Operations	13,825,000
Pipeline Engineering	93,784,000
Facilities Engineering	182,962,000
Support Activities	79,429,000
Total	\$400,000,000

Project Plan Completion: Completion of the project plan required by HB 369 and delivered to the Legislature in July, 2011 including all preliminary engineering and commercial analysis up to that point. This coincides with the stage gate at the end of FEL-1.

Commercial Operations: Advance commercial discussions with potential shippers and markets. Develop agreements to allow for the future development of this project. Engage and work with the Prudhoe Bay operations & owners on numerous integration issues.

Pipeline Engineering, Environmental & Permitting: Advance pipeline route data collection and design, utilizing the information to refine project cost estimates and plans necessary for serious commercial discussions and project development approvals. Develop engineering work in-line with industry best practices for mega-projects. Advance engineering design to be ready for placing long lead equipment and stock orders. Collect key environmental data necessary for regulatory permits preparation prior to construction.

Facilities Engineering, Environmental & Permitting: Advance preliminary and front-end engineering development, utilizing the information to refine project cost estimates and plans necessary for serious commercial discussions and project development approvals. Develop engineering work in-line with industry best practices for mega-projects. Advance engineering design to be ready for placing long lead equipment and stock orders. Collect key environmental data necessary for permits preparation prior to construction.

AGDC Support Activities: Home office activities to support the commercial and engineering development of the project including all external affairs, accounting, budget, legal, records management and managerial oversight activities.

Department of Natural Resources

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

- 1) Participating State agencies will provide separate fiscal notes.
- 2) Schedule assumptions are based on AGDC's currently proposed schedule.
- 3) Construction oversight begins in FY2016 and continues through FY2017 and FY2018. Operational oversight begins in FY2019. The cost estimate for these activities is for DNR only and does not include estimates for other State agencies.
- 4) Assume a two and one half-year construction schedule segregated into four geographic areas.
- 5) Assume SPCO will administer material sales within the right-of-way and the material sites after initial sale.

STATE PIPELINE COORDINATOR'S OFFICE

State Pipeline Coordinator's Office

Component Number 1191

OPERATING EXPENDITURES	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services			520.5	1,961.1	2,256.9	2,256.9	329.6
Travel			10.0	200.0	250.0	250.0	25.0
Services			4.0	70.0	76.5	76.5	15.0
Commodities			7.0	20.0	20.0	20.0	7.0
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	541.5	2,251.1	2,603.4	2,603.4	376.6

POSITIONS

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Costs include SPCO expenses to coordinate the participation of DNR divisions in pre-construction permitting and work associated with AGDC's development of plans and processes required by the State Lease, lease compliance and the preparation and issuance of Notices to Proceed (NTP).

Eight new long-term, non-permanent (LTNP) Natural Resource Specialist (NRS) III (range 18) positions will be created in FY2016 and will exist through FY2018. All remaining positions will be partial use of existing SPCO positions, FY2015 through FY2019.

Travel would be for public meetings, public hearings, agency coordination and monitoring of contractors performing field work and compliance oversight. Other, contractual and supply costs include aerial photos, satellite imagery, field supplies, maps, office space, telephones, core service charges and related expenses.

STATE PIPELINE COORDINATOR'S OFFICE POSITIONS:

Listed below, by year, are the new and existing positions in Anchorage needed for pre-construction permitting /plan development and preparation of the NTPs. Existing positions used for the project will be assigned to work on a part time basis. New positions specific to the project will be classified as LTNP and will not extend beyond construction. Another option that will be considered is the use of contractors versus hiring LTNP employees. All contract support would be managed by permanent SPCO employees.

SPCO FY2015

- One Natural Resource Specialist (NRS) IV (range 21)
- One Natural Resource Manager (NRM) III (range 22)
- Two Natural Resource Specialist (NRS) III (range 18)
- One Information Officer III (PIO) (range 20)
- One Engineer IV (range 27)
- One Deputy State Pipeline Coordinator
- One State Pipeline Coordinator - total 3 months
- Administrative Support

SPCO FY2016

Pipeline construction oversight begins in FY2016. Because the activity is ramping up in FY2016, the estimated costs are lower than in FY2017 and FY2018.

- Eleven Natural Resource Specialist (NRS) III (range 18) - **eight of the eleven are new, long-term, non-permanent positions**
- One Natural Resource Manager (NRM) III (range 22)
- One Engineer IV (range 27)
- One Technical Engineer I (range 24)
- One Information Officer III (PIO) (range 20)
- One Deputy State Pipeline Coordinator
- One State Pipeline Coordinator - total 6 months
- Administrative Support

SPCO FY2017 and FY2018

Pipeline construction continues in FY2017 and FY2018:

- Eleven Natural Resource Specialist (NRS) III (range 18) - **eight of the eleven are new, long-term, non-permanent positions created in FY2016**
- One Natural Resource Manager (NRM) III (range 22)
- One Engineer IV (range 27)
- One Technical Engineer I (range 24)
- One Information Officer III (PIO) (range 20)
- One Deputy State Pipeline Coordinator
- One State Pipeline Coordinator - total 6 months
- Administrative Support

SPCO FY2019 and FY2020

Operational oversight and lease administration will require:

- Two Natural Resource Specialist (NRS) III (range 18)
- One Natural Resource Manager (NRM) III (range 22)
- One Engineer IV (range 27)
- One Technical Engineer I (range 24)
- One Information Officer III(PIO) (range 20)
- One Deputy State Pipeline Coordinator
- One State Pipeline Coordinator - total 1 month
- Administrative Support

DIVISION OF MINING, LAND AND WATER

Component Number 3002

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services			93.5	***	***	***	***
Travel			2.0				
Services			1.0				
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	96.5	***	***	***	***

Assumptions:

- 1) DNR/DMLW will be required to supervise, review and approve a title report prepared by SPCO regarding State owned lands in the pipeline ROW.
- 2) DNR will not be required to transfer title of any State lands to DOT/PF.
- 3) DNR/DMLW will not be responsible for title or ROW acquisitions from entities other than DNR managed lands including lands owned by private persons, boroughs, the university, mental health trust, ANCSA corporations, native allotments, and the federal government.
- 4) 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.

- 5) DNR/DMLW will participate in the ROW planning effort to some degree across State land, the review of the AS 38.35 ROW lease to be prepared by SPCO for issuance to DOT/PF. DMLW will participate in identifying lands within legislatively designated areas over which the ROW will cross and assist the responsible State agencies with efforts to extricate the ROW from the LDAs.
- 6) SPCO will issue AS 38.35 ROW across lands to DOT/PF, and SPCO will be responsible for issuance of the majority of the land use permits and material sales necessary within the ROW, but that DNR/DMLW will be required to issue some land use permits (within and outside the ROW), and material sales (outside the ROW) during the construction phase for gasline construction and maintenance (beyond FY2016).

The costs to DMLW would include expenses during FY2015 for providing assistance during the development team's planning efforts and pre-application meetings as well as costs associated with materials sales and permitting, as necessary, during the construction of the gasline.

DMLW has concluded that costs for FY2016 and beyond are indeterminate as the necessity, number and size of the permits or material sales outside the ROW are not known at this time. This budget does not include any estimated funding needed for DMLW for fiscal years 2016-2020.

DMLW FY2015

- One Natural Resource Manager (NRM) III (Range 22), 3 months for the supervision, review and approval of a title report prepared by SPCO staff.
- One Land Surveyor (LS) II (Range 22), 2 months for review and approval of all land surveys associated with granting an in-state gasline ROW.
- One Natural Resource Specialist (NRS) III (Range 18), 3 months for participation in the ROW planning effort to some degree across state land, the review of the AS 38.35 ROW lease to be prepared by SPCO for issuance to DOT/PF, DMLW will participate in identifying lands within legislatively designated areas over which the ROW will cross and assist the responsible state agencies with efforts to extricate the ROW from the LDAs.

Travel will be for planning and attending public meetings, as well as survey review and approval.

DMLW FY2016 and beyond

Indeterminate fiscal impact for FY2016 and beyond as the necessity, number and size of the permits or material sales are not known at this time. DMLW would utilize a Natural Resource Specialist (NRS) II - (Range 16) - at a rate of approximately \$96,250 per year for issuance of land use permits (within and outside the ROW), and material sales (outside the ROW) during the construction phase for gasline construction and maintenance.

OFFICE OF HISTORY & ARCHAEOLOGY

Component Number 451

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services			30.3	30.3	30.3	30.3	30.3
Travel			2.0	2.0	2.0	2.0	2.0
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	32.3	32.3	32.3	32.3	32.3

The Office of History and Archaeology anticipates using one archaeologist for review and monitoring of the cultural resource project program. OHA estimates utilizing the position for three months and some travel costs needed for site visits.

- One Archeologist II (range 18), 3 months

DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS

Component Number 1031

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services				66.6	66.6	66.6	
Travel				11.1	11.1	11.1	
Services				68.0	68.0	68.0	
Commodities				5.3	5.3	5.3	
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	151.0	151.0	151.0	0.0

The Division of Geological and Geophysical Surveys (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.

DGGS will use the following personnel in Fairbanks for management of geohazards project related studies and review of existing information. Travel and services will be for associated site visits, data gathering, and lab analyses.

- One Geologist IV (range 21), 2 months
- One Geologist III (range 19), 4 months
- One student Intern, 6 months

Department of Environmental Conservation

Summary of Cost for DEC

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services	244.9	0.0	229.3	689.8	1,959.4	2,1115.8	2,086.9
Travel	8.2	0.0	14.2	24.4	109.4	119.4	117.0
Services	22.7	0.0	159.6	71.3	230.3	350.4	351.7
Commodities	15.0	0.0	7.5	22.5	129.0	9.0	61.5
Capital Outlay	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Benefits	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	290.8	0.0	410.6	808.0	2,428.1	2,594.6	2,617.1
Positions:	2	0	3	6	19	20	20

Division of Environmental Health

Division of Environmental Health - Air Quality Component Number 2061

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services	40.9		13.5	23.9	12.8	28.9	
Travel	3.2		3.2	2.4	2.4	2.4	
Services	10.5		143.9	1.4	0.8	33.7	
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	54.6	0.0	160.6	27.7	16.0	65.0	0.0
Positions:	0	0	0	0	0	0	0

The primary impact of this bill on the Division of Air Quality is the fee authority for permitting for the Alaska Gasline Development Corporation. The bill also exempts air quality permits required under the federal Clean Air Act from certain provisions related to permit appeals. This provision is helpful in preventing conflicts with regards to the Division's federally approved permitting program.

HB 4 would require pre-application assistance, data reviews, modeling, engineering plan review and approval for air quality permits in conjunction with development of the pipeline. The Division assumes four construction applications in FY2015. This includes one Prevention of Significant Deterioration (PSD) permit and three Minor Source Specific (MSS) permits. Operation permits and compliance reviews would begin in FY2017.

Personal Services:

The Division assumes pre-application assistance will be provided by current staff (Environmental Program Manager III, and Environmental Program Specialist III) in FY2014 and current staff will provide oversight of term contracts in FY2015 through FY2018.

Travel:

Program staff will do a limited amount of traveling to manage this program, such as project site trips.

Services:

Much of the work effort will be completed by term contractors, with oversight by current staff. The majority of contractual work effort would be provided in FY2015.

Division of Environmental Health - Drinking Water

Component Number 2066

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates					
			FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES								
Personal Services						100.5	120.7	120.7
Travel						15.0	15.0	15.0
Services						8.0	9.2	9.2
Commodities						8.0	0.5	0.5
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	131.5	145.4	145.4

Positions: 0 0 0 0 1 1 1

The primary impact of this bill on the Division of Environmental Health, Food Safety & Sanitation will be an increase in the permitting and inspecting of labor camp kitchens and public accommodations.

Personal Services:

Ensuring these camps and facilities are permitted and inspected requires additional staffing. The Department will add one position to this component, an Environmental Health Officer III, to inspect and permit labor camp kitchens and public facilities. This position will be filled for ten months the first year to allow for classification and recruitment time, and for twelve months each year thereafter.

Travel:

Travel will be required to provide technical assistance, inspect the labor camps and public facilities, and staff training and certification.

Services:

Contractual services include costs for training registrations and small contracts.

Commodities:

One-time costs to set up a new position are included in the first year only. Supplies necessary for training and inspections are included as well in this fiscal note.

Division of Environmental Health - Solid Waste Management

Component Number 2344

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services					89.8	107.8	107.8
Travel					15.0	15.0	15.0
Services					7.4	8.5	8.5
Commodities					8.0	0.5	0.5
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	120.2	131.8	131.8
Positions:	0	0	0	0	1	1	1

The primary impact of this bill on the Division of Environmental Health, Solid Waste Management component will be an increase in permitting the solid waste treatment facilities and landfills

associated with pipeline construction. These facilities pose a high risk to human health and the environment. They are authorized to operate either by permit or plan approval, which allows the Solid Waste Program to ensure that these facilities meet the design and operational standards in the regulations. After an authorization is issued, the Program further assesses compliance with the regulations by conducting on-site inspections of these facilities.

Personal Services:

The Department will add one position to this component, an Environmental Program Specialist IV, to inspect solid waste treatment facilities and landfills. This position will be filled for ten months in the first year to allow for classification and recruitment time, and for twelve months each year thereafter.

Travel:

Travel will be required to provide technical assistance and compliance monitoring to the labor camps, as well as training and certification of staff.

Services:

Contractual services include costs for training registrations and small contracts.

Commodities:

One-time costs to set up a new position are included in the first year only. Supplies necessary for training and inspections are included as well in this fiscal note.

Division of Spill Prevention & Response - Contaminated Sites

Component Number 2386

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
	FY14	FY14	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES							
Personal Services			11.8	87.7	87.7	87.7	87.7
Travel				6.0	6.0	6.0	6.0
Services			0.7	5.2	5.2	5.2	5.2
Commodities			7.5				
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	20.0	98.9	98.9	98.9	98.9
Positions:	0	0	1	1	1	1	1

The Contaminated Sites component of the Division of Spill Prevention and Response would be required to research sites located within the proposed pipeline right-of-way and participate in the development of the Environmental Impact Statement. During construction of the pipeline, the

Services:

The program assumes one Incident Management Team size response annually, annual training, and additional leased space for eight new positions in field camps or field offices in nearby communities. The Department of Law would be consulted as needed.

Commodities:

The Division would incur one time set-up costs for the new positions identified above as well as personal protection equipment for Arctic weather to be used during inspections. Additionally, the program will require the purchase of four vehicles in FY2017, two staged in Anchorage and two staged in Fairbanks to conduct inspections of the pipeline, camps and for use in emergency responses. Wear and tear on these vehicles is expected to be high with an accelerated replacement schedule, therefore in FY2019; the program will purchase two replacement vehicles.

Division of Water - Water Quality

Component Number	2062						
	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services	204.0		204.0	204.0	438.2	438.2	438.2
Travel	5.0		5.0	5.0	20.0	20.0	20.0
Services	12.2		12.2	12.2	46.3	46.3	46.3
Commodities	15.0				15.0		
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	236.2	0.0	221.2	221.2	519.5	504.5	504.5
Positions:	2	0	2	2	4	4	4

HB 4 would require approval for wastewater treatment systems constructed in conjunction with the development of the pipeline. The Department would be responsible for permitting multiple wastewater discharges from sinks and showers, drinking water treatment plants, domestic treatment plants, dewatering activities and stormwater. The Division will start project planning in 2014 and require two permitting positions. Construction will start in 2017 and require one engineering and one compliance position. Plan reviews and compliance inspections would occur during construction, with periodic inspections post construction. Assumptions are based on the proposed gasline schedule.

Personal Services:

The Division of Water would need an Environmental Program Specialist IV, range 20, and an Environmental Program Specialist III, range 18, to write permits. Beginning in FY2017, one

Environmental Engineer I, range 22 would be needed to review plans and one Environmental Program Specialist IV, range 20, would be needed to conduct inspections.

Travel:

Division staff will need to travel to attend meetings, trainings and conduct inspections.

Services:

Department of Law would be consulted as needed.

Commodities:

Includes one-time set up costs for two positions in FY2014 and two positions in FY2017.

Department of Transportation and Public Facilities

The Department's positions will manage the Utility Permit process for the Gas Line. The positions will issue utility permits and monitor Gas Line construction to ensure the highway asset is protected and that traffic safety and federal eligibility are maintained.

AGDC's July 1, 2011 Project Plan has nearly 70% of the Gas Line within the Department's Dalton, Elliot, and Parks Highway Right-of-Way (ROW). The importance of these transportation corridors to Alaska's transportation future cannot be overstated. A Utility Permit(s) issued by the Department will be the mechanism for permitting the construction and operation of the Gas Line within the ROW's and across several major bridges. The Department will assign conditions within the Utility Permit to ensure: safety to the traveling public during construction; traffic improvements are constructed to allow for safe ingress and egress for construction related traffic; the structural integrity of Alaska's highway assets is maintained or improved, and sufficient spatial distance is allowed for future expansion of highway infrastructure with the 75-100 year lifespan of the Gas Line within the existing ROW.

If a utility is permitted and built in the state's ROW, and that ROW becomes necessary for future highway improvement; the state bears the cost of relocating that utility. It is DOT&PF's responsibility to ensure the line's use of the state's ROW does not impact future anticipated highway needs. Specifically for the Parks Highway corridor between the Gas Line's Willow departure and at least Talkeetna Junction, the 75-100 year horizon identifies a four lane divided highway section as the safe and efficient highway section. A four lane limited access facility will occupy most of the existing ROW, so the Gas Line must be outside of that planned highway, or federal eligibility will be in jeopardy for future improvements requiring additional ROW or relocation of the Gas Line. Other highway alignments may have similar ROW constraints.

Statewide Engineering and Design

Component Number 2357

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
			FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services	364.3		364.3	364.3	364.3	364.3	364.3
Travel	45.0		45.0	45.0	45.0	45.0	45.0
Services	280.0		280.0	280.0	280.0	280.0	280.0
Commodities	22.5		1.5	1.5	1.5	1.5	1.5
TOTAL OPERATING	711.8	0.0	690.8	690.8	690.8	690.8	690.8

Positions: 3 3 3 3 3 3

An Engineer/Architect IV, Range 26, will serve as the technical expert, manage consultant activities, oversee regional staff who will be issuing permits and authorizations, oversee construction management consultants, documentation for continued federal eligibility, and coordination of utility permit conditions. An Environmental Impact Analysis Manager II, Range 22, will oversee work done in the ROW to insure compliance with federal and state requirements, ensure our processes provide for rapid permitting decisions and no delays in construction. An Administrative Assistant, Range 12, will assist with the day to day activities of the two professionals.

Travel:

Staff travel for coordinated meetings, on-site inspections, surveying and associated duties.

Services:

Contractual services include costs for core services, small contracts and consultation with the Department of Law and lease space.

Commodities:

One-time costs to set up a new position are included in the first year only. Routine supplies are included in out years.

Department of Law

CSSSHB 4 relates to creation of the Alaska Gasline Development Corporation (AGDC public corporation or new AGDC) as a public corporation, with corporate powers and duties. It establishes a fund for moneys appropriated by the legislature for use by the corporation, authorizes establishment of subsidiary corporations, gives power to issue revenue bonds and establish capital reserve funds, provides tax exemptions and establishes reporting requirements. The intent of the bill is that the existing Alaska Gasline Development Corporation (existing AGDC), a subsidiary of

Alaska Finance Housing Corporation (AHFC), and all of its assets and liabilities, would be merged or transferred into the new AGDC public corporation. It also transitions the Alaska Natural Gas Development Corporation (ANGDA) from a stand-alone public corporation into a subsidiary of the new AGDC public corporation. The purpose of the new AGDC is to advance the in-state natural gas pipeline under the project plan that was prepared by the existing AGDC.

CSSSHB 4, in part, amends Title 42 by adding a new chapter AS 42.08, which require the review and investigation of certain contracts, and/or disputes arising under the Act. The Attorney General, under AS 44.23.020(e), has the right to participate as a party in such proceedings to ensure the public interest is represented. The Regulatory Affairs and Public Advocacy Section within the Department of Law will need at least 1 FTE PAUA I position to meet the increased demand on the section's time and resources to participate in such proceedings. Funding for the position is requested for 3/4 of FY14, and full funding in out years.

The Department of Law does not anticipate any additional fiscal impacts from this legislation.

Component Number 2091

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
			FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services	87.5		116.6	116.6	116.6	116.6	116.6
Travel	0.4		0.6	0.6	0.6	0.6	0.6
Services	12.0		16.0	16.0	16.0	16.0	16.0
Commodities	2.0		2.7	2.7	2.7	2.7	2.7
Capital Outlay	0.4		0.5	0.5	0.5	0.5	0.5
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	102.3	0.0	136.4	136.4	136.4	136.4	136.4
Positions:	1		1	1	1	1	1

Department of Commerce, Community, and Economic Development

This bill makes the Alaska Gasline Development Corporation (AGDC) an independent public corporation of the State, establishes the in-state natural gas pipeline fund, and locates the AGDC under the Department of Commerce, Community, and Economic Development for administrative purposes. The bill exempts the AGDC from the Executive Budget Act (AS37.07), the Alaska Procurement code (AS36.30), and the State Personnel Act (AS39.25). As a result of these exemptions, administrative support services from the department to AGDC are not expected for these functions.

If the AGDC is further exempted from the Uniform Accounting Act (AS37.05), then it is anticipated that no administrative services support from the department will be necessary. Therefore, no fiscal or regulatory impact is anticipated for Administrative Services from this legislation.

The bill also establishes regulation by the Regulatory Commission of Alaska (RCA) of natural gas transportation contracts, of an in-state natural gas pipeline project developed by the AGDC, and of an in-state natural gas pipeline that provides transportation by contract carriage and provides guidance for that regulation.

If HB4 is enacted it is expected that the RCA will adopt changes to regulations in 3 AAC 47 and 3 AAC 48.

Chapter 47.020 - 47.070 Regulatory Cost Charges will be amended to include regulatory cost charges for in-state natural gas pipelines (AS 42.08.370).

Chapter 48.600 - 48.6661 Practice and Procedure will be amended to establish the requirements for the form of application and the information to be contained in an application for a certificate of public convenience and necessity to provide contract carriage (AS 42.08.330).

The July 1, 2015 date by which the RCA would adopt, amend, or repeal regulations is an estimated date. In accordance with AS 42.05.175(e), the RCA would work to adopt, amend, or repeal regulations no later than 730 days after a rule-making proceeding is initiated.

With the availability of the Utility Finance Analyst III and Utility Engineering Analyst III positions approved and funded in the FY2013 budget, the RCA anticipates zero fiscal impact from this legislation.

Component Number	1028 and 2417		Out-Year Cost Estimates				
	FY14 Appropriation Requested	Included in Governor's FY14 Request	FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0
Travel	0.0		0.0	0.0	0.0	0.0	0.0
Services	0.0		0.0	0.0	0.0	0.0	0.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0
Capital Outlay	0.0		0.0	0.0	0.0	0.0	0.0
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Positions:	0		0	0	0	0	0

HB 4 In-State Gasline Development Corporation Fiscal Analysis

Fiscal Note No. 2
CSSSHB 4(FIN)

	Included In FY14 Governor's Request	FY14 Appropriation Request	FY14 TOTAL	FY15 Base	FY15 New	FY15 TOTAL	FY16 Base	FY16 New	FY16 TOTAL	FY17 Base	FY17 New	FY17 TOTAL	FY18 Base	FY18 New	FY18 TOTAL	FY19 Base	FY19 New	FY19 TOTAL
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT																		
Alaska Gasline Development Corporation	3,634.3	4,058.3	7,692.6	7,692.6	-2,372.2	5,320.4	5,320.4	-125.0	5,195.4	5,195.4	-300.0	4,895.4	4,895.4		4,895.4	4,895.4		4,895.4
TOTAL	3,634.3	4,058.3	7,692.6	7,692.6	-2,372.2	5,320.4	5,320.4	-125.0	5,195.4	5,195.4	-300.0	4,895.4	4,895.4	0.0	4,895.4	4,895.4	0.0	4,895.4
Commercial Operations		2	2	2		2	2		2	2		2	2		2	2		2
Pipeline & Facilities Engineering		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Support Activities	7	23	30	30		30	30		30	30		30	30		30	30		30
TOTAL	7	25	32	32	0	32	32	0	32	32	0	32	32	0	32	32	0	32
DEPARTMENT OF ENVIRONMENTAL CONSERVATION																		
Environmental Health - Air Quality		54.6	54.6	54.6	106.0	160.6	160.6	-132.9	27.7	27.7	-11.7	16.0	16.0	49.0	65.0	65.0	-65.0	0.0
Environmental Health - Drinking Water		0.0	0.0	0.0		0.0	0.0		0.0	0.0	131.5	131.5	131.5	13.9	145.4	145.4		145.4
Environmental Health - Food Safety & Sanitation		0.0	0.0	0.0		0.0	0.0		0.0	0.0	112.2	112.2	112.2	9.9	122.1	122.1		122.1
Environmental Health - Solid Waste Management		0.0	0.0	0.0		0.0	0.0		0.0	0.0	120.2	120.2	120.2	11.6	131.8	131.8		131.8
Spill Prevention & Response		0.0	0.0	0.0	20.0	20.0	20.0	78.9	98.9	98.9		98.9	98.9		98.9	98.9		98.9
Spill Prevention & Response		0.0	0.0	0.0		0.0	0.0		315.4	315.4	-8.0	307.4	307.4	93.2	400.6	400.6	-7.5	393.1
Spill Prevention & Response		0.0	0.0	0.0	8.8	8.8	8.8	136.0	144.8	144.8	977.6	1,122.4	1,122.4	3.9	1,126.3	1,126.3	95.0	1,221.3
Division of Water		236.2	236.2	236.2	-15.0	221.2	221.2		221.2	221.2	298.3	519.5	519.5	-15.0	504.5	504.5		504.5
TOTAL	0.0	290.8	290.8	290.8	119.8	410.6	410.6	397.4	808.0	808.0	1,620.1	2,428.1	2,428.1	166.5	2,594.6	2,594.6	22.5	2,617.1
Commercial Operations			0	0		0	0		0	0		0	0		0	0		0
Pipeline & Facilities Engineering			0	0		0	0		0	0		0	0		0	0		0
Support Activities		2	2	2	1	3	3	3	6	6	13	19	19	1	20	20		20
TOTAL	0	2	2	2	1	3	3	3	6	6	13	19	19	1	20	20	0	20
DEPARTMENT OF LAW																		
Regulatory Affairs		102.3	102.3	102.3	34.1	136.4	136.4		136.4	136.4		136.4	136.4		136.4	136.4		136.4
TOTAL	0.0	102.3	102.3	102.3	34.1	136.4	136.4	0.0	136.4	136.4	0.0	136.4	136.4	0.0	136.4	136.4	0.0	136.4
Support Activities		1	1	1		1	1		1	1		1	1		1	1		1
TOTAL	0	1	1	1	0	1	1	0	1	1	0	1	1	0	1	1	0	1
DEPARTMENT OF NATURAL RESOURCES																		
State Pipeline Coordinators Office			0.0	0.0	541.5	541.5	541.5	1,709.6	2,251.1	2,251.1	352.3	2,603.4	2,603.4	0	2,603.4	2,603.4	-2,226.8	376.6
Office of History and Archaeology				0.0	32.3	32.3	32.3		32.3	32.3		32.3	32.3		32.3	32.3		32.3
Division of Geological and Geophysical Surveys		0	0.0	0.0		0.0		151	151.0	151.0		151.0	151.0		151.0	151.0	-151	0.0
Division of Mining, Land and Water			0.0	0.0	96.5	96.5	96.5	-96.5	0.0	0.0		0.0	0.0		0.0	0.0		0.0
TOTAL	0.0	0.0	0.0	0.0	670.3	670.3	670.3	1,764.1	2,434.4	2,434.4	352.3	2,786.7	2,786.7	0.0	2,786.7	2,786.7	-2,377.8	408.9
Commercial Operations			0	0		0	0		0	0		0	0		0	0		0
Pipeline & Facilities Engineering			0	0		0	0		0	0		0	0		0	0		0
Support Activities			0	0		0	0	8	8	8		8	8		8	8		-8
TOTAL	0	0	0	0	0	0	0	8	8	8	0	8	8	0	8	8	-8	0
DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES																		
Statewide Engineering & Design		711.8	711.8	711.8	-21.0	690.8	690.8		690.8	690.8		690.8	690.8		690.8	690.8		690.8
TOTAL	0.0	711.8	711.8	711.8	-21.0	690.8	690.8	0.0	690.8	690.8	0.0	690.8	690.8	0.0	690.8	690.8	0.0	690.8
Commercial Operations			0	0		0	0		0	0		0	0		0	0		0
Pipeline & Facilities Engineering			0	0		0	0		0	0		0	0		0	0		0
Support Activities		3	3	3		3	3		3	3		3	3		3	3		3
TOTAL	0	3	3	3	0	3	3	0	3	3	0	3	3	0	3	3	0	3
GRAND TOTAL	3,634.3	5,163.2	8,797.5	8,797.5	-1,569.0	7,228.5	7,228.5	2,036.5	9,265.0	9,265.0	1,672.4	10,937.4	10,937.4	166.5	11,103.9	11,103.9	-2,355.3	8,748.6
CUMULATIVE TOTAL			8,797.5			16,026.0			25,291.0			36,228.4		47,332.3				56,080.9
Commercial Operations	0	2	2	2	0	2	2	0	2	2	0	2	2	0	2	2	0	2
Pipeline & Facilities Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Support Activities	7	29	36	36	1	37	37	11	48	48	13	61	61	1	62	62	-8	54
POSITION GRAND TOTAL	7	31	38	38	1	39	39	11	50	50	13	63	63	1	64	64	-8	56

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSSHB 4(FIN)
Fiscal Note Number: 3
(H) Publish Date: 4/1/13

Identifier: HB4-Fund Cap-In-State Gas Pipeline4-1-13
Title: IN-STATE GASLINE DEVELOPMENT CORP
Sponsor: HAWKER, CHENAULT
Requester: House Finance

Department: Fund Capitalization
Appropriation: Caps spent as duplicated funds
Allocation: In-state Natural Gas Pipeline Fund
OMB Component Number: 3019

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous	225,000.0						
Total Operating	225,000.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1213 AHCC	225,000.0						
Total	225,000.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 25,000.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

This fiscal note capitalizes the In-State Natural Gas Pipeline Fund with \$225 million AHCC Receipts. The FY14 Capital costs reflect the Governor's Request for \$25 million AHCC Receipts.

Prepared By: Co-Chair Representative Austerman Phone: (907)465-6258
House Finance Committee Date: 04/01/2013
Co-Chair Representative Stoltze
House Finance Committee



Representative Mike Hawker Alaska State Legislature

Sectional Analysis: CS for Sponsor Substitute for House Bill 4 (FIN) Version \I

“An Act relating to the Alaska Gasline Development Corporation; establishing the Alaska Gasline Development Corporation as an independent public corporation of the state; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to judicial review of a right-of-way lease or an action or decision related to the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement by the Alaska Gasline Development Corporation; relating to the review by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by way of contract carriage; repealing the statutes relating to the Alaska Natural Gas Development Authority and making conforming changes; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date.”

Section 1 - Findings and Intent

- Finds that an Alaska Gasline Development Corporation (AGDC) natural gas pipeline is in the best interests of the state, and required for public convenience and necessity.
The Regulatory Commission of Alaska (RCA) uses these standards in issuing a building permit to a project. Through this section, the legislature is making these findings on behalf of the RCA.
- Finds that locating AGDC under the Department of Commerce, Community and Economic Development, for administrative purposes only, will advance AGDC's mission.
Establishing AGDC as an independent state entity with a clear purpose and the statutory authority to meet its mission will make AGDC more likely to succeed.
- Provides intent that AGDC's transfer from an Alaska Housing Finance Corporation (AHFC) subsidiary to a stand-alone corporation will be treated as a repositioning and not as creating a new entity.
This intent should prevent the need to dissolve AGDC and re-create it as a new corporation; as a transfer, AGDC will need to amend bylaws and regulations.

- Provides intent that AGDC will procure services, labor, products and resources from Alaska businesses, including Alaska Native corporations and municipal organizations, when prices are competitive.
- Provides intent that AGDC will, as possible, hire Alaskans; establish hiring facilities in Alaska; and use Department of Labor and Workforce Development systems.

Section 2 (conforming) deletes from AS 18.56.086, *Alaska Housing Finance Corp, Creation of subsidiaries*, the ability to create a pipeline subsidiary. HB 4, Section 3, establishes AGDC as a stand-alone public corporation of the state, so it is no longer necessary for AHFC to have a subsidiary corporation related to natural gas pipelines.

Section 3 (new corporation) adds a new chapter, Alaska Gasline Development Corporation, to AS 31, *Oil and Gas*. This section is the statutory authority for the stand-alone corporation.

Sec. 31.25.010, Structure, establishes AGDC as an independent public corporation of the state, located for administrative purposes in DCCED, and makes provisions for asset distribution upon termination.

Sec. 31.25.020, Governing body, establishes a seven-member board of directors, with two commissioners named by the governor and five public members. Public members serve staggered, five-year terms; are appointed by the governor; must be confirmed by the legislature; and serve at the governor's pleasure. In making appointments, the governor shall consider expertise in natural gas pipeline construction, operation and marketing; finance; and large project management. Vacancies will be filled in the same way as original appointments are made. Board members receive \$400 compensation per day spent on official board business, in addition to actual expenses.

Sec. 31.25.030, Meetings of board, directs the board to annually elect officers; defines a quorum as a majority of members; and requires meetings at least once every three months. Electronic meetings are allowed. For a meeting in which the board authorizes a bond issuance, at least 24 hours public notice is required. At least four board members are required for major votes, including bond sales; sale or disposition of assets; determining a pipeline ownership structure; and participation in a pipeline project.

Sec 31.25.035, Minutes of meetings, requires the board to keep minutes.

Sec. 31.25.040, Administration of affairs, allows the board to manage the assets and business of the corporation; the board may adopt, amend, and repeal bylaws and regulations; and the board will delegate corporation administration to the executive director. Requires the board to adopt formal procedures for procurement processes; requires a preference for Alaska veterans.

Sec. 31.25.045, Executive director, requires an executive director who is appointed by and serves at the pleasure of the board. The director may not be a board member.

Sec. 31.25.050, Legal counsel, directs the corporation to retain legal counsel.

Sec. 31.25.060, Employment of personnel, allows the board to engage professional and technical consultants, and allows the executive director to hire corporation employees and contract with consultants. The board sets duties and compensation for corporation personnel.

Sec. 31.25.065, Personnel exempt from State Personnel Act, exempts AGDC from the State Personnel Act.

Sec. 31.25.070, Purpose, directs AGDC to advance an instate natural gas pipeline as described in AGDC's July 2011 project plan, with modifications as necessary, making gas and associated, non-oil hydrocarbons such as propane, available as soon as practicable to Fairbanks, Southcentral, and other communities where possible; and attempt to develop projects that ship and deliver gas at commercially reasonable rates.

Sec. 31.25.080, Powers and duties, lists 21 powers of the corporation, including the abilities to determine pipeline ownership and operating structures; plan, finance, construct and operate a pipeline system; lease, rent, acquire and manage property; exercise eminent domain; transfer or dispose of all or part of a pipeline system; operate as a contract carrier; conduct hearings; sue and be sued; adopt bylaws; borrow money; and invest funds. Directs AGDC to analyze other connecting lines once the main pipeline is under construction. Prohibits development of a pipeline that competes under the terms of the Alaska Gasline Inducement Act (AGIA). Requires publication of open season results.

Sec. 31.25.090, Confidentiality; interagency cooperation, requires state agencies to share information with AGDC; requires state agencies to cooperate with AGDC and give priority to AGDC requests, except for requests from the AGIA coordinator; and directs AGDC to avoid duplicating state work on a pipeline. State entities must provide non-hydrocarbon resources like water, sand and gravel to AGDC at usual cost, but those costs may not be passed on to pipeline customers. DNR will grant AGDC a right-of-way lease at no appraisal or rental cost if certain conditions are met; the fee waiver carries with the lease in case of a transfer, which must be approved by the commissioner. AGDC may enter into confidentiality agreements as necessary, including with other state entities; information covered by a confidentiality agreement is not subject to disclosure under the Public Records Act. AGDC may also keep other information confidential, including the results of field studies; technical information; trade secrets; and commercial negotiations. AGDC may waive confidentiality of some information. Once a gas pipeline is operational, AGDC must release confidential information, providing doing so does not hurt the state's economic interests and does not violate confidentiality agreements.

Sec. 31.25.100, In-state natural gas pipeline fund, establishes the instate-natural gas pipeline fund within AGDC; directs AGDC to administer the fund and allows AGDC to contract with the Department of Revenue for fund management. Costs to administer the fund are to be drawn from the fund.

Sec. 31.25.120, Creation of subsidiaries; sale of natural gas by a subsidiary, allows AGDC to create subsidiary corporations to meet AGDC's mission, including subsidiaries to acquire and ship natural gas.

Sec. 31.25.130, Administrative procedure; regulations, exempts AGDC from the Administrative Procedure Act, except for the Open Meetings Act portion. Provides board direction related to bylaws, regulations, and public notice of meetings.

Sec. 31.25.140, Exemption from the State Procurement Code; application of the Executive Budget Act; corporation finances, exempts AGDC and its subsidiaries from the State Procurement Code. Subjects the corporation's operating budget to the Executive Budget Act. Requires an annual independent audit. AGDC is already exempt from the procurement code as an AHFC subsidiary; this transitions the exemption to AGDC as a stand-alone corporation.

Sec. 31.25.160, Bonds and notes, allows the corporation to issue bonds and notes in one or more series, limited to the corporation's own backing.

Sec. 31.25.170, Independent financial advisor, allows the corporation to retain a financial advisor in negotiating the private sale of bonds or notes to an underwriter.

Sec. 31.25.180, Validity of pledge, declares as valid and binding any pledge of assets or revenue of the corporation to payment or interest.

Sec. 31.25.190, Capital reserve funds, allows AGDC to, contingent on future legislative approval, establish capital reserve funds to secure its obligations. Directs fund management. Requires annual reports to the governor and legislature.

Sec. 31.25.200, Remedies, permits enforcement of rights by those holding AGDC obligations.

Sec. 31.25.210, Negotiable instruments, declares that obligations are promises to pay an amount of money.

Sec. 31.25.220, Obligations eligible for investment, AGDC obligations as legitimate investments.

Sec. 31.25.230, Refunding obligations, permits the corporation to refund obligations and provides direction for managing refunds.

Sec. 31.25.240, Credit of state not pledged, prohibits AGDC from pledging the state's credit. AGDC obligations are limited to AGDC's backing.

Sec. 31.25.250, Limitation on personal liability, protects corporation officers from personal liability.

Sec. 31.25.260, Tax exemption, exempts AGDC from paying state and local taxes on corporation property or property income.

Sec. 31.25.270, Annual report, requires an annual report to the governor, legislature and public, including an independent audited financial statement.

Sec. 31.25.390, Definitions.

Section 4 (procurement code exemption), adds new paragraphs to AS 36.30.850(b), *Public Contracts, State Procurement Code, Application of this chapter*, exempting AGDC and its subsidiaries from the state procurement code. The exemption is reinforced in AGDC's statutes (HB 4 Section 3, 31.25.140).

Section 5 (RCA accounting, conforming) amends AS 37.05.146(c)(22), *Public Finance, Fiscal Procedures Act, Definition of program receipts and non-general fund program receipts*.

Section 6 (gas or electric utilities, conforming) amends AS 38.05.180 (bb)(1), *Public Land, Alaska Land Act, Oil and gas and gas only leasing*, to conform with Section 11 creating covenants specific to a contract carrier pipeline.

Section 7 (definitions) repeals and reenacts AS 38.34.099, *Public Land, In-State Natural Gas Pipeline, Definitions*, to refer to the definitions in the new 31.25 (HB 4, Section 3).

Section 8 (right-of-way leases, conforming) amends AS 38.35.100(d), *Public Land, Right-of-Way Leasing Act, Decision on application*, to conform to Section 11, right-of-way leasing for a contract carrier.

Section 9 (right-of-way leases, conforming) amends AS 38.35.120(a), *Public Land, Right-of-Way Leasing Act, Covenants required to be included in lease*, to conform to Section 11, right-of-way leasing for a contract carrier.

Section 10 (right-of-way leases, conforming) amends AS 38.35.120(b), *Public Land, Right-of-Way Leasing Act, Covenants required to be included in lease*, to conform to Section 11, right-of-way leasing for a contract carrier.

Section 11 (contract carrier covenants) adds a new section to AS 38.35, *Public Land, Right-of-Way Leasing Act*, to establish covenants for a contract carrier gas pipeline. This section does not alter the existing covenants in the Right-of-Way Leasing Act for a common carrier. A carrier must agree to abide by the covenants in order to receive a state right-of-way lease. Of 14 existing covenants for common carriers, 11 also apply to a contract carrier. The others are adapted to reflect contract carrier principles, while retaining the policy that pipelines on state rights-of-way should encourage broader development of oil and gas resources by expanding when commercial opportunities exist and shipping without unreasonable discrimination.

Section 12 (right-of-way leases, costs) adds a new subsection to AS 38.35.140, *Public Land, Right-of-Way Leasing Act, Payment of rental and costs*, requiring a right-of-way lease to be issued at no cost to AGDC. This reinforces in the Right-of-Way Leasing Act the provision in HB4, Section 3 (31.25.090, Interagency cooperation; confidentiality) that leases should be made at no rental fee/cost to AGDC.

Section 13 (judicial review) adds new subsections to AS 38.35.200, *Public Land, Right-of-Way Leasing Act, Judicial review of decisions of commissioners on application*, limiting judicial review of state lease, permit or other authorization decisions. Claims challenging this provision must be brought within 60 days of the effective date of HB 4; future claims alleging a constitutional violation must be brought within 60 days of the action and must be filed in superior court. The court may not grant injunctive relief.

Section 14 (personnel act exemption) exempts AGDC and subsidiaries from AS 39.25.110, *Public Officers and Employees, State Personnel Act, Exempt service*. This exemption is reinforced in AGDC's corporate statutes.

Section 15 (public officials disclosures) makes the board of directors of AGDC and subsidiaries subject to public official financial disclosure rules in AS 39.50.200, *Public Officers and Employees, State Personnel Act, Definitions*.

Section 16 (confidentiality) amends AS 40.25.120(a), *Public Records and Recorders, Public Record Disclosures, Public records; exemptions; certified copies*, to exempt eligible information and information covered by an AGDC confidentiality agreement from disclosure under the state Public Records Act. This relates to HB 4, Section 3 (31.25.090) allowing AGDC to keep certain information confidential.

Section 17 (RCA, conforming), amends AS 42.04.080(a), *Public Utilities and Carriers and Energy Programs, Regulatory Commission of Alaska, Decision-making procedures*, to allow the RCA to appoint a panel for hearing matters under the new 42.08. The RCA needs the statutory authority to appoint a panel and hear a matter that comes before them under one of two existing regulatory statutes. This adds the new regulatory chapter created in HB 4, Section 21, 42.08, , so the RCA will be able to act on matters that come up under the new regulatory chapter.

Section 18 (RCA review of public utility contracts), amends AS 42.05, *Public Utilities and Carriers and Energy Programs, Alaska Public Utilities Regulatory Act*, by adding a new section related to RCA review of contracts entered into by a public utility with AGDC for transportation or for contracts that public utilities sign to purchase gas or store gas transported on an in-state natural gas pipeline regulated under 42.08. Public utility contracts with AGDC may include a covenant for public utilities to collect rates sufficient to meet contractual obligations. Contracts to buy or store gas to be shipped on an in-state natural gas pipeline regulated under 42.08 must be submitted to the RCA before they take effect. The RCA has 180 days to approve contracts as presented or, if contracts are found not just or reasonable, to disapprove the contracts. Contracts approved are not subject to further RCA review. The RCA may extend the 180 day review period if a public utility fails to provide supplemental

information that is available to the public utility. This section provides an interface between regulation of public utilities, and regulation of a contract carrier natural gas pipeline. If the RCA approves a contract involving a utility and the pipeline carrier, the utility has assurances it will be able to pass along the costs in power rates.

Section 19 (RCA conforming) amends AS 42.05.711, *Public Utilities and Carriers and Energy Programs, Alaska Public Utilities Regulatory Act, Exemptions*, to exempt a pipeline subject to regulation under 42.08 from regulation under 42.05.

Section 20 (RCA conforming) amends AS 42.06, *Public Utilities and Carriers and Energy Programs, Pipeline Act*, by adding a new section to article 7 exempting a pipeline subject to regulation under 42.08 from regulation under 42.06.

Section 21 (RCA natural gas pipeline contract carrier) adds a new chapter to AS 42, *Public Utilities and Carriers and Energy Programs*, to create Chapter 08, In-state Pipeline Contract Carrier. Chapter 08 applies to an in-state natural gas pipeline providing contract carriage, and exempts an in-state natural gas pipeline subject exclusively to federal jurisdiction. The new 42.08 is a shift from traditional cost-based regulation, and directs the Regulatory Commission of Alaska to instead evaluate whether negotiated contracts are fair and reasonable. Checks and balances are included to set basic rules ensuring fair and open processes; to promote exploration and development of Alaska's gas basins; to protect the public welfare; to promote accountability to Alaska ratepayers; to protect against rates of return in excess of those allowed by the RCA; to ensure access for all affected parties in pipeline disputes; and to heighten scrutiny for contracts entered into by affiliated parties.

Sec. 42.08.010, Application of chapter; exemption, applies this chapter to an in-state natural gas pipeline providing service as a contract carrier. Exempts an in-state natural gas pipeline subject exclusively to federal jurisdiction.

Sec. 42.08.020, Qualification of the Alaska Gasline Development Corporation; findings, determines that AGDC is financially and managerially fit, willing and able to provide service under 42.08. States that an AGDC pipeline is required for the public convenience and necessity. Directs the RCA to determine whether any entity applying under 42.08 is technically fit, willing and able. The findings made on behalf of the RCA in this section are findings that the RCA usually needs to make in issuing a pipeline building permit – a Certificate of Public Convenience and Necessity. The advance findings are not valid for an applicant other than AGDC. For AGDC and any applicant, the RCA will need to determine whether the entity is technically able to build the project and provide the service proposed.

Sec. 42.08.220, General powers and duties, provides enabling direction for the RCA under 42.08. Requires permits for construction, interconnections, expansions and abandonment. Enables the RCA to intervene in disputes that where not accounted for in contractual dispute resolution mechanisms and that threaten the public safety and welfare. Empowers the RCA to order expansions and open seasons to resolve a dispute. Prohibits the RCA from requiring rates or tariff regulations, except as provided in the chapter, and from conducting further review of contracts approved under 42.08. Provides RCA access to the accounts, financial and property records, and other information held by a carrier, in order for the RCA to carry out the regulatory processes in 42.08. Allows the RCA to extend timelines for certain filings for up to 30 days by consent of the parties or for good cause.

Sec. 42.08.230, Commission decision-making procedures, directs the RCA to appoint a panel to consider and decide matters under 42.08, and to expeditiously adjudicate matters.

Sec. 42.08.240, Publication of reports, orders, decisions and regulations, is the standard RCA direction for publishing reports, orders, decisions and regulations.

Sec. 42.08.250, Application of Administrative Procedure Act, is the standard RCA exemption from Administrative Procedure Act adjudication procedures. Instead, the RCA's adjudication procedures would apply. The rest of the Administrative Procedures Act still applies to regulations adopted by the RCA.

Sec. 42.08.260, Annual report, requires the RCA to include in its annual report activities related to 42.08.

Sec. 42.08.300, Open seasons, sets rules a carrier must follow when holding an open season. Requires a carrier include open season procedures in the carrier's approved recourse tariff. Provides parameters for holding an open season to ensure fairness and openness for all interested potential shippers, including advance notice. Requires a carrier to hold an open season for pipeline expansion when the carrier has received requests for firm service from potential shippers that would enable a commercially reasonable expansion. Provides that expansions may not violate the terms of AGIA. Allows a carrier to make pre-subscription agreements before an open season begins, but only once an initial recourse tariff has been approved. Requires a carrier to award firm transportation service without undue discrimination or preference. Requires a carrier to file revised recourse rates before conducting an open season.

Sec. 42.08.310, Transportation service, provides that firm service can only be made available through presubscription agreements; in an open season; or through the recourse tariff. Requires a carrier to offer a recourse tariff with rates determined on a cost-of-service basis; permits levelized rates. Allows that negotiated firm transportation rates may be different from recourse rates. Requires a carrier to provide interruptible service in capacity not used in firm service. Requires a carrier to routinely advise potential and current shippers of available pipeline capacity.

Sec. 42.08.320, Review of certain contracts by the commission, requires a carrier to submit all precedent agreements and substantial amendments to the RCA; precedent agreements with other than a public utility may be kept under seal. The RCA has 180 days to approve or disapprove precedent agreements as just and reasonable. Sets the standard for determining if a contract is made at arm's length and allows additional RCA scrutiny of contracts made between affiliated parties that are not substantially similar to transactions made between unaffiliated parties. Approved contracts are not subject to further review.

Sec. 42.08.330, Contract carriage certificate, requires a certificate of public convenience and necessity (CPCN) for a carrier to construct a pipeline and to transport gas. The RCA has 180 days to issue a CPCN once application is made, providing that the applicant is found fit, willing and able to perform the services proposed, and that the service is required by the public. The RCA may attach conditions to and amend, suspend or revoke a CPCN. Operating authority may not be transferred and service may not be abandoned without RCA approval.

Sec. 42.08.340, Filing requirements; recourse tariffs, requires an instate natural gas pipeline carrier to file a complete recourse tariff, including rules, regulations, terms and conditions pertaining to service, and all contracts with shippers.

Sec. 42.08.350, Initial or revised rates, establishes the RCA review process of recourse tariffs. The commission must verify that the terms and conditions of services are not unduly discriminatory. The commission shall review the supporting cost model and, weighing the pipeline project risks, verify that the return on equity is within a range of recent decisions by the Federal Energy Regulatory Commission

(FERC); that the cost model uses a reasonable depreciation method and depreciable life; and that the cost model uses a reasonable capital structure. Defines reasonable as commonly accepted or used by the RCA or by FERC. Provides 90 days for the RCA to issue a decision on an initial recourse tariff and on revised recourse tariffs. Sets standards for evaluating revised recourse rates. Requires the pipeline to provide for separate rates for multiple classes of service, and allows a reservation fee. Allows the RCA to suspend a finding on an initial recourse tariff for up to 90 days.

Sec. 42.08.360, Uniform system of accounts, requires a carrier regulated under 42.08 to maintain records and accounts in accordance with the uniform system of accounts.

Sec. 42.08.370, Expansion; dispute resolution, enables contracts to provide for expansion, unless an expansion would violate the terms of the Alaska Gasline Inducement Act. Allows contracts to include procedures for resolving disputes; requires those procedures provide notice and opportunity to participate to all shippers and creditworthy potential shippers.

Sec. 42.08.380, Regulatory cost charge, implements the standard RCA assessment of a user fee on regulated entities; includes a cap and directs administration of the user fee.

Sec. 42.08.390, Effect of chapter on taxes and royalties, declares that nothing in 42.08 will change the calculation of production taxes or of royalties due the state.

Sec. 42.08.400, Public records, requires RCA records be available to the public, except as provided by law. Precedent agreements will be kept confidential. Firm transportation and other contracts will be public, except for information that the carrier and the RCA agree could cause competitive harm.

Sec. 42.08.410, Investigations, allows the RCA to investigate matters in 42.08, and maintains the role of the Department of Law's Regulatory Affairs and Public Advocacy section.

Sec. 42.08.450, Accounts; records; triennial reports, provides the RCA tools to carry out its regulatory duties, including requiring a carrier to maintain certain property records. Requires a carrier to keep pipeline accounts located in Alaska. Requires the carrier to file a triennial report with updated cost study and a calculation of a three-year average actual return on equity. Directs the commission to review the cost study and verify the rate elements previously reviewed (depreciation, capital structure, return on equity) are the same as previously approved. If rates of return are higher than allowed, the carrier must place the excess in an operating reserve fund, to be capped at 20 percent of average annual operating costs; the carrier may draw on this account in times of lower returns in the future. If excess continues once the fund hits the cap, the excess must be used to reduce the pipeline's rates.

Sec. 42.08.510, Designation of service agents, requires an instate natural gas pipeline carrier to file a named, permanent resident as its agent (standard RCA provision).

Sec. 42.08.520, Effect of regulations, states that regulations adopted by the RCA under 42.08 have the effect of law (standard RCA provision).

Sec. 42.08.530, Judicial review and enforcement, makes RCA final orders subject to standard RCA judicial review, except in the circumstances set forth in HB 4, Section 13, addressing the development, construction and initial operation of a natural gas pipeline by AGDC.

Sec. 42.08.540, Joinder of actions, allows appeals to be joined under applicable court rules (standard RCA provision).

Sec. 42.08.900, Definitions, defines terms standard to the RCA (commission, commissioner, record) and includes HB 4 terms (instate natural gas pipeline, instate natural gas pipeline carrier).

Section 22 (property tax exemption) adds a new subsection to *AS 43.56.020, Revenue and Taxation, Oil and Gas Exploration, Production and Pipeline Transportation Property Tax, Exemptions*, exempting an AGDC-owned or financed project from state and local property taxes during construction.

Section 23 (repealer) repeals 39 sections of statute.

- Repeals *AS 36.30.850(b)(45) Public Contracts, State Procurement Code, Application of this chapter*, a prior exemption that applied to an AHFC pipeline.
- Repeals *AS 38.34.030, Public Land, In-State Natural Gas Pipeline, Joint In-State Gasline Development Team; 38.34.040, Duties of the Development Team; 38.34.050, Cooperation and access to information; and 38.34.060, Conflicts of interest*, all of which were part of HB 369 in 2010 and relate to the Joint In-state Gasline Development Team.
- Repeals *AS 39.25.110(11)(G), Public Officers and Employees, State Personnel Act, Exempt Service*, related to ANGDA; and *AS 39.50.200(b)(57), Public Officers and Employees, Public Official Financial Disclosure, Definitions*, related to ANGDA.
- Repeals all of the Alaska Natural Gas Development Authority: *AS 41.41.010 through AS 41.41.990*.

Section 24 (repealer) repeals Sections 1 and 5 of 2002 Ballot Measure No. 3, the findings of which are no longer necessary with the sunset of ANGDA.

Section 25 (transition and intent) expresses the legislative intent that the existing state right-of-way lease between AGDC and DNR is amended to reflect the contract carrier covenants in HB 4 (the Alaska Constitution bars the Legislature from passing laws that apply retroactively to contracts in place). Also expresses intent for a smooth transition for AGDC from its status as a subsidiary of AHFC, to an independent corporation.

Specifically, this section includes:

- The intent is that this repositioning does not interfere with, delay or disrupt AGDC's work.
- The intent that the governor should appoint the new AGDC board within 90 days of the effective date.
- The AHFC board will remain in place until a new board is appointed; and will cooperate with the new board in a smooth transition.
- The intent is that the transition is a change in placement only, and will not require dissolving AGDC and creating a new corporation.
- The intent is that AGDC, including employees and directors, continue in-place while the boards are transitioning. This is not explicitly stated but rather is implied.

Section 26 includes revisor's instructions.

Section 27 sets an immediate effective date.

Supplemental Documents

Fact Sheet: CS for SS for House Bill 4 (FIN)

House Bill 4 (HB 4) provides the framework for the Alaska Gasline Development Corporation (AGDC) to serve as Alaska's natural gas pipeline corporation, connecting Alaskans with an Alaska resource.

Specifically, HB 4 directs AGDC to continue developing the 500 million cubic feet per day pipeline described in the July 2011 Project Plan, carrying North Slope gas to Fairbanks and Southcentral at the lowest possible costs, without delay.

At the same time, HB 4 provides AGDC the structure to consider other instate natural gas projects now and in the future, and positions AGDC to participate on Alaskans' behalf in a larger pipeline to tidewater with an LNG export component, such as the project advocated by the governor.

Generally, House Bill 4:

1. Sets a framework for AGDC to be Alaska's gas pipeline entity by defining its duties and responsibilities as a stand-alone public corporation of the state. For example, HB 4 establishes AGDC as a state corporation and provides AGDC the ability to enter ownership and operating partnerships; issue revenue bonds that would be paid back with pipeline revenue guaranteed through long-term contracts; enter into confidentiality agreements necessary to participate in pipeline projects with private-sector entities; and exercise the state's existing power of eminent domain as a last resort if good-faith negotiations are unsuccessful. HB 4 also calls on AGDC to analyze other pipelines connecting gas to more Alaskans, once a mainline is under construction.
2. To avoid redundancy in state spending and gasline work, HB 4 calls on state agencies to share information and assist AGDC. At the same time, HB 4 directs AGDC to avoid duplicating state efforts and spending.
3. HB 4 resolves outstanding issues that, left unchecked, would create uncertainty and risk as AGDC prepares for an open season on the instate gasline and future lines. These uncertainties include how an instate gasline would be regulated; whether a carrier would be able to operate as a contract carrier, offering the firm, contractual service needed to secure project financing; and limiting delays related to judicial review of state leases, permits and other decisions. The contract carrier regulatory framework in HB 4 supports mandatory expansions with commercially viable opportunities, requires fair open seasons to allocate pipeline capacity, and reinforces the state's policy to advance gaslines that encourage oil and gas exploration in Alaska.
4. As HB 4 empowers AGDC to act on behalf of Alaskans' interests in providing natural gas to Alaskans, this legislation calls on state and local governments to participate in ways that will reduce the rates Alaskans pay for gas. For example, HB 4 waives property taxes during pipeline construction, and requires that state and local resources like water, sand and gravel be made available at usual rates, but not rolled into the costs Alaskans would pay for the gas.

Chapter 38.35. RIGHT-OF-WAY LEASING ACT

Cross References -

For Alaska Gasline Inducement Act, see AS 43.90.

Administrative Code -

For pipeline right-of-way leasing, see 11 AAC 80.

Decisions -

Applied in ARCO Pipeline Co. v. 3.60 Acres, More or Less, 539 P.2d 64 (Alaska 1975).

Sec. 38.35.010. Legislative declaration of policy.

(a) The natural resources of this state in crude oil and natural gas and in its land for transportation of these resources and their products by pipeline toward markets both in and out of the state are capable of making a significant contribution to the general welfare of the people of this state. It is the policy of this state that the development, use, and control of a pipeline transportation system be directed to make the maximum contribution to the development of the human resources of this state, the increase in the standard of living for all of its residents, the advancement of existing and potential sectors of its economy, the strengthening of free competition in its private enterprise system, and the careful protection of its incomparable natural environment.

(b) The State of Alaska reserves unto itself all rights, powers, privileges, and immunities not preempted by federal interstate commerce laws and regulations in the right-of-way leasing of any state land for pipeline construction, transmission, or operation within its boundaries.

History -

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

Collateral Refs -

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

73B C.J.S., Public Lands, Sec. 94-98.

Sec. 38.35.015. Powers of the commissioner.

The commissioner has all powers necessary and proper to implement the policy, purposes, and provisions of this chapter, so as to subserve, as the exercise of reasoned discretion determines, the public interest, convenience and necessity, including but not limited to

- (1) granting leases of state land for pipeline right-of-way purposes;
- (2) leasing, purchasing, or otherwise acquiring (including condemning by declaration of taking) easements or other interests in land in this state for the purpose of utilizing or granting leases of the land, easements, or interests for pipeline right-of-way purposes;
- (3) purchasing interests in pipelines in accordance with options included in right-of-way leases;
- (4) investigating any matters concerning any lessee with a view to assuring compliance by it with its right-of-way lease, this chapter, and any other applicable state or federal law;
- (5) developing from time to time and maintaining a comprehensive master plan for pipeline transportation development;
- (6) developing and promoting programs to foster efficient, economical, and safe pipeline transportation services in the state;
- (7) coordinating the activities of the commissioner under this chapter with the transportation and other relevant activities of other public agencies and authorities;
- (8) constructing, extending, enlarging, improving, repairing, acquiring, operating, or engaging in transportation, service, or sale by any pipeline or providing for these by contract, lease, or other arrangement on those terms that the commissioner may consider necessary, convenient, or desirable with any agency, corporation, or person, including but not limited to any carrier or any state agency, when the commissioner determines that a lessee carrier is not willing to undertake and complete the action within a reasonable time, and to sell, lease, grant, and dispose of any property constructed or acquired in the exercise of this power.

History -

(Sec. 3 ch 72 SLA 1972; am Sec. 25 - 27 ch 3 FSSLA 1973; am Sec. 38 ch 127 SLA 1974)

Revisors Notes -

Formerly AS 38.05.020(c). Renumbered in 1984.

Decisions -

Construction of state lease provision reserving right to grant right-of-way. - Provision in a lease issued by the State of Alaska, division of lands, expressly reserving the right to grant an easement or right-of-way across the leased property was construed to include an interagency transfer of a right-of-way to the Department of Transportation and Public Facilities. *Wessells v. State, Dep't of Hwys.*, 562 P.2d 1042 (Alaska 1977).

Sec. 38.35.017. Limitation on leases in or adjacent to the Beaufort Sea.

(a) Consistent with and in furtherance of the statements of general state policy guiding resource development set out in art. VIII, sec. 1, Constitution of the State of Alaska, that the resources of the state be developed "by making them available for maximum use consistent with the public interest" and in art. VIII, sec. 2, Constitution of the State of Alaska, directing that provision shall be made by the legislature for "the utilization, development, and conservation of all natural resources belonging to the State . . . for the maximum benefit of its people," and consistent with and in furtherance of the general legislative declaration of policy for this chapter set out in AS 38.35.010, it is the policy of this state that the overall strategy for development, use, and control of a pipeline or pipelines to develop the state's substantial North Slope natural gas resources be directed

(1) to enhance the standard of living of state residents by

(A) ensuring that, in conjunction with out-of-state market driven commercial demand for North Slope natural gas, state residents and businesses will have access, directly or indirectly, to that portion of the gas that will meet the reasonably foreseeable in-state demands for it, including substitution of the North Slope natural gas for depleting gas reserves in Southcentral Alaska in order to maintain a vital domestic and industrial energy source, and ensuring that the pipeline or pipelines for the transportation of North Slope natural gas will be designed and located to be responsive to these requirements;

(B) making the maximum contribution to the development of job opportunities in this state by

(i) providing direct short-term construction and long-term operation- and maintenance-related employment on the pipeline or pipelines, to the end that the resources be developed with qualified contractors and firms in this state for work to be performed, including the fabrication and installation of required facilities, and that state residents be employed, consistent with law; for purposes of this sub-subparagraph, a person is considered a resident if the person is physically present in the state with the intent to remain in the state indefinitely and has a home in the state, and a contractor or firm is considered as qualified if the contractor or firm qualifies as an Alaska bidder under AS 36.30.170(b); and

(ii) providing necessary support services; and

(C) adding significant long-term property value to the tax base of the state and local governments, thereby providing the means to support public education, public health, transportation, and other essential state and local government projects and services;

(2) to ensure that the design, location, and construction of a pipeline or pipelines for delivery of North Slope natural gas to North American markets through connection to the North American natural gas pipeline network enhance opportunities for implementing gas deliveries using alternative technologies and the construction of other pipelines to deliver North Slope natural gas to foreign and domestic markets; and

(3) to ensure construction of the pipeline or pipelines consistent with careful protection of the state's natural environment, with minimum environmental degradation, to the greatest extent possible, and with protection of fish, wildlife, and biotic resources for the use of persons who depend upon them

by using available transportation infrastructure to initiate and complete project construction and maintenance and by avoiding duplication of facilities.

(b) Consistent with the legislative policy and goals set out in (a) of this section, the commissioner may not grant a lease across state land that is in or adjacent to the Beaufort Sea for pipeline right-of-way purposes to authorize construction and operation of a natural gas pipeline following a "northern" or "over-the-top" route running east from the North Slope to Canada's Mackenzie River Valley, then south to link to existing pipeline networks to transport North Slope natural gas to North American markets.

(c) The limitation on leasing set out in (b) of this section does not apply on and after the date on which a natural gas pipeline following a "southern" route that parallels the Trans Alaska Pipeline System and the Alaska Highway to transport North Slope natural gas to North American markets or Alaska tidewater for delivery to foreign and domestic markets has been completed and has begun operation.

History -

(Sec. 1 ch 29 SLA 2001)

Sec. 38.35.020. Grant of right-of-way lease.

(a) Rights-of-way on state land including rights-of-way over, under, along, across, or upon the right-of-way of a public road or highway or the right-of-way of a railroad or other public utility, or across, upon, over, or under a river or other body of water or land belonging to or administered by the state may be granted by noncompetitive lease by the commissioner for pipeline purposes for the transportation of oil, products, or natural gas under those conditions prescribed by law or by administrative regulation. Except to the extent authorized by an oil and gas lease, a gas only lease, or an oil and gas or gas only unit agreement approved by the state, no person may engage in any construction or operation of any part of an oil, products, or natural gas pipeline, which in whole or in part is or is proposed to be on state land unless that person has obtained from the commissioner a right-of-way lease of the land under this chapter.

(b) The commissioner may by regulation exempt the construction or operation of field gathering lines or any reasonable classification of them from the requirement of a right-of-way lease under this chapter.

(c) The commissioner may provide in a lease issued under this section that a lessee may, with the approval of the commissioner, use materials from state land when necessary to protect state land and resources from the dangers or hazards resulting from damage caused by a pipeline disaster or emergency. If the commissioner approves the use of state materials under this subsection, the materials remain the property of the state until the material is sold to the lessee in accordance with the provisions of the lease. However, the approval does not transfer responsibility for clean up of the materials to the state.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 2 ch 3 FSSLA 1973; am Sec. 2 ch 119 SLA 1986; am Sec. 47 ch 49 SLA 2004)

AG Opinions -

The lease conversion provisions enacted by 1977 legislation (Sec. 12, 13, ch. 138, SLA 1977, as amended by Sec. 21, ch. 182, SLA 1978) applied only to those leases entered into under the substantive statutory provisions which were amended by the 1977 legislation. Hence, substantive amendments to AS 38.05 could not be applied to a lease which was not authorized by the leasing provisions of AS 38.05, but rather by the leasing provisions of this chapter, and the state was not estopped from challenging the validity of the terms of a wrongfully converted lease. December 10, 1985, Op. Att'y Gen.

Sec. 38.35.030. Abandonment, reduction, or impairment of service of pipeline.

A lessee may not abandon any portion of a pipeline that is subject to a lease granted under this chapter, or operation or transportation, service, or sale by it, or reduce or impair service, except in accordance with the terms of the lease or AS 38.35.040.

History -

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

Sec. 38.35.040. Temporary or emergency service or temporary abandonment, reduction, or impairment of service by lessee.

The commissioner may, either upon a request made in the form required by regulation, or in the exercise of discretion without request, authorize or require temporary or emergency rendering of service or temporary or emergency abandonment, reduction, or impairment of service by a pipeline of a lessee without compliance with AS 38.35.050 - 38.35.100. Nothing in this section prevents a carrier from temporarily suspending operations in the event of an emergency which threatens public health or safety; however, notice shall be given the commissioner as soon as possible.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 4 ch 3 FSSLA 1973)

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)

Sec. 38.35.060. Application for certificate to abandon or diminish service. [Repealed, Sec. 6 ch 3 FSSLA 1973].

Repealed or Renumbered

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. 38.35.080. Analysis and public hearing.

(a) The commissioner shall, within a reasonable time after receiving the application, prepare an analysis of the application or of the matter of which the commissioner was notified, including a proposal for action if feasible; a proposed lease and a general statement of the basis and purpose of the commissioner, if favorable action is proposed; or, when a proposal for action is not feasible before a hearing, a description of the subjects and issues involved.

(b) Upon completion of the analysis but not less than 30 days before the date set for hearing an application or an amendment to an application that, under AS 38.35.050(c), constitutes a substantial change in the application, the commissioner shall publish notice, and make copies available as provided in AS 38.35.070.

(c) The commissioner shall set all applications for public hearing as soon as practicable, if a public hearing on an application is requested by any person within 30 days of publication of notice under AS 38.35.070(1) or if the proposed action being considered involves a substantial public interest. The commissioner shall set the application for public hearing and publish notice of the time and place of the public hearing at least 30 days before the hearing.

(d) The provisions of the Administrative Procedure Act (AS 44.62) do not apply to hearings held under this section.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 8 ch 3 FSSLA 1973; am Sec. 2 ch 26 SLA 2001)

Sec. 38.35.090. Multiple applications for same lease.

When the commissioner receives within a 30-day period two or more applications relating to the same or substantially the same subject matter, the commissioner shall consider the applications upon a comparative basis. The commissioner may extend the time within which a carrier may submit an application for consideration upon a comparative basis with a previously filed application.

History -

(Sec. 1 ch 72 SLA 1972)

Sec. 38.35.100. Decision on application.

(a) The commissioner shall promptly determine, in a written finding, on an application filed under AS 38.35.050, whether the applicant is fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest. In making a determination the commissioner shall consider whether or not

(1) the proposed use of the right-of-way will unreasonably conflict with existing uses of the land involving a superior public interest;

(2) the applicant has the technical and financial capability to protect state and private property interests;

(3) the applicant has the technical and financial capability to take action to the extent reasonably practical to

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

(B) undertake any necessary restoration or revegetation; and

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

(4) the applicant has the financial capability to pay reasonably foreseeable damages for which the applicant may become liable on claims arising from the construction, operation, maintenance, or termination of the pipeline;

(5) the applicant has agreed that in the construction and operation of a pipeline within the right-of-way the applicant will comply with, and require contractors and their subcontractors to comply with, applicable and valid laws and regulations regarding the hiring of residents of the state then in effect or that take effect subsequently.

(b) If the commissioner makes the determinations under (a) of this section favorably to the applicant, then the commissioner may grant the whole or part of the application. If the commissioner makes the determinations under (a)(1) - (5) of this section favorably to the applicant but determines that the applicant is not then fit, willing, and able to perform under the application, the commissioner may grant the application under a conditional lease subject to conditions established by the commissioner that will ensure that the applicant will, within a prescribed period of time not exceeding 10 years, establish that the applicant is fit, willing, and able, under (a) of this section, to perform the transportation or other acts that will be required by the present or future public interest. An applicant is not entitled to a notice or authorization to proceed to construction, or its equivalent, under a conditional lease until the commissioner determines in writing that the applicant has satisfactorily established that the applicant is then fit, willing, and able to perform under (a) of this section. Otherwise, the commissioner shall deny the application.

(c) The commissioner may offer the applicant a lease or a conditional lease under this section. If the applicant does not accept a lease offered under this section within 30 days, the lease offered is withdrawn.

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

(e) The commissioner shall require a conditional lessee to agree that

(1) in the absence of the approval of the commissioner, a transfer may not relieve the lessee of an obligation assumed under the lease;

(2) a transfer, including the transfer of lessee, that occurs without the approval of the commissioner is ineffective to transfer interests in and obligations under the lease; and

(3) a transfer constitutes a default under the lease.

(f) In an application for the approval under (d) of this section of a transfer of an interest, the commissioner shall consider whether the proposed transferee will be fit, willing, and able to perform the transportation or other acts proposed under the conditions established in the conditional lease and whether the transfer is in the public interest. In approving the transfer of an interest under (d) of this section and this subsection, the commissioner may impose any condition on the transfer that the commissioner considers in the public interest.

(g) If, during the term of a conditional lease, the commissioner determines under (a) of this section that the applicant is fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest, the commissioner may amend the conditional right-of-way lease to insert the covenant established in AS 38.35.120(a)(9) in place of the covenant against a transfer established under (d) and (e) of this section.

(h) The issuance of a conditional lease does not prevent the commissioner from issuing other conditional or unconditional leases for the same right-of-way. A conditional lease may be revoked at any time that the commissioner determines that the applicant or conditional lessee will not be fit, willing, and able to perform during the term of the lease or when another applicant or conditional lessee is determined to be fit, willing, and able to perform under an application or lease for all or part of the right-of-way. An applicant or conditional lessee accrues no rights, including preference or priority rights, to a particular right-of-way until the commissioner makes a determination that the applicant or conditional lessee is then fit, willing, and able to perform the transportation or other acts proposed under (a) of this section.

(i) The commissioner shall insert a provision implementing the requirements of (a)(5) of this section into each agreement entered into by the commissioner for the construction and operation of a pipeline within the state.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 9 ch 3 FSSLA 1973; am Sec. 1, 2 ch 51 SLA 1987)

Sec. 38.35.110. Term of lease; continuation.

(a) Each lease of state land for pipeline right-of-way purposes must contain a provision that the lease shall run for a specified term of not greater than 30 years, and shall be renewable for additional periods of up to 30 years each, so long as the lessee is in commercial operation and is in full compliance with all state law, including but not limited to state law pertaining to regulation and taxation of the pipeline facility, and is in compliance with all terms of the lease. In making this determination, the

commissioner shall take into consideration the cost of the proposed pipeline, its useful life, and the probable financing requirement for the proposed pipeline.

(b) If the lessee has timely requested and is pursuing renewal and the determination on the renewal has not been issued before expiration of the existing lease term, the commissioner shall continue the lease subject to the terms and conditions that were applicable to the lease in effect at the time of expiration of the lease's term until the commissioner issues a final determination on the renewal.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 10 ch 3 FSSLA 1973; am Sec. 1, 2 ch 18 SLA 2001)

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.

Sec. 38.35.122. Products pipeline leases.

The commissioner has discretion to include any or all of the terms set out in AS 38.35.120 in leases of state land for products pipeline right-of-way purposes.

History -

(Sec. 11 ch 3 FSSLA 1973)

Revisors Notes -

Formerly AS 38.35.120(f). Renumbered in 1984.

Sec. 38.35.130. Right-of-way easements or leases acquired from others.

(a) The lessee may, if the commissioner delegates the function to it, condemn, by declaration of taking, under AS 09.55.420 - 09.55.450, real property and acquire leases of or easements or rights-of-

way on land in the state required for right-of-way purposes for a pipeline subject to the lease on behalf of and as agent for the state in which title to or interest in the land shall vest.

(b) The lease shall contain a covenant that the land, right-of-way, or easement acquired under this section is or will form part of the land leased to the lessee.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 12 ch 3 FSSLA 1973)

Decisions -

Effect of failure to initiate eminent domain proceedings. - Although pipeline company could, upon delegation from state, exercise power of eminent domain through declaration of taking or otherwise, its statutory authority does not extend so far as to immunize it from liability for trespass if it has not initiated eminent domain proceedings. *Ostrem v. Alyeska Pipeline Serv. Co.*, 648 P.2d 986 (Alaska 1982).

If pipeline company's entry on to land was pursuant to easement it had purchased, rather than pursuant to specific delegation of right to condemn, actions which exceeded its rights under that easement, constituted trespass. *Ostrem v. Alyeska Pipeline Serv. Co.*, 648 P.2d 986 (Alaska 1982).

Quoted in *ARCO Pipeline Co. v. 3.60 Acres, More or Less*, 539 P.2d 64 (Alaska 1975).

Stated in *Etalook v. Exxon Pipeline Co.*, 831 F.2d 1440 (9th Cir. 1987).

Cited in *Heffle v. State*, 633 P.2d 264 (Alaska 1981).

Collateral Refs -

Elements and measure of compensation for oil or gas pipeline through private property. 38 ALR2d 788; 23 ALR4th 631.

Sec. 38.35.140. Payment of rental and costs.

(a) The lease price for a right-of-way lease shall be the annual fair market rental of the state land included in the right-of-way based on the appraised fair market value of the land. The lease price is payable annually in advance on or before the anniversary of the lease. The appraised fair market rental value shall be adjusted at five-year intervals and charges or adjustments shall be based on a reappraised annual rental value. Rental may not be charged for any land acquired by the lessee under AS 38.35.130(b) and conveyed without cost to the state.

(b) The lease applicant or lessee shall reimburse the state for all reasonable costs incurred in processing an application filed under AS 38.35.050 and in monitoring the construction, operation, maintenance, and termination of the pipeline on the right-of-way. The commissioner shall use best

efforts to reach agreement with the lessee addressing the details of cost reimbursement under this subsection and shall provide the lessee with an annual estimate of the projected costs and scope of the work.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 13 ch 3 FSSLA 1973; am Sec. 16 ch 182 SLA 1978; am Sec. 67 ch 152 SLA 1984; am Sec. 56 ch 138 SLA 1986; am Sec. 51 ch 36 SLA 1990; am Sec. 3 ch 18 SLA 2001; am Sec. 1 ch 76 SLA 2001)

Sec. 38.35.145. Agreement to provide for payment of preapplication costs.

(a) To accommodate preliminary work in advance of the receipt of an application for a lease under this chapter, the department may enter into an agreement with a prospective lessee desiring to own an oil or natural gas pipeline that is proposed to be located in whole or in part on state land. The agreement must provide that the prospective lessee reimburse the department for the reasonable costs of work incurred in preparing for activities before receipt of an application.

(b) Expenditure of amounts received by the department under (a) of this section is subject to appropriation by the legislature. Appropriations made to satisfy the requirement of (a) of this section may be made by general appropriations of program receipts conditioned on compliance with the program review provisions of AS 37.07.080(h).

(c) [Repealed, Sec. 1 ch 21 SLA 2004].

History -

(Sec. 2 ch 76 SLA 2001; am Sec. 1 ch 21 SLA 2004)

Sec. 38.35.150. Additional provisions of lease. [Repealed, Sec. 14 ch 3 FSSLA 1973].

Repealed or Renumbered

Sec. 38.35.160. Transfer of right-of-way lease, certificates, or pipeline. [Repealed, Sec. 15 ch 3 FSSLA 1973].

Repealed or Renumbered

Sec. 38.35.170. Forfeiture of lease.

Failure to begin construction of the pipeline facility within a reasonable time of the granting of a right-of-way lease under this chapter for reasons within the control of the lessee or failure of an owner of an interest in the granted right-of-way substantially to comply with the terms of the right-of-way shall be grounds for forfeiture of the right-of-way interest of the lessee or owner in an action brought by the commissioner in the superior court. Before the commencement of any action for forfeiture of an interest in a right-of-way under this section, the commissioner shall give the lessee or owner of the interest notice in writing of the alleged default and shall not commence the proceeding unless the lessee or owner of the interest has failed to initiate good faith efforts to cure the default within 60 days of the notice of the alleged default.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 16 ch 3 FSSLA 1973)

Sec. 38.35.180. Suits to enjoin or recover damages for defaults.

(a) When in the judgment of the commissioner a person has violated or is about to violate a provision of this chapter or an obligation, condition, or provision of a right-of-way lease, the attorney general, on advice of the commissioner, shall seek a prohibition or mandatory injunction from the superior court to remedy the violation.

(b) A penalty imposed by the provisions of a right-of-way lease issued under this chapter may be enforced in the superior court by proceedings in personam against the lessee carrier, or, in the case of a lien, by proceedings in rem against any of the lessee carrier's property.

(c) Neither this section nor the state's obtaining an injunction or recovering penalties extinguishes any civil cause of action arising out of a violation of this chapter or the provisions of a right-of-way lease.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 17 ch 3 FSSLA 1973)

Sec. 38.35.190. Application of the Administrative Procedure Act.

(a) AS 44.62.010 - 44.62.320, 44.62.640 and 44.62.950 apply to regulations adopted by the commissioner under the authority of this chapter.

(b) [Repealed, Sec. 18 ch 3 FSSLA 1973].

(c) [Repealed, Sec. 18 ch 3 FSSLA 1973].

(d) [Repealed, Sec. 18 ch 3 FSSLA 1973].

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 18 ch 3 FSSLA 1973)

Revisors Notes -

In 1998, "AS 44.62.950" was substituted for "AS 44.62.650" in subsection (a) to reflect the 1998 renumbering of AS 44.62.650.

Sec. 38.35.200. Judicial review of decisions of commissioner on application.

(a) An applicant or competing applicant or a person who has a direct financial interest affected by the lease who raises objections within 60 days of the publication of notice under AS 38.35.070 are the only persons with standing to seek judicial review of a decision of the commissioner under AS 38.35.100.

(b) The only grounds for judicial review of a decision of the commissioner are

(1) failure to follow the procedures set out in this chapter; or

(2) abuse of discretion so capricious, arbitrary, or confiscatory as to constitute a denial of due process.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 19 ch 3 FSSLA 1973)

Sec. 38.35.205. Lease savings clause.

A judicial finding that any term or condition of a right-of-way lease issued under this chapter is unlawful or invalid may not operate to invalidate the lease or any other term or condition of the lease.

History -

(Sec. 23 ch 3 FSSLA 1973)

Sec. 38.35.210. Delegation of commissioner's authority.

The commissioner may delegate to an employee of the Department of Natural Resources or the Department of Law the authority granted under this chapter, except for the authority to execute leases.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 20 ch 3 FSSLA 1973)

Sec. 38.35.220. Continued operation of certain carriers.

(a) Natural gas carriers that operate as public utilities holding easements, rights-of-way, or permits for pipelines on state public land on May 20, 1972, are unaffected by this chapter within the scope of their existing operations, normal expansions, and extensions thereof so long as their original or present purpose and function remains unchanged. This exemption does not apply to a natural gas pipeline constructed outside of the

- (1) Southcentral region of the state;
- (2) Matanuska-Susitna Borough;
- (3) Kenai Peninsula Borough;
- (4) Municipality of Anchorage;
- (5) Chugach Regional Educational Attendance Area; or
- (6) Copper River Regional Educational Attendance Area.

(b) Subject to (a) of this section, if an existing right-of-way is revocable or for a term of years, then upon revocation or expiration this chapter applies.

(c) Applications for pipeline permits which have been filed with the division of lands before May 20, 1972, shall be considered as filed under this chapter but this does not otherwise restrict the authority of the commissioner in acting on these applications under this chapter; however, if the division of lands has, before May 20, 1972, granted right-of-entry to an applicant or issued a letter of no-objection to an applicant, and the applicant thereafter fully complies with all of the terms and conditions originally specified by the division of lands or other agency, these applications are existing valid permits or easements on May 20, 1972.

(d) [Repealed by Sec. 21 ch 3 FSSLA 1973].

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 21 ch 3 FSSLA 1973; am Sec. 5 ch 7 SLA 2010)

Cross References -

For division of lands, see AS 38.05.005.

Amendment Notes -

The 2010 amendment, effective April 27, 2010, in the introductory language in (a), added "that operate as public utilities" following "Natural gas carriers", added "This exemption does not apply to a natural gas pipeline constructed outside of the", and added (a)(1) through (a)(6).

Sec. 38.35.225. Binding effect of covenants.

By entering into a lease under this chapter, the lessee is bound by all the covenants provided for in the lease to the full extent of the power of the state to impose those covenants under its authority as owner of the land to be leased or under its police or regulatory powers or otherwise; provided that the right of the lessee to challenge the power of the state to require such a covenant as owner of the land to be leased or under its police or regulatory powers or otherwise is preserved until such time as action to enforce the covenant is taken by the state.

History -

(Sec. 23 ch 3 FSSLA 1973)

Sec. 38.35.230. Definitions.

In this chapter,

- (1) "commissioner" means the commissioner of natural resources;
- (2) "coordinate agencies" includes Department of Labor and Workforce Development, Department of Transportation and Public Facilities, Department of Environmental Conservation, and the Regulatory Commission of Alaska;
- (3) "lease" means the instrument or extension of an instrument issued under this chapter granting a leasehold interest in state land for pipeline right-of-way purposes to a person and authorizing the construction or operation of, or transportation, service or sale by a pipeline for crude oil, natural gas, or products;
- (4) "lessee" means a person or persons holding a valid lease issued by the commissioner;
- (5) "natural gas" includes all hydrocarbons produced at the wellhead not defined as oil;
- (6) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;
- (7) "pipeline" or "pipeline facility" 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 crude

oil, natural gas, or products 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 center for both the upstream part of the pipeline and the terminal, tanker ballast treatment facilities, and fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to effectuate transportation, including an extension or enlargement of the line;

(8) "product" means refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of petroleum and any liquid product or by-product derived from crude petroleum oil or natural gas;

(9) "state land" means

(A) "state land" as defined in AS 38.05.965;

(B) public land of the United States selected by the state under sec. 6 of the Alaska Statehood Act of 1958 (P.L. 85-508; 72 Stat. 399), as amended, and real property of the United States transferred to the state under secs. 21, 35, and 45 of the Alaska Omnibus Act of 1959 (P.L. 86-70; 73 Stat. 141), as amended;

(C) any interest owned by the state in land if the interest is sufficient to permit the state to lease it under the authority of this chapter;

(10) "transportation" means the shipment or carriage by a pipeline of crude oil, natural gas, or products from an upstream terminus in one or more fields or points of production or supply of the minerals to a downstream terminus in one or more points for delivery of the minerals to a purchaser or consignee, for storage, or for further carriage or shipment, including shipment or carriage within the state that may be classified as interstate or foreign transportation to the extent that the transportation may constitutionally be subjected to the provisions of this chapter, as well as all services necessary to effectuate shipment or carriage, including, among other things, the receipt, storage, processing, handling, transfer in transit, forwarding, and delivery of the minerals.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 22 ch 3 FSSLA 1973; am E.O. No. 39, Sec. 11 (1977); am Sec. 70 ch 59 SLA 1982; am Sec. 4 ch 18 SLA 2001)

Revisors Notes -

In 1999, in paragraph (2) "Regulatory Commission of Alaska" was substituted for "Alaska Public Utilities Commission" in accordance with Sec. 30(a), ch. 25, SLA 1999. In 1999, in this section,

"Department of Labor" was changed to read "Department of Labor and Workforce Development" in accordance with Sec. 90, ch. 58, SLA 1999.

Sec. 38.35.260. Short title.

This chapter may be cited as the Alaska Right-of-Way Leasing Act.

History -

(Sec. 1 ch 72 SLA 1972; am Sec. 47 ch 53 SLA 1973)

Frequently Asked Questions

ASAP as a “Contract Carrier” versus a “Common Carrier”

What is a “Common Carrier” pipeline?

A Common Carrier pipeline provides at least a portion of its transportation service on an “as required” basis. Shippers using that service are permitted to use the system when they have products to ship but are not required to commit to long-term use of the line. Oil pipelines are typically common carrier pipelines. For example, the Trans Alaska Pipeline System (TAPS) operates as a common carrier, and accepts nominations for oil transport from any and all creditworthy entities that have petroleum to ship that meets certain quality specifications. However, shippers are not required to commit to long-term use of the system. If nominations for the service exceed capacity for any given month, capacity is apportioned among those who want to ship oil, generally on a pro-rata basis. Additionally, if a shipper does not provide product for shipment, they are not required to pay the tariff. The shipper using that service only pays for the capacity that is actually utilized.

What is a “Contract Carrier” pipeline?

A Contract Carrier pipeline provides firm transportation service to entities that have signed long-term capacity reservation contracts. Gas pipelines are typically contract carrier pipelines. The pipeline guarantees that contracted-for capacity will be available and the shipper agrees to pay for capacity regardless of whether or not they use it during any given period. None of the capacity is required to be set aside for “as required” service. Whenever idle capacity is available the contract carrier will offer transport on a non-firm (“interruptible”) basis, but there is no guarantee that capacity will be available again on a going-forward basis. Capacity is only guaranteed to those who have made long-term commitments.

Why does it matter if a pipeline is a Common Carrier or Contract Carrier?

The primary difference between the two modes surrounds who bears most of the costs and commercial risks associated with decisions about how much capacity to build, or whether to build at all. Historically, a Common Carrier was required to forecast demand and build enough capacity to satisfy estimated commercially viable demand for transport services. Since no commercial obligations to use the line existed, obtaining financing was complicated by the need to convince the lender that a commercially viable market for transport service would exist when the project came on line. Because they are best positioned to forecast demand, most common carrier pipelines were built by producers or refiners. The same challenge continues today for the portion of the pipeline that the Common Carrier is required to set aside for “as required” service.

A Contract Carrier, rather than making its own estimate, generally will build capacity to the extent it has binding commitments from shippers for “firm” capacity. In the current era, these binding commitments are made during an “Open Season” in which the pipeline solicits interest in transport service and shippers decide whether or not to make a long-term commitment to the line. These firm transportation

commitments can also be negotiated prior to an Open Season with a Presubscription Agreement. Under either scenario, unless the value of the shipping commitments, which require the shippers to make reservation payments to the pipeline, generally covers the costs of the pipeline, no pipeline is built. Because these commitments have creditworthiness standards attached, financing becomes relatively easy once they are in place.

Why is it important for ASAP to be a Contract Carrier?

If ASAP is to secure financing on reasonable terms, and keep the cost of gas to Alaskans at the lowest feasible cost, it will need commitments from shippers to use and pay for the line over a long period of time. Those making long-term financial commitments to the line will want assurances that the capacity they are committed to paying for will be available for their use, and not apportioned to others should capacity prove insufficient. These two-way commitments will be entered into by Presubscription Agreement or during ASAP's "Open Season" where capacity is offered and subscribed to on a long-term basis.

As a contract carrier, ASAP will still be open to potential expansions of pipeline capacity provided any expansion does not violate the provisions of AGIA or other provisions of state law and the parties are willing to enter into commercially reasonable arrangements. Typically, the party requesting the expanded capacity would pay for the cost of expansion.

Right-of-Way Leasing Act covenants comparison

House Bill 4, In-state Gasline Development Corp.

Current statute provides the Department of Natural Resources the authority to lease state land for pipeline right-of-way corridors. Part of the current statute requires certain covenants to be required in a noncompetitive state right-of-way lease for an oil or gas pipeline; the covenants are AS 38.35.120.

The 14 covenants reflect both state policy and terms related to lease upkeep and management. Several of the 14 covenants, however, represent principles associated with common carrier pipelines. As natural gas pipelines need the ability to provide contract carriage, House Bill 4 retains the original 14-covenants set under AS 38.35.120 for common carriers; there is no intent to change the terms for a common carrier oil pipeline. House Bill then establishes terms for a natural gas contract carrier pipeline, requiring the contract carrier to meet all but 3 of the 14 common carrier covenants. In lieu of the three, House Bill 4 re-crafts the intent of the common carrier covenants in a manner that allows for contract carriage.

The three covenants altered for a contract carrier pipeline are intended to maintain the representation of the state's policy in state land grants for pipeline rights-of-way, as expressed in AS 38.35:

Sec. 38.35.010. Legislative declaration of policy.

(a) The natural resources of this state in crude oil and natural gas and in its land for transportation of these resources and their products by pipeline toward markets both in and out of the state are capable of making a significant contribution to the general welfare of the people of this state. It is the policy of this state that the development, use, and control of a pipeline transportation system be directed to make the maximum contribution to the development of the human resources of this state, the increase in the standard of living for all of its residents, the advancement of existing and potential sectors of its economy, the strengthening of free competition in its private enterprise system, and the careful protection of its incomparable natural environment.

(b) The State of Alaska reserves unto itself all rights, powers, privileges, and immunities not preempted by federal interstate commerce laws and regulations in the right-of-way leasing of any state land for pipeline construction, transmission, or operation within its boundaries.

Covenants applicable to common and natural gas contract carriers

These covenants in AS 38.35 are unchanged in House Bill 4; they apply to a common carrier, and to a contract carrier:

Covenant 3: The pipeline will keep books, accounts, and records, and will make reports the state deems necessary.

- Covenant 4: The pipeline will give the state access to its property and records for inspections.
- Covenant 6: The pipeline will provide connections and interchanges, at state expense, at places along the pipe the state decides necessary if the state takes a royalty or tax share in kind.
- Covenant 7: The pipeline will construct and operate the pipeline in accordance with state laws and with RCA regulations/orders.
- Covenant 8: The pipeline must take care of the leasehold; promptly repair damages; and promptly compensate for any damages
- Covenant 9: The pipeline cannot transfer or dispose of its interest in a state right-of-way lease, including by a transfer of control of the pipeline carrier corporation, without the DNR commissioner's authorization. The authorization is to include the commissioner's consideration of whether the proposed transferee is fit, willing and able to operate the pipeline.
- Covenant 10: The carrier must file with the commissioner a named, permanent resident of the state as its 'registered agent.'
- Covenant 11: The state's laws will be used to resolve lease interpretation questions.
- Covenant 12: The lease comes with the understanding that the lease use will not interfere with the state's management or disposal of land, and that the carrier consents to state occupancy and use of the land by the state (with pipeline safety and operations considerations in mind).
- Covenant 13: The pipeline is liable for damages to the state caused by pipeline construction, operations and maintenance.
- Covenant 14: The pipeline must have liability and property damage insurance as required by the DNR commissioner.

Covenants that differ for contract and common carriers

Three of the 14 existing covenants reflect common carriage principles ((a)(1), (2), and (5)). These are unchanged for common carrier pipelines. House Bill 4, section 11 (Version I) adds a new section to the Right-of-Way Leasing Act: 38.35.121, *Covenants required to be in a lease to a natural gas pipeline that is a contract carrier*. A contract carrier must agree to the regular covenants in 38.35.120, except for (a)(1), (2), and (5), and must agree to the new 38.35.121 covenants (a)(1), (2), (3), (4) and (5), and two additional terms (b) and (c); (b) allows the contract carrier to offer firm and/or interruptible service, and (c) prohibits a new pipeline or an expansion to violate the terms of the Alaska Gasline Inducement Act.

Transporting gas without undue discrimination: The covenants are similar and require a pipeline to accept, transport and convey gas without discrimination. The contract carrier covenant removes references to crude oil; allows the carrier to provide its service subject to contracts with shippers; and removes the requirement of the RCA to determine the reasonableness of a pipeline's actions as a common carrier.

Common carrier (38.35.120) covenant (a)(1) requires a pipeline to operate as a common carrier and to handle oil/gas without unjust or unreasonable discrimination in favor of one producer or another, and that the RCA shall determine reasonable performance of common carrier duties.

The new contract carrier (38.35.121) covenant (a)(1) requires a pipeline to operate as a contract carrier and, subject to contracts, transport gas without discrimination.

Interchanges: The covenants are similar, and require a pipeline to 'interchange' product and provide connections with other pipelines and facilities. The common carrier covenants turn to a regulatory agency for rates and regulations governing such connections. The contract carrier covenants instead turn to contracts between the shipper and the pipeline for determining rates and regulations for interchanges.

Connections: The common carrier covenants require common carriage and expansions. The contract carrier covenants also require expansions, but only on commercially reasonable terms.

Common carrier (38.35.120) covenant (a)(5) requires the carrier to provide connections as ordered by the RCA, when required by the public interest.

The new contract carrier (38.35.121) covenant (a)(4) requires expansions on commercially reasonable terms that, when possible, encourage gas exploration and development in Alaska, without increasing transportation costs for shippers beyond what the shipping contract allows.

Division of Legislative Audit

Report Digest #04-30054-10

SUMMARY A Special Report on the Department of Revenue (DOR), Alaska Natural Gas
OF: Development Authority (ANGDA), Selected Operational Issues, October 8, 2010

PURPOSE OF THE REPORT

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we have conducted a performance audit of ANGDA. The primary objectives of the audit were to determine whether ANGDA duplicates the efforts of other state agencies or initiatives of the State, identify the extent to which ANGDA coordinates, cooperates, and shares information with other state agencies, and to determine whether ANGDA's long range plans changed or were modified based on work of other state agencies or initiatives.

Other objectives included identifying ANGDA's assets, appropriations, and outstanding financial commitments as well as determining how ANGDA has expended its available funding for the period of July 1, 2003, through April 30, 2010.

REPORT CONCLUSIONS

ANGDA has not duplicated the efforts of other agencies working on a large-diameter main natural gas pipeline. This is due to ANGDA's policy of modifying its plans based on other pipeline initiatives. ANGDA started out with a plan to acquire and condition North Slope (NS) gas and construct a pipeline. However based on other initiatives, ANGDA modified its goal to focus on a pipeline that would spur off a larger pipeline accessing the NS gas supply. ANGDA's decision to pursue a spur line minimized its role in accomplishing its fundamental mission. It also resulted in ANGDA conducting activities that stretched the bounds of its statutory authority.

ANGDA did not successfully coordinate efforts with the state agency pursuing a small diameter in-state pipeline (the Office of the Governor). This lack of cooperation resulted in both entities pursuing alternative projects that would achieve the same objective.

ANGDA generally received adequate cooperation from other state agencies and routinely shares its information with other agencies and the public through a variety of mechanisms.

ANGDA's appropriations, spending, outstanding financial commitments, and detailed assets, are presented in Appendix A-D of this report.

FINDINGS AND RECOMMENDATIONS

1. The legislature should consider ANGDA for sunset after resolution of uncertainties surrounding the development of NS natural gas.

ANGDA does not play a lead role in acquiring and conditioning NS natural gas or constructing a pipeline to transport the gas. Plans to develop natural gas, including building a large-diameter and/or a small-diameter pipeline, are being led by other private or public entities. The Alaska Gas Inducement Act (AGIA) licensees are guiding the progress of building a large-diameter pipeline. The Joint In-state Gasline Development Team, created by HB 369, is guiding the development of a small-diameter pipeline.

Public entities should not outlast their public purpose. Sunset laws enacted throughout the nation ensure public entities do not continue in perpetuity. These laws subject public entities to periodic evaluation to verify their continued existence is justified by a public purpose, and the public's interest is being adequately served.

ANGDA is not subject to sunset provision and, therefore, is at risk of outlasting its public purpose. Once the AGIA and Denali open seasons conclude, and the pipeline plan required under HB 369 is complete, the legislature should evaluate whether ANGDA has a significant and unique role in state pipeline efforts. If ANGDA does not have such a role, the legislature should consider whether the continued existence of a separate authority to carry out ANGDA's activities is justified and in the public's best interest. ANGDA's continued existence without a significant role is a waste of state resources and dilutes crucial decision-making in the State's effort to bring NS gas to market.

2. ANGDA should work with DOR's accounting staff to properly present assets in its financial statements and note disclosures.

ANGDA's financial reporting and disclosure of capital assets associated with its conditional ROW lease is inaccurate and not in accordance with generally accepted accounting principles. Specifically, ANGDA's financial statements for the period ending June 30, 2010, overstate capital assets by over \$3.5 million. The required notes to the financial statements reported that ANGDA incurred capitalized costs in the process of obtaining a conditional right-of-way (ROW). However, the amount reported includes significant costs unrelated to and incurred after obtaining the conditional ROW, and is not adjusted for accumulated amortization.

LEGAL SERVICES

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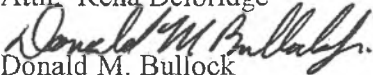
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Juneau, Alaska 99801-1182
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MEMORANDUM

February 12, 2013

SUBJECT: Limiting judicial review (SSHB 4; Work Order No. 28-LS0021\O)

TO: Representative Mike Hawker
Attn: Rena Delbridge

FROM: 
Donald M. Bullock
Legislative Counsel

You asked whether the legislature has the power to limit judicial review as offered in sec. 13 of the above-referenced bill. Although the legislature has the power to establish jurisdiction for the courts under art. IV, sec. 1, Constitution of the State of Alaska,¹ what the legislature categorizes as an issue of jurisdiction may be found by the courts to be a violation under the separation of powers doctrine.

Section 13 of SSHB 4 adds two new subsections to AS 38.35.200 -- AS 38.35.200(c) and (d).² New subsection AS 38.35.200(d) describes appeals that are not subject to the

¹ Article IV, sec. 1: **Judicial Power and Jurisdiction.** The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature. *The jurisdiction of courts shall be prescribed by law.* The courts shall constitute a unified judicial system for operation and administration. Judicial districts shall be established by law. (Emphasis added.)

² Section 13, SSHB 4:

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

(c) Except as provided for an applicant in (a) of this section and notwithstanding any contrary provision of law, an action or decision of the commissioner or other state officer or agency concerning the issuance or approval of a necessary right-of-way, permit, lease, certificate, license, or other authorization for the planning, financing, acquisition, maintenance, development, construction, or initial operation of a natural gas pipeline by the Alaska Gasline Development Corporation under AS 31.25 that uses a right-of-way subject to this chapter may not be subject to judicial review, except that a claim alleging the invalidity of this subsection must be brought within 60 days after the effective date of this Act, and a claim alleging that an action will deny rights under the Constitution of the State of Alaska must be brought within 60 days following the date of that

limitations in AS 38.35.200(c), therefore this analysis addresses only AS 38.35.200(c) (subsection (c)). Subsection (c) limits appeals and provides for an accelerated process for judicial appeals from administrative actions related to the natural gas pipeline project. Subsection (c) is similar to AS 43.90.420³ in the Alaska Gasline Inducement Act (AGIA) and 15 U.S.C. 720e in the Alaska Natural Gas Pipeline Act (ANGPA), both of which also provide for expedited resolution of disputes that would otherwise delay a natural gas pipeline project to transport North Slope natural gas to market. So far as I am aware, the ANGPA statutes have not been challenged in court.

Subsection (c) bars or limits access to the courts in two situations. First, the subsection bars or limits appeals from certain administrative actions, and second, the subsection sets a time period in which a person may make a challenge to the statute itself. Once in court, subsection (c) also restricts the authority of the superior court to grant injunctive relief.

Limiting appeals from administrative actions

Generally, administrative decisions are presumed to be judicially reviewable, unless the legislature provides otherwise. The bill provides otherwise in subsection (c) by denying a judicial appeal except where a constitutional right is affected.

action. A claim that is not filed within the limitations established in this subsection is barred. A complaint under this subsection must be filed in superior court, and the superior court has exclusive jurisdiction. Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a claim filed under this subsection, the superior court may not grant injunctive relief, including a temporary restraining order, preliminary injunction, permanent injunction, or stay, against the issuance of a necessary right-of-way, permit, lease, certificate, license, or other authorization for the planning, financing, acquisition, maintenance, development, construction, or initial operation of a natural gas pipeline by the Alaska Gasline Development Corporation. In this subsection, "natural gas pipeline" has the meaning given in AS 38.34.099.

(d) An appeal of a permitting decision or authorization by the Department of Environmental Conservation under AS 46.03 or AS 46.14 that is made under a program approved or delegated by the United States Environmental Protection Agency is not

- (1) subject to the limitation in (a) of this section;
- (2) included in the actions or decisions described in (c) of this section.

³ **Sec. 43.90.420. Statute of limitations.** A person may not bring a judicial action challenging the constitutionality of this chapter or the constitutionality of a license issued under this chapter unless the action is commenced in a court of the state of competent jurisdiction within 90 days after the date that a license is issued.

In *Bethel Utilities, Corp. v. City of Bethel*,⁴ the Alaska Supreme Court considered the issue of whether the superior court had jurisdiction to consider an appeal from an administrative decision made by the City of Bethel. The Court described the presumption that an appeal from an administrative decision was appealable to the superior court:

Unless the legislature provides otherwise, administrative decisions are presumed to be judicially reviewable. 5 K. Davis, *Administrative Law* §§ 28.1; 28.4 (2d ed. 1984). Here, the Bethel City Council has not precluded judicial review. Therefore, the law does provide for appeals from the city council's administrative decisions. Thus, the appellate rules apply^[5]

The case seems to make the point that, because of the general jurisdiction of the superior court, a specific grant of superior court jurisdiction for an administrative appeal is not necessary.⁶ Subsection (c) affirmatively bars an appeal to court from an administrative action described in the subsection, but could face the same fate as AS 22.10.020(d), to which the court did not defer in *Bethel*.

The part of subsection (c) that addresses the type of action from which a judicial review is prohibited is as follows:

[A]n action or decision of the commissioner or other state officer or agency concerning the issuance or approval of a necessary right-of-way, permit, lease, certificate, license, or other authorization for the planning, financing, acquisition, maintenance, development, construction, or initial operation of a natural gas pipeline by the Alaska Gasline Development

⁴ 780 P.2d 1018 (Alaska 1989).

⁵ *Id.* at 1022 (footnotes omitted).

⁶ The holding seems to conflict with AS 22.10.020(d), which states that the superior court has jurisdiction in all matters appealed to it from an administrative hearing when the appeal is provided by law. AS 22.10.020(d) states:

The superior court has jurisdiction in all matters appealed to it from a subordinate court, or administrative agency *when appeal is provided by law*, and has jurisdiction over petitions for relief in administrative matters under AS 44.62.305. The hearings on appeal from a final order or judgment of a subordinate court or administrative agency, except an appeal under AS 43.05.242, shall be on the record unless the superior court, in its discretion, grants a trial de novo, in whole or in part. The hearings on appeal from a final order or judgment under AS 43.05.242 shall be on the record. (Emphasis added.)

Corporation under AS 31.25 that uses a right-of-way subject to this chapter [AS 38.35] may not be subject to judicial review[.]

The limitation in this subsection only applies to administrative approval of actions that are typically within the authority of state, including authority for land use and leasing, environmental permits not addressed in the next subsection, and business regulation. The bar of a judicial appeal is limited to necessary authorizations for single project -- a natural gas pipeline that uses a right-of-way subject to AS 38.35 that is being developed by the Alaska Gasline Development Corporation (AGDC), a state corporation. In other words, the limitation does not apply to a natural gas pipeline developed by any other person, does not apply to a pipeline that does not use a state right-of-way subject to AS 38.35, and does not apply to a permit issued by a federal agency that is outside of the state's authority.⁷

Subsection (c) includes an exception to the bar against a judicial appeal -- the allowance for the filing of "a claim alleging that an action will deny rights under the Constitution of the State of Alaska." A common issue in administrative actions is the right to due process, which is presumably a right that may be the basis for an allowable appeal. The right to due process in art. I, sec. 7, Constitution of the State of Alaska, is as follows:

Due Process. No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

A person claiming that a state action violates due process or affects another a constitutional right must file an appeal from the action within 60 days. The 60-day period in subsection (c) is twice as long as the 30-day period for filing a judicial review of a final administrative order under AS 44.62.560(a) (Administrative Procedure Act). The period for making an appeal seems adequate.

Limiting the period for challenging the statute

The second of the two situations relating to a court appeal is a challenge to the validity of subsection (c). A challenge to the validity of statute must be filed within 60 days after the effective date of the subsection.

⁷ AS 38.35.200(d) specifically exempts "[an] appeal of a permitting decision or authorization by the Department of Environmental Conservation under AS 46.03 or AS 46.14 that is made under a program approved or delegated by the United States Environmental Protection Agency." The failure to comply with requirements imposed by the federal government may result in the withdrawal of federal approval or delegation and the return of certain environmental regulation from the state to the federal government.

The legislature has enacted a number of statutes that requires a person bring an action within a limited time period, including the statutes of limitation in AS 09.10 and the period for filing from an administrative order as mentioned above. This limited period is similar to the limitations for appeals under AGIA and ANGPA and is based on the intent to expedite appeals that would cause unreasonable or unnecessary delays in bringing North Slope natural gas to market.

One problem with limiting the period for challenging the statute (or AGIA for that matter) is that the failure to bring a constitutional challenge within a limited period does not make an unconstitutional statute constitutional. Ultimately, it will be up to the court to decide whether a late-filed constitutional challenge will be allowed. Although the legislature may limit the period for bringing the appeal, a superior court might nevertheless exercise what it interprets to be its general jurisdiction under AS 22.10.020(a) and consider the challenge.

Limiting the court's injunction powers

Subsection (c) limits the powers of the superior court with regard to injunctions, stays, and restraining orders. That part of subsection (c) reads as follows:

Notwithstanding AS 22.10.020(c), except in conjunction with a final judgment on a claim filed under this subsection, the superior court may not grant injunctive relief, including a temporary restraining order, preliminary injunction, permanent injunction, or stay, against the issuance of a necessary right-of-way, permit, lease, certificate, license, or other authorization for the planning, financing, acquisition, maintenance, development, construction, or initial operation of a natural gas pipeline by the Alaska Gasline Development Corporation.

If AS 22.10.020(c)⁸ is strictly jurisdictional under art. IV, sec. 2, Constitution of the State of Alaska, the prohibition against injunctions, stays, and restraining orders could be upheld. On the other hand, the Alaska Supreme Court could find that injunctions, stays, and restraining orders are necessary tools of the superior court in the exercise of its constitutional powers, and find that the prohibitions in subsection (c) are not binding.

The Alaska constitution provides for the separation of powers by allocating powers between the legislature (art. II, sec. 1), the governor and the executive branch (art. III, sec. 1), and the judiciary (art. IV, sec. 1). The legislature may change court rules governing the administration of the courts or those governing practice and procedure by a

⁸ AS 22.10.020(c): "The superior court and its judges may issue injunctions, writs of review, mandamus, prohibition, habeas corpus, and all other writs necessary or proper to the complete exercise of its jurisdiction. A writ of habeas corpus may be made returnable before any judge of the superior court."

vote of two thirds of the members elected to each of the two houses,⁹ but the legislature cannot reallocate constitutional powers. So long as Supreme Court finds that what the legislature considers a jurisdictional issue is actually one of judicial power, the Supreme Court may reject the limitations.

As discussed above, the Supreme Court has already rejected a jurisdictional limitation in AS 22.10.020 in favor of court power in *Bethel, supra*. In that case, the Alaska Supreme Court rejected limiting the language in AS 22.10.020(d) (that the superior court could only consider an appeal from an administrative agency "when provided by law") and ruled that "unless the legislature provides otherwise, administrative decisions are presumed to be judicially reviewable."¹⁰ It is possible that a limitation by the legislature that prohibits an injunction, stay, or restraining order as provided in subsection (c) similarly could be set aside by the court if in conflict with the court's constitutional powers.

The resolution of the seeming conflict between the judicial power in art. IV, sec. 1, Constitution of the State of Alaska, and the jurisdiction of the courts prescribed by the legislature under the same constitutional provision and AS 22.10.020 cannot be predicted with certainty. The *Bethel* decision found authority for an administrative appeal when not specifically authorized by law; the Supreme Court could find authority for injunctions, stays, and restraining orders despite the enactment of subsection (c), which removes the authority, except in conjunction with a final order.

Conclusion

Subsection (c) limits appeals, injunctions, stays, and restraining orders that could slow or stop progress in the development of an in-state natural gas pipeline by AGDC. The restrictions raise issues of legislative and judicial power and the separation of those powers. While the limitations provide protection for rights under the Alaska constitution, the resolution of the power conflict between the legislative and judicial branches may need to be settled by an action in court.

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⁹ Article IV, sec. 15, Constitution of the State of Alaska.

¹⁰ 780 P.2d at 1022.

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MEMORANDUM

February 15, 2013

SUBJECT: Assurances to a project licensed under the Alaska Gasline Inducement Act (Work Order No. 28-LS0457)

TO: Representative Mike Hawker
Attn: Rena Delbridge

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You asked for an opinion about the licensed project assurances (assurances) offered in AS 43.90.440¹ to a project licensed under the Alaska Gasline Inducement Act (AS 43.90)

¹ **AS 43.90.440. Licensed project assurances.** (a) Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has exclusive enjoyment of the inducements provided under this chapter before the commencement of commercial operations. If, before the commencement of commercial operations, the state extends to another person preferential royalty or tax treatment or grant of state money for the purpose of facilitating the construction of a competing natural gas pipeline project in this state, and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person. The payment under this subsection is subject to appropriation. Upon payment by the state of the amount owed under this section, the licensee shall, at no additional cost to the state, assign to the state or the state's designee all engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license. The payment under this subsection is in full satisfaction of all claims the licensee may bring in contract, tort, or other law related to the events that gave rise to the payment.

(b) The review, processing, or facilitation of a permit, right-of-way, or authorization by a state agency in connection with a competing natural gas pipeline project does not create an obligation on the part of the state under this section.

(c) In this section,

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

Representative Mike Hawker

February 15, 2013

Page 2

(AGIA). You asked about the type of pipeline that is a "competing natural gas pipeline" and the type of state support to a "competing natural gas pipeline" that may create liability under the assurances provision.

As a word of caution, the language in the assurances is subject to interpretation. No court has considered the meaning of the assurances and I am not aware of an administrative determination that has interpreted the assurances.

Liability under AS 43.90.440 arises only if the licensee is in compliance with the requirements of the license and in compliance with the requirements of state and federal statutes and regulations relevant to the project. If the licensee is not in compliance, the issue of whether the state has violated the assurances is irrelevant because liability only arises if the licensee is in compliance. However, if the licensee is in compliance, the issues regarding the route and design capacity of another natural gas pipeline, the type of benefits and support by the state to that pipeline, and the time period in which the state provides support become relevant. If there is liability under the assurances, the amount of liability is based on the amount of qualified expenditures incurred and paid by the licensee.

To understand the assurances and how they work, it is helpful to break up AS 43.90.440 in segments, and interpret the meaning of each segment. The different segments involve an analysis of the definition of the project, particularly after the failed open season on the project to the Canadian border; the characteristics of a competing natural gas pipeline project; the money provided and preferential royalty and tax treatment provided by the state to a competing pipeline; the determination of the amount of payments that are the basis for determining the payment to the licensee; and the status of the license if the state makes a payment. The licensee is not entitled to any payment if not in compliance as described in the statute. The status of the project licensed under AGIA must be examined. The first open season was unsuccessful. An amended project plan has been approved by the commissioner of natural resources and the commissioner of revenue (commissioners) but the amended plan should be reviewed to see if it is truly an amendment of the original project or a different project that would be subject to different AGIA application requirements for a project that involves the transportation of liquefied natural gas.

Discussion

To be eligible for a payment from the state under AS 43.90.440, the licensee must be eligible to receive a payment and the state must have violated the assurances. The

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

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

(B) the state's exercise of its right to modify royalties as authorized by law in effect on June 8, 2007.

licensee is eligible if in compliance with the requirements of the license and state and federal law. The state is liable to an eligible licensee after facilitating the construction of a competing natural gas pipeline by providing preferential royalty or tax treatment, or granting state money.

The licensee must be in compliance; licensed project

The first issue is whether the licensee is eligible to receive a payment from the state for the state's violation of the assurances. The licensee is only entitled to a payment for a violation, "if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations *relevant to the project*" (emphasis added). If the licensee is not in compliance, there is no liability that arises from anything the state does to facilitate the development of another natural gas pipeline of any designed capacity.

The first step in determining whether the licensee is in compliance is to determine what the project is that is licensed under AGIA.² This issue is not as simple as you may expect, because in May 2012 the licensee reported to the Federal Energy Regulatory Commission that,

Although producers expressed significant interest in the Alberta Project, the open season ultimately was not successful in securing transportation agreements. Therefore, by notice filed in May 3, 2012, TC Alaska formally terminated the open season and withdrew the transportation service offerings in its Open Season Notice.³

The "Alberta Project" referred to above is the project from the North Slope to the Canadian border to link with a pipeline system in Canada. With the "Alberta Project" no longer being actively pursued, the commissioners approved an in-state project to tidewater as a project plan amendment. Although the project plan has been amended and approved by the commissioners, there is a question as to whether the approved amendment is truly an amendment to the "Alberta Project" or authorizes a project that is different than that applied for and approved by the state in 2008.⁴

² "Project" is defined in AS 43.90.900(19) to mean "a natural gas pipeline project authorized under a license issued under [AS 43.90]."

³ Letter from Eugene R. Elrod, Counsel for TransCanada Alaska Company, LLC, and Alaska Pipeline Project, to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission (May 11, 2012).

⁴ Ch. 3, 4SSLA 2008.

On May 2, 2012, the commissioner of natural resources and the commissioner of revenue approved project plan amendments that allowed the licensee to engage in a "concept selection assessment of a liquefied natural gas ("LNG") alternative specifically relating to a gas pipeline and related midstream facilities to deliver natural gas from the Alaska North Slope to tidewater of south-central Alaska."⁵ The commissioners referred to the Alaska Pipeline Project ("APP") in the May 2, 2012, letter and described it as the project "being developed under an agreement entered into in 2009 between affiliates of TransCanada and ExxonMobil ("APP Parties") to jointly develop the project set forth in the Licensees' AGIA project plan."⁶ Finally, in the *Request for Commission Approval of Detailed Plan for Conducting an Open Season*,⁷ filed by TransCanada Alaska Company, LLC, with FERC, the project is described as follows:

The Alaska Pipeline Project will consist of:

- A FERC jurisdictional gas treatment plant ("GTP") near Prudhoe Bay, Alaska, which will treat North Slope gas for pipeline transportation;
- A FERC jurisdictional gas transmission pipeline from the outlet of the Point Thomson plant in Alaska to the GTP and from there, subject to shipper confirmation during the Open Season process, to either:
 - The Alaska/Canada border (the "Alaska-Canada Pipeline"), where it will interconnect to a new pipeline in Canada that APP plans to design, permit and construct (the "Canadian Pipeline"); or
 - Valdez, Alaska (the "Valdez Pipeline").

AGIA required an applicant for a license to select a route and provide information related to the route proposed. The two alternatives were for a project to the Canadian border and through Canada, or a route to tidewater and LNG transport by water. The two alternative routes and the information required to be submitted by the licensee for each route are described in AS 43.90.130(2).⁸ The project route submitted by TransCanada and the commissioners to the legislature was the route through Canada.

⁵ Letter from Daniel S. Butcher, commissioner of the department of natural resources, and Bryan Butcher, commissioner of revenue, to Tony Palmer, Vice President, Major Projects Development, TransCanada Pipelines Limited (May 2, 2012), p. 2.

⁶ *Id.*

⁷ TransCanada Alaska Company, LLC, *Request for Commission Approval of Detailed Plan for Conducting an Open Season*, Federal Energy Regulatory Commission Docket No. PF09-11-001 (Jan. 29, 2010) pp. 2 - 3.

⁸ AS 43.90.130(2) described the two project options and the information an applicant must provide for each alternative route:

[An application for the AGIA license must]

(2) provide a thorough description of a proposed natural gas pipeline project for transporting natural gas from the North Slope to market, which description may include multiple design proposals, including different design proposals for pipe diameter, wall thickness, and transportation capacity, and which description must include

(A) the route proposed for the natural gas pipeline, which may not be the route described in AS 38.35.017(b);

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

(C) an analysis of the project's economic and technical viability, including a description of all pipeline access and tariff terms the applicant plans to offer;

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

(i) *if the proposed project involves a pipeline into or through Canada*, a thorough description of the applicant's plan to obtain necessary rights-of-way and authorizations in Canada, a description of the transportation services to be provided and a description of rate-making methodologies the applicant will propose to the regulatory agencies, and an estimate of rates and charges for all services;

(ii) *if the proposed project involves marine transportation of liquefied natural gas*, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all proposed access and tariff terms for liquefaction services or, if third parties would perform liquefaction services, identification of the third parties and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export, destination, regasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export permits and licenses or a certificate of public convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate

The commissioners summarized the project proposed by TransCanada in its application in the written findings and determination prepared for presentation to the legislature. The project proposed in the application was summarized by the commissioners as follows:⁹

1. The TC Alaska Application

The TC Alaska Application proposes a 1,715-mile long, 48-inch diameter, mostly buried pipeline running from a gas treatment plant at Prudhoe Bay on the North Slope to the Alberta Hub in Canada. This is the second largest natural gas trading center in North America, which interconnects with pipelines that carry more than 10 Bcf/d of gas into U.S. markets. This overland pipeline's base design is capable of carrying between 3.5 and 5.9 billion cubic feet per day (Bcf/d) of natural gas. The gas treatment plant will be constructed by a third-party or by TC Alaska. The Alaska section of the pipeline will be approximately 750 miles long with six compressor stations at startup and five gas delivery points in Alaska. The Application includes an initial expansion capability of up to 6.5 Bcf/d. Further expansions would include a combination of additional compression and pipeline looping.

TransCanada addressed the LNG Project in its application as follows:¹⁰

2.1.3 LNG Project

TransCanada has not proposed an LNG project. However, in the event that the Project through Canada does not attract sufficient volumes in the

commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country[.]

(Emphasis added.)

⁹ Summary of Projects, *Written Findings and Determination by the Commissioners of Natural Resources and Revenue for Issuance of a License under the Alaska Gasline Inducement Act (AGIA)* (May 27, 2008), p. 1-7. See also, Summary of Proposed Project, *Written Findings and Determination by the Commissioners of Natural Resources and Revenue for Issuance of a License under the Alaska Gasline Inducement Act (AGIA)* (May 27, 2008), p. 3-5. (The TC Alaska application proposes to construct a 4.5 Bcf/day natural gas pipeline from Prudhoe Bay to existing pipeline infrastructure near Boundary Lake in Alberta, Canada.)

¹⁰ TransCanada Alaska, LLC, and Foothills Pipeline Ltd., Plan for Proposed Project Description, *Application for License, Alaska Gasline Inducement Act* (Nov. 30, 2007), p. 2.1-13.

initial binding Open Season, or Shippers commit sufficient volumes for both the pipeline through Canada and an LNG project, TransCanada is willing to offer gas treatment and pipeline transportation services from Prudhoe Bay to Delta Junction or Valdez in the event a Shipper requests such services. Refer to Appendix N "Tariffs for LNG Option" for a brief discussion of these offerings.

(Emphasis added.)

Other projects described included "LNG Project Options," "Producer Project," "Bullet Line," and "LNG and an Overland Pipeline." The "LNG Project Options" were all based on a large-volume pipeline running from the North Slope to a new liquefaction facility on Prince William Sound.¹¹ The "Producer Project" was a project proposed by BP Alaska and Conoco Phillips that was similar to the TransCanada proposal in that it exported gas from Alaska at the Canadian border.¹² The "Bullet Line" was a "smaller volume (500,000,000 cubic feet of gas per day or less), small-diameter, in-state energy-oriented pipeline."¹³ The "LNG and Overland Pipeline" project left open the possibility of participation by TransCanada, but was distinguished from the overland pipeline project in TransCanada's application. The commissioners described this option as follows:

5. LNG and an Overland Pipeline

An overland pipeline to Alberta does not preclude an LNG project. TC Alaska has stated a willingness to offer gas treatment and pipeline transportation services to Delta Junction or Valdez in support of an LNG project, if a shipper requests such services. An overland pipeline and a pipeline delivering gas to an LNG facility are not mutually exclusive undertakings; there are economies of scale to be realized from a large-diameter overland pipeline that can make the economics of an LNG Y Line project more attractive. An overland pipeline project may facilitate the development of an LNG Y Line project within Alaska.

The commissioners specifically rejected an LNG option in their recommendation to the legislature. Therefore, under the terms of AGIA, the project licensed under AGIA is the project from the North Slope through Canada. If the route through Canada is the licensed project, changing the project to an LNG project is not a modification to the licensed project, but is a rejection of the AGIA project.

¹¹ Summary of Projects, *supra*, p. 1-7.

¹² *Id.*, pp. 1-7 - 1-8.

¹³ *Id.*, p. 1-8.

Thus, while TransCanada was open to soliciting interest in shipping gas to Valdez and expressed that possibility in its application to FERC, the project pitched under AGIA to the commissioners and the legislature was the highway project, that is, the project to the Canadian border. It appears that the licensees and the commissioners, in the context of the PPA, are pursuing a mixed project: pursuing the original AGIA project through Canada (but delaying the FERC filing for two years) while exploring the tidewater option.

In other words, if the project licensed under AGIA is the natural gas pipeline into or through Canada as described in AS 43.90.130(2)(D)(i) and is no longer being actively pursued, then the licensee may not be in compliance with the requirements in AGIA. On the other hand, if the commissioners have properly modified the original project plan in the May 2, 2012 letter to allow the licensee to engage in a concept selection assessment of an LNG alternative involving a natural gas pipeline to tidewater in south-central Alaska, then the project is both the route through Canada and an LNG project. A strong argument may be made that the licensee's assessment of an in-state natural gas pipeline is a different project and not a modification of the project licensed under AGIA. In its application, the licensee described the project under AS 43.90.130(2)(D)(i) – the Canadian route – and did not comply with the requirements for a route to market in (D)(ii), which was the LNG option. The licensee never described, so far as it is publicly known, the information required in an application for the LNG option:

[An] economically and technically viable work plan, timeline, and associated budget for developing and performing the proposed project, including field work, environmental studies, design, and engineering, implementing practices for controlling carbon emissions from natural gas systems as established by the United States Environmental Protection Agency, and complying with all applicable state, federal, and international regulatory requirements that affect the proposed project; the applicant shall address the following:

...

(ii) if the proposed project involves marine transportation of liquefied natural gas, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all proposed access and tariff terms for liquefaction services or, if third parties would perform liquefaction services, identification of the third parties and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export, destination, regasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export permits and licenses or a certificate of public convenience and necessity from the Federal Energy Regulatory

Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

However, if the commissioners properly amended the project plan for the licensee under AGIA, then, if the licensee is in compliance with the new requirements of the license and with state and federal statutes and regulations relevant to the project, the licensee is entitled to payment if the state violates the assurances.

A competing natural gas pipeline

In AS 43.90.440(a), the state agreed to pay to the licensee "three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person" for the purpose of facilitating the construction of a competing natural gas pipeline project in the state. "Competing natural gas pipeline project" is defined in AS 43.90.440(c)(1):

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

The definition includes both a description of the route, commodity being transported, and the designed capacity of the pipeline. Identifying a pipeline that transports North Slope natural gas to market is relatively simple, just look at both ends of the pipe and what is inside. However, "designed to accommodate throughput of more than 500,000,000 cubic feet a day" is more difficult to determine because of the physical nature of natural gas.

A natural gas pipeline may initially be designed to accommodate a certain throughput, but after construction the capacity may be increased by adding compressor stations or more pipe. This option for expanding the AGIA pipeline and the effect on the tariff were extensively discussed during the legislature's consideration of the AGIA bill.¹⁴ The first means for expansion is increased compression, which enables increased throughput in the original pipeline. Tony Palmer of TransCanada addressed expansion of the project proposed in the company's AGIA license application:

MR. PALMER provided highlights. He said the design is best suited for 4.5 Bcfd of initial capacity, but final volumes will be determined in the open season. If TransCanada is successful in attracting that much gas, it

¹⁴ See, e.g., *Minutes*, House Special Committee on Oil and Gas (March 28 and 30, 2007); *Minutes*, House Finance Committee (May 3, 2007); *Minutes*, Senate Resources Committee (February 6, 2008).

will be an inexpensive pipeline to expand by one-third of the volume, using compression only; he alluded to wording on slide 7 that says the initial design is expandable to 5.9 Bcfd with compression only.¹⁵⁾

If "designed to accommodate throughput of more than 500,000,000 cubic feet a day" means "*initially* designed" with the limited throughput, then a proposed project could be designed for a certain pressure within pipe of a certain diameter. The proponents of the project could also put not more than the allowable capacity before potential shippers.

However, if the limitation is read to be a project designed to accommodate throughput of *not more* than 500,000,000 cubic feet a day *including expansion*, then the limitation is that the only "safe" pipeline that the state could incentivize would be a pipeline that could never exceed the limited capacity.

Natural gas is compressible. A fixed physical space can contain more or fewer molecules, or BTU equivalent barrels, depending on pressure and the limitations of the container to withstand pressure. The phrase "designed to accommodate throughput of more than 500,000,000 cubic feet" could be interpreted if challenged in court, but could also be interpreted by an agreement with the licensee.

One other factor to be considered is the period in which the assurances to the licensee are in place. The potential liability for the state is only present "before the commencement of commercial operations"¹⁶ of the licensed project. "Commencement of commercial operations" is defined in AS 43.90.900 to mean "the first flow of gas in the project that generates revenue to the owners." It may be that the time limit "before the commencement of commercial operations" when read in conjunction with the throughput limit for a competing natural gas pipeline means that the competing pipeline could not exceed the throughput limit until the AGIA pipeline is generating revenue. By that time, the AGIA project is likely to have the transportation commitments to ensure the viability of its pipeline.

Preferential royalty or tax treatment or grant of state money

The state is liable for violating the assurances if it "extends to another person preferential royalty or tax treatment or grant of state money for the purpose of facilitating the construction of a competing natural gas pipeline project in this state." AS 43.90.440(b) identifies some actions taken by the state that do not violate the assurances:

¹⁵ *Minutes*, Senate Resources Committee (February 6, 2008). "Bcfd" stands for billions of cubic feet a day and is a measure of the amount of natural gas transported by the pipeline.

¹⁶ AS 43.90.440(a).

(b) The review, processing, or facilitation of a permit, right-of-way, or authorization by a state agency in connection with a competing natural gas pipeline project does not create an obligation on the part of the state under this section.

Preferential royalty and tax treatment under in AGIA was offered to

a lessee or other person that demonstrates to the satisfaction of the commissioners that the person has committed to acquire firm transportation capacity in the first binding open season of the project[.]¹⁷

The tax and royalty incentives were intended to entice shippers to commit to the AGIA project sooner rather than later, during the first open season. The first open season has terminated and the licensee failed to secure transportation agreements during that open season.¹⁸

Although the production and tax credits in AGIA are no longer available, similar incentives offered to potential shippers of a competing pipeline could violate the assurances. Other incentives that could be offered would be special tax treatment for the competing pipeline itself, such as unique tax credits or property tax exemptions. Even if such special treatment survived constitutional muster, the unique incentives could violate the assurances.

The assurances prohibit "preferential royalty or tax treatment." A change in royalty or tax treatment that benefits the AGIA project and a competing project would not be preferential so long as both projects benefit.

Liability under the assurances also arises if there is "a grant of state money" for the purpose of facilitating the construction of a competing pipeline. The AGIA licensee is entitled to up to \$500,000,000 under AS 43.90.110(a)(1) in the form of reimbursement for qualified expenditures incurred by the licensee or an affiliate of the licensee. The reimbursement of a percentage of the qualified expenditures incurred for the licensed project subsidizes the licensee's project by sharing in the cost. Financial support for a competing pipeline could result in liability under the assurances.

Three times the total amount of qualified expenditures incurred and paid

If the licensee is fully in compliance as described above, and the state has violated the assurances, two things will happen under AS 43.90.440(a), and the license will be

¹⁷ AS 43.90.300.

¹⁸ Letter from Eugene R. Elrod, *supra*.

considered abandoned under AS 43.90.240(d). First, under AS 43.90.440(a), the licensee is entitled to

payment from the state of an amount equal to three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person.

A qualified expenditure is described in AS 43.90.110(a)(1)(C):

[A] qualified expenditure is a cost that is incurred after the license is issued under this chapter by the licensee or the licensee's designated affiliate, and is directly and reasonably related to pursuing firm transportation commitments in a binding open season, to securing financing for the project, or to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, or satisfying a requirement of an agency with jurisdiction over the project; in this subparagraph, "qualified expenditures" does not include overhead costs, lobbying costs, litigation costs, the cost of an asset or work product acquired or developed by the licensee before the license is issued, or civil or criminal penalties or fines[.]

A qualified expenditure that is the basis for the payment from the states must be "incurred and paid" by the licensee. Unpaid qualified expenditures at the time the state first extends preferential treatment to another person are not included in determining the payment.

What is not clear is the expression "incurred and paid by the licensee." At first glance, it seems clear – the licensee incurs a qualified expenditure and pays for it. However, the state reimburses the licensee for 50 percent or 90 percent of its qualified expenditures under AS 43.90.110(a)(1)(A) and (B), up to a total of \$500,000,000. On the one hand, the licensee incurs qualified expenditures before being reimbursed under AS 43.90.110(a)(1)(A) and (B), but on the other hand, the licensee has only spent the amount not reimbursed by the state.

In my opinion, the better interpretation is that the payment is on the net amount paid by the licensee after reimbursement by the state. The reimbursement of expenditures, the benefit of an Alaska Gasline Inducement Act coordinator under AS 43.90.110(a)(2), and the assurances all reduce the risk of the licensee. Reimbursement by the state already removes a percentage of the risk, and the financial investment of the licensee that remains is the percentage not paid and the expenses incurred and not subsidized after the \$500,000,000 has been exhausted.

The second thing that will happen if the state makes a payment under AS 43.90.440(a) is described as follows:

Upon payment by the state of the amount owed under this section, the licensee shall, at no additional cost to the state, assign to the state or the state's designee all engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license. The payment under this subsection is in full satisfaction of all claims the licensee may bring in contract, tort, or other law related to the events that gave rise to the payment.

The payment by the state also results in the abandonment of the project under AS 43.90.240(d). That subsection reads as follows:

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

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

(2) requirements of AS 43.90.440.

If the state violates the assurances, the licensee is compliant with the terms of the license and state and federal law, and the state makes a payment under AS 43.90.440, then the project is abandoned, the state gets the engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license, and the license is abandoned. No provision bars the state from using what it receives on another natural gas pipeline project.

Representative Mike Hawker
February 15, 2013
Page 14

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ASAP

Alaska Stand Alone Gas Pipeline

**Senate Resources
Committee**

ASAP Project

April 3, 2013



Common Carrier Pipelines

- Shippers use on as needed basis
- No long term, contractual commitments
- Creditworthy shippers
- Must meet quality specifications, delivery points, etc.
- Typically, common carriers not at 100% capacity
- Regular nomination process

ASAP



Common Carrier Pipelines (cont'd)

- If nominations exceed capacity, pro rata allocation of capacity – everybody impacted
- Shipper only pays for product shipped
 - No product shipped, no cost to shipper
- Typically oil pipelines e.g. TAPS
- Common carrier typical in L48 and Gulf of Mexico- Colonial, Mardi Gras, etc.

ASAP



Contract Carrier Pipelines

- Shippers can only use if contracted
- Firm transportation service
 - Long term, contractual commitments
- Creditworthy shippers
- Meet quality specifications, delivery points, etc.
- No or limited nominations process
 - Allows for interruptible service

ASAP



Contract Carrier Pipelines (cont'd)

- Shippers can not be prorated but shipper pays whether or not product is shipped
- Typically gas pipelines e.g. APP, Denali
 - L48 : Ruby, Rockies Express
- Bottom line: Alaska utilities need certainty of supply

ASAP



Common Misconceptions

- Small companies/users cannot access contract carrier pipelines
 - *Not true!*
 - Open season ensures access
- Oil pipelines can be expanded and gas pipelines can not
 - *Not true!*
 - Both can and are expanded. The issue is, as always, who pays.
 - Note: one additional limitation in Alaska - AGIA

ASAP



ASAP as a Contract Carrier Pipeline

- Shippers need to know that utility volumes are guaranteed
- Investors and bond holders need to know the certainty of the long-term revenue stream
- Long term, firm transportation commitments ensure both parties' requirements are met.
- Utilities need to know they have supplies
- AGDC needs to have certainty to sell bonds

ASAP



Thank You

Alaska Gasline Development Corporation

ASAP Project Office

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ASAP



Frequently Asked Questions

ASAP as a “Contract Carrier” versus a “Common Carrier”

What is a “Common Carrier” pipeline?

A Common Carrier pipeline provides at least a portion of its transportation service on an “as required” basis. Shippers using that service are permitted to use the system when they have products to ship but are not required to commit to long-term use of the line. Oil pipelines are typically common carrier pipelines. For example, the Trans Alaska Pipeline System (TAPS) operates as a common carrier, and accepts nominations for oil transport from any and all creditworthy entities that have petroleum to ship that meets certain quality specifications. However, shippers are not required to commit to long-term use of the system. If nominations for the service exceed capacity for any given month, capacity is apportioned among those who want to ship oil, generally on a pro-rata basis. Additionally, if a shipper does not provide product for shipment, they are not required to pay the tariff. The shipper using that service only pays for the capacity that is actually utilized.

What is a “Contract Carrier” pipeline?

A Contract Carrier pipeline provides firm transportation service to entities that have signed long-term capacity reservation contracts. Gas pipelines are typically contract carrier pipelines. The pipeline guarantees that contracted-for capacity will be available and the shipper agrees to pay for capacity regardless of whether or not they use it during any given period. None of the capacity is required to be set aside for “as required” service. Whenever idle capacity is available the contract carrier will offer transport on a non-firm (“interruptible”) basis, but there is no guarantee that capacity will be available again on a going-forward basis. Capacity is only guaranteed to those who have made long-term commitments.

Why does it matter if a pipeline is a Common Carrier or Contract Carrier?

The primary difference between the two modes surrounds who bears most of the costs and commercial risks associated with decisions about how much capacity to build, or whether to build at all. Historically, a Common Carrier was required to forecast demand and build enough capacity to satisfy estimated commercially viable demand for transport services. Since no commercial obligations to use the line existed, obtaining financing was complicated by the need to convince the lender that a commercially viable market for transport service would exist when the project came on line. Because they are best positioned to forecast demand, most common carrier pipelines were built by producers or refiners. The same challenge continues today for the portion of the pipeline that the Common Carrier is required to set aside for “as required” service.

A Contract Carrier, rather than making its own estimate, generally will build capacity to the extent it has binding commitments from shippers for “firm” capacity. In the current era, these binding commitments are made during an “Open Season” in which the pipeline solicits interest in transport service and shippers decide whether or not to make a long-term commitment to the line. These firm transportation

commitments can also be negotiated prior to an Open Season with a Presubscription Agreement. Under either scenario, unless the value of the shipping commitments, which require the shippers to make reservation payments to the pipeline, generally covers the costs of the pipeline, no pipeline is built. Because these commitments have creditworthiness standards attached, financing becomes relatively easy once they are in place.

Why is it important for ASAP to be a Contract Carrier?

If ASAP is to secure financing on reasonable terms, and keep the cost of gas to Alaskans at the lowest feasible cost, it will need commitments from shippers to use and pay for the line over a long period of time. Those making long-term financial commitments to the line will want assurances that the capacity they are committed to paying for will be available for their use, and not apportioned to others should capacity prove insufficient. These two-way commitments will be entered into by Presubscription Agreement or during ASAP's "Open Season" where capacity is offered and subscribed to on a long-term basis.

As a contract carrier, ASAP will still be open to potential expansions of pipeline capacity provided any expansion does not violate the provisions of AGIA or other provisions of state law and the parties are willing to enter into commercially reasonable arrangements. Typically, the party requesting the expanded capacity would pay for the cost of expansion.

Alaska Gas for Alaskans

Open season provisions

- Currently, nothing in state law addressing open seasons
- Open seasons commonly used in Lower 48 as a mechanism to attract shippers and advertise pipeline opportunities
- Generally seen as a way to be fair and transparent in filling pipeline capacity\

In HB 4 (Section 21, 42.08.300, pages 40-42, Version I):

Open seasons are required for initial and new capacity

Procedures are left to the carrier but must be included in initial recourse tariff terms and conditions

Minimum requirements for noticing an open season

Requires a carrier hold open seasons and award capacity without undue discrimination or preference

Expansions may not violate the terms of AGIA

Additionally, carrier must routinely keep current and potential shippers advised of both uncommitted firm capacity and interruptible capacity

▶ 23

Thank you

House Bill 4: In-state Gasline Development Corp.

Sponsors:
Rep. Mike Hawker & Speaker Mike Chenault

Contact: Rena Delbridge, Staff to Rep. Hawker
(907) 465-4949 – Rena.Delbridge@akleg.gov

▶ 24

Alaska Gas for Alaskans

Recourse tariff review:

- Supported by full cost study
- Terms and conditions are 'not unduly discriminatory'
- Rate elements are reasonable – return on equity, capital structure, depreciation
- Revisions required – post construction, pre-open seasons
- Triennial rate review and operating reserve fund for excess ROR

Precedent agreement review:

- Are contracts just and reasonable as evidenced by arm's length transaction?
- Heightened scrutiny for affiliate relationships

▶ 21

Alaska Gas for Alaskans

- Allows confidential filing of precedent agreements; requires public filing of final contracts
- Requires a CPCN (building permit) from the RCA, with special terms for an AGDC pipeline reflecting the state-sanctioned mission
- Directs RCA to intervene when a dispute threatens the public health and safety
- Allows contracts to include dispute resolution methods that give all shippers notice and opportunity to protect their interests
- Sets standards for fair, accessible open seasons; requires open seasons for new capacity/expansions
- Directs RCA to oversee open seasons and field complaints
- Sets timelines that should not interfere with commercial processes

▶ 22

Alaska Gas for Alaskans

Transitioning to contract carrier

- AGDC has an existing state right-of-way lease
- It provides for the possibility of amended statute for contract carriers
- Provision in section 25 (page 55 Version I) expresses Legislative intent that the lease is amended upon passage of HB 4
- The bill does not change the terms of other existing state right-of-way leases

▶ 19

Alaska Gas for Alaskans

Regulatory Commission of Alaska oversight for a contract carrier gas pipeline

- Section 21 is new regulatory chapter; Section 18 is related. Sections 19, 20, 5 are conforming)
- Mandates a baseline package of rates and terms (recourse tariff) available to all interested parties, and allows negotiations of final rates
- Requires an RCA-approved initial recourse tariff
- Requires RCA to decide if precedent agreements are 'just and reasonable'
- Premise is contracts entered into willingly by two parties are just and reasonable - with checks and balances
- Provides certainty and protection for public utilities

▶ 20

Alaska Gas for Alaskans

Right-of-Way Leasing Act

- Section 11: Sections 6, 8, 9 and 10 are conforming
- Includes a set of 14 covenants a lessee must agree to
- HB 4 modifies covenants reflecting common carrier principles, to allow for contract carriage
 - ‘Nuts and bolts’ of covenants remain the same
 - Contract carrier covenants still require a pipeline, per contractual terms, to provide connections with other pipelines and facilities
 - Contract carrier covenants still require expansions on commercially reasonable terms
 - Contract carrier covenants still require a pipeline to ship without discrimination

▶ 17

Alaska Gas for Alaskans

Right-of-Way Leasing Act, con't.

- Of the 14 covenants:
 - Covenants (a) (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), and (14) apply to both common carrier pipelines and to contract carrier natural gas pipelines
 - Covenants (a) (1), (2) and (5) are rebuilt to retain the general policy principle while allowing for contract carriage
 - Contracts govern terms for connections, facilities
 - Expansions required on commercially reasonable terms
 - Ship without discrimination

▶ 18

Alaska Gas for Alaskans

Why a contract carrier?

- Shippers need to know that the space they are 'reserving' by signing long-term commitments will be available
- Those firm, uninterruptible contracts are the way gas pipelines are financed
- The future income promised through those contracts secures revenue bonds
- House Bill 4 establishes contract carrier status while providing for expansions in the future

▶ 15

Alaska Gas for Alaskans

Interfaces

- Key common carriage principles – expansions, access – are retained
- Contract carriage is allowed
- Interface between right-of-way leasing act and new regulatory chapter for instate contract carrier natural gas pipelines:
 - Both require expansions on commercially reasonable terms
 - Both allow that expansions cannot make an initial shipper pay more than is allowed per the shipper's contract with the pipeline
 - Both sections require a pipeline to offer service without undue discrimination
 - Open season oversight by the RCA ensures that new entrants have opportunity
 - Capacity availability notification rules in Sec. 21 ensure new entrants have opportunity

▶ 16

Alaska Gas for Alaskans

- Requires state entities to cooperate and share information with AGDC (Section 3)
 - AGDC requests receive priority (except for AGIA requests)
 - AGDC and state entities can enter into confidentiality agreements if necessary to protect third-party information in the state's possession

- Calls on the state to provide water, sand, gravel, and other non-hydrocarbon natural resources to AGDC (Section 3)
 - AGDC will pay usual prices; cost cannot be included in tariff base and passed on to pipeline shippers

▶ 13

Alaska Gas for Alaskans

Resolves regulatory uncertainties

- Regulatory uncertainties add risk, which adds costs and can deter private sector participation. AGDC needs to know how a pipeline will be regulated before soliciting private sector partners

House Bill 4:

- Allows natural gas pipelines to operate as contract carriers through changes to the Right-of-Way Leasing Act and through Regulatory Commission of Alaska oversight

- Reinforces state policy that pipelines should be fair; offer reasonable access to new/future shippers; and encourage future development of Alaska's oil and gas resources

▶ 14

Alaska Gas for Alaskans

House Bill 4 also:

- Exempts AGDC from the state procurement code and state personnel act (Section 3; and Sections 4 and 14)
 - * (AGDC is currently exempt from the procurement code as an AHFC subsidiary (per HB 369 of 2010))
- Exempts AGDC's operating budget only from the Executive Budget Act (Section 3)
- Applies public official disclosure rules to AGDC board members (Section 15)

▶ 11

Alaska Gas for Alaskans

Maximizes state's efforts in gas pipeline development

- Additional state support for a project in the public's interest will help reduce delays and keep costs as low as possible

House Bill 4:

- Limits judicial review of state permitting decisions and authorizations to avoid delays (Section 13)
- Directs DNR to waive annual fees on a state right-of-way lease for AGDC (Section 3; Section 12)
- Waives state and local property taxes during pipeline construction (Section 22)
- Sunsets the Alaska Natural Gas Development Authority, per a 2010 Leg Audit recommendation

▶ 12

Alaska Gas for Alaskans

Clearly states AGDC's purpose (Section 3):

- To advance an instate gas pipeline as described in the July 2011 project plan, with modifications as appropriate, making gas available to Fairbanks, Southcentral, and other communities in the state at the lowest rates possible;
- To develop pipelines serving utility and industrial customers, at commercial reasonable rates;
- To develop pipelines offering commercial rates to shippers and that offer access for shippers producing gas in Alaska
- Once a mainline is complete, to consider additional pipelines to extend the reach of gas to other communities, industrial users
- Pipelines should also be developed to make propane and other non-oil, gas-related materials available to Alaskans

▶ 9

Alaska Gas for Alaskans

Provides clear statutory abilities to AGDC to function as a corporation and to accomplish its purpose (Sec. 3)

AGDC may:

- Enter into ownership and operating partnerships
- Create subsidiaries, including a subsidiary to market gas
- Issue revenue bonds limited to AGDC's own backing to finance a pipeline
- Enter into confidentiality agreements necessary to participate with private sector shippers, partners, financiers
- Keep confidential information like field studies and tariff models that are assets AGDC is developing for the state
- Exercise the state's existing power of eminent domain

▶ 10

Alaska Gas for Alaskans

Under House Bill 4, AGDC will:

1. Continue work on the in-state pipeline
 - Requires sufficient shipper support to finance a pipeline
 - Target date: Gas flowing 2019
2. Work with TransCanada and producers to align two projects
 - Uncertain: no development commitment to date
3. Be prepared to participate in other frameworks
 - For example, spur line
4. Once a main line is complete, evaluate other pipeline opportunities
 - Lines off the main line connecting communities, industrial development
 - Other stand-alone Alaska gas pipelines

▶ 7

Alaska Gas for Alaskans

Establishes AGDC as Alaska's gas pipeline entity

- Section 3; transition language in Section 1, Section 25
- HB 4 moves AGDC from its present location as a subsidiary of Alaska Housing Finance, to a stand-alone state corporation
- Locates AGDC under Department of Commerce, Community and Economic Development *for administrative purposes only*
 - AGDC will be governed by a 7-member board with expertise in relevant fields, appointed by the governor, confirmed by the legislature. 5 public members, two commissioners
- Provides clear transition language

▶ 8

Alaska Gas for Alaskans

AGDC recommended legislation for the authority to:

- Determine pipeline ownership structure
- Work confidentially with private sector partners
- Operate as a contract carrier
- Decide rates and tariff terms

AGDC further needs the state to:

- Waive property taxes and state land lease fees
- Provide sufficient funding and create a pipeline fund
- Limit judicial review

▶ 5

Alaska Gas for Alaskans

Now, House Bill 4:

- Provides further direction for AGDC
 - Transfers existing statute from HB 369/38.34 from Joint Instate Gasline Development Team/AHFC subsidiary to AGDC
 - Incorporates HB 9, from 2012
- Provides the framework for AGDC to serve as Alaska's natural gas pipeline corporation
- Maximizes state's efforts in gas pipeline development
- Resolves regulatory uncertainties while supporting future development of Alaska resources
- Includes AGDC recommendations
- Maintains momentum – delays hurt!
 - AGDC estimates \$200 million per year inflation
 - Southcentral gas supply (and costs) increasingly uncertain
 - Fairbanks energy costs and air quality – no end in sight
 - Continuing expectation for state to offset high cost

▶ 6

Alaska Gas for Alaskans

House Bill 369 of 2010 goals:

1. Build a team under AHFC leadership
2. Consolidate state's gas pipeline work to date
3. Fill in data gaps; decide optimal route
4. Report back to the Legislature with a project plan

House Bill 369 passed with broad, bipartisan support

▶ 3

Alaska Gas for Alaskans

AGDC delivered with the July 2011 Project Plan

- A pipeline for Alaskans is possible
- An in-state line could deliver competitively priced gas to major population centers
- Project will require firm, long-term contracts for pipeline capacity in order to support financing
- Legislative action required

▶ 4

An Alaska Natural Gas Future *for Alaskans*

House Bill 4: In-State Gasline Development Corp.
Rep. Mike Hawker and Speaker Mike Chenault

Presentation to the Senate Resources Committee, April. 2, 2013

House Bill 4: In-State Gas Development Corp

Alaska Gas for Alaskans

Legislature in 2010 charged AGDC with the mission of getting Alaska gas to Alaskans.

- Clean, reliable, reasonably priced instate energy
- Electric and home heating costs
- Economic development for communities
- Industrial development opportunities

House Bill 4 Senate Testimony: April 3, 2013

Honorable members of the Resource Committee, the City of Valdez truly appreciates your willingness to objectively explore the potential consequences of this bill.

The original sponsors have done an excellent job convincing everyone that this bill will now, **FINALLY**, after decades of false starts, get Alaska's gas to Alaskans. And they're right, it very likely will.

It also makes sure that we serve Alaskans first, not the global energy markets.

It ensures that all future state revenue needs, will only ever come from oil production, and that our natural gas resources would be preserved for only in-state use.

No question... This legislation definitely moves us closer to realizing these goals.

And if you truly believe, that that's all that's really required of our vast gas reserves in order to secure a bright future for our grandkids; then by all means, pass this thing out of committee right now and just git-er-dun!

BUT, if you believe, that just having gas isn't good enough, that that gas also needs to be affordable;

Or, if you believe, that Alaska's gas might belong to all Alaskans, not just those in the pipeline corridor;

Or, if you believe, that over the next several decades, future state expenditures are likely going to exceed future state revenue from just the production of oil;

Then maybe you should seriously consider whether this is really the best gasline option.

Just because this is the only option in front of you at the moment, doesn't mean that this is the one you have to settle for! The sponsors are dead wrong when they say that this is the only **REAL** project moving forward.

Someone really needs to show those sponsors the years of work that has already been done, and hundreds of millions of dollars that has already been spent under AGIA; as well as the February 15th letter from all three of the major North Slope producers, stating that they have **FINALLY** reached alignment on a large volume gasline project, that would give us everything we'd hope to get under this piece of legislation, and so much more!

Please, Please... do not be bullied by the Speaker of the House or anyone else into compromising your judgment, on what will amount to be the most important decision this state has faced since the development of the oil pipeline.

It's your Legacy; and it's our Future

Please don't waste our **ONE** opportunity to build a gasline on this dangerous gamble! For the sake of all our futures... Kill this bill... Or at the very least, take the time to fully evaluate the alternatives and don't rush this thing through. Thank you

John Hozey
Valdez City Manager

My name is Cindy Rymer. I am a 37 year resident of the State of Alaska.

The residents of Alaska voted in 2002 to approve a large volume gas line to tide water.

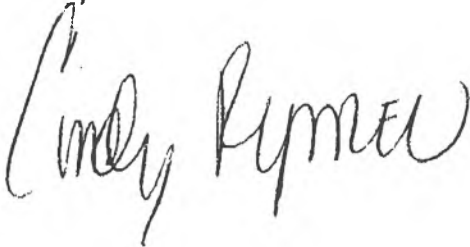
Had we followed through on that we would not have this bill in front of you today. BUT we are here and in an energy crisis and House Bill 4 does nothing to help ALL Alaskans. I am asking you to vote No on House Bill 4. Please put your efforts to SB23 for Fairbanks and sorry to say but import gas for the Anchorage and surrounding areas till more gas can be drilled in the Cook inlet.

I have two daughters that we encouraged to go to college in state, which both now live in Anchorage. They are on single incomes and cannot afford to pay for gas at any price just to get gas. House Bill 4 does nothing for most of the coastal communities outside of the rail belt leaving thousands Alaskans with high energy cost. I am asking you to get the right line moving forward, the right line has spur lines to get gas to communities, and export to tidewater to bring money to the State of Alaska. We have done a study that has a budget of 500 million dollars through AGIA process and where are the results of that?

The dwindling oil revenues are going to take their toll on Alaska in the coming years, so again please vote NO on House Bill 4 and put your efforts into a large diameter gas line with export that will produce revenue and benefits for ALL Alaskans

Please slow down, look at what's best for the State of Alaska. Vote No on house Bill 4 and then get the right line going that we voted for in 2002.

Thank you

A handwritten signature in cursive script that reads "Cindy Rymer". The signature is written in black ink and is positioned below the typed name "Cindy Rymer".

Madam Chair

April, 3 2013

Chairman Sen. Giestel
And members of the Senate Energy Resources M

Thank you for the opportunity to speak.

As a lifelong Alaskan who started school under territorial days, Graduated under Statehood and eventually retired from being an Alaskan History /government teacher. I urge you to support a bill that will in a direct way benefit all Alaskans.

Make certain that the resource is used to the benefit of Alaskans in Ketchikan, Dawson Creek, Pilot Station, Unalaska, Dillingham, Kotzebue, Eagle and even Tenakee Springs. *... ..*

As a former Government teacher I read the original HB 4 and was very concerned

- with the secrecy and lack of oversight of the corporation
- exemption from normal procurement procedures.
- lack of the Export component to allow Alaskans to take advantage of lower rates.

And the exemption of judicial review and superior court judgment.

I remember the expectation when the pipeline was built that we would have cheap gas and heating oil.

Please do not rush this bill just to do something.

Please make sure that this legislation benefits ALL Alaskans.

Please be Statesmen, regardless of your gender and not just Politian's as you consider this legislation.

amvnoore @ cvinternet.net



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource Comm.
(committee name)

committee on HB4, dated 4/3/13
(bill # / subject)

This is my 3rd winter in Valdez, AK. The high cost of fuel & electricity is making it difficult to survive. Each month I struggle to pay the bills. Between mortgage & utility bills, there is nothing left. And, I know I am not alone. As elected officials, I urge you to find a solution. HB4 is not a solution for all Alaskans. It only serves communities that have access through the rail system. We need a solution for all Alaskans as a resident of Valdez. I implore you to consider the alternative: the maximum volume Pipeline, which equals more volume, more revenue, a steady stream of income for the state, AND most importantly Affordable Energy.

Signed: Patricia Ralay
Testifier

N/A
Representing (optional)

P.O. Box 3201, Valdez AK 99686
Address

907-835-3453
Telephone

HB4 Testimony

Good Evening... This is my 3rd winter in Valdez. The high cost of fuel and electricity is making it difficult to survive. Each month I struggle to pay the bills. Between mortgage and utilities, there is nothing left. And I know that I am not the only one. As elected officials, I urge you to find a solution. HB4 is not that solution for all Alaskans. It only serves communities that already have access through the rail system. We need a solution for ALL Alaskans. As a resident of Valdez, I implore you to consider the alternative: the Maximum Volume Pipeline = more volume, more revenue; a steady stream of state income; and most importantly to me affordable energy.

Introduced By: Mayor Jerry Cleworth
Date: February 4, 2013

RESOLUTION NO. 4560

**A RESOLUTION IN SUPPORT OF THE ALASKA STAND ALONE PIPELINE
FROM THE NORTH SLOPE TO SOUTHCENTRAL ALASKA**

WHEREAS, the extremely high cost of energy for residents and businesses in the interior of Alaska is well known; and

WHEREAS, trucking LNG from the North Slope to the interior is a vital short-term solution; and

WHEREAS, there is a critical need for a long-term solution that provides clean affordable gas to the interior; and

WHEREAS, the Alaska Gasline Development Corporation (AGDC) has created the Alaska Stand Alone Pipeline (ASAP) and has done much of the preliminary work required before going to Open Season; and

WHEREAS, production of Cook Inlet gas reserves is uncertain and currently insufficient to provide long-term supply guarantees,

NOW, THEREFORE, BE IT RESOLVED that the City of Fairbanks supports legislation that continues the ASAP project as it will add a long overdue critical component to our state's infrastructure needs and will utilize an important resource to greatly reduce energy costs and help make Alaska competitive.

PASSED and APPROVED this 4th day of February 2013.



JERRY CLEWORTH, MAYOR

AYES:	Gatewood, Walley, Eberhart, Staley, Hilling
NAYS:	None
ABSENT:	Matherly
APPROVED:	February 04, 2013

ATTEST:



Janey Hovenden, CMC, CITY CLERK

APPROVED AS TO FORM:



Paul J. Ewers, CITY ATTORNEY



Suggested by: Councilor Navarre

CITY OF KENAI

RESOLUTION NO. 2013-02

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, SUPPORTING LEGISLATIVE EFFORTS TO CONSTRUCT A NATURAL GAS PIPELINE FROM THE NORTH SLOPE TO SOUTH CENTRAL ALASKA.

WHEREAS, the development of an in-state natural gas pipeline is in the best interest of the State of Alaska; and,

WHEREAS, known reserves in the Cook Inlet Basin are insufficient to supply the demand for natural gas in South Central Alaska in the future; and,

WHEREAS, the City of Kenai continues to support an Alaska North Slope natural gas pipeline and appreciates the Legislature's actions in creating the Alaska Gasline Development Corporation (AGDC) which in turn has created the Alaska Stand Alone Gas Pipeline (ASAP); and,

WHEREAS, an Alaska natural gas pipeline project will provide a long-term affordable, clean energy solution for the majority of Alaskans and Alaska businesses; and

WHEREAS, House Bill 4 includes many of the necessary provisions and solutions to forward a successful Alaska natural gas pipeline project.

NOW, THEREFORE, BE IT RESOLVED, THE COUNCIL OF THE CITY OF KENAI, ALASKA, supports Legislative efforts to fund AGDC as they move forward in developing a project to construct a natural gas pipeline from the North Slope to South Central Alaska.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 16th day of January, 2013.


PAT PORTER, MAYOR


RYAN MARQUIS, VICE MAYOR


MIKE BOYLE, COUNCIL MEMBER


TIM NAVARRE, COUNCIL MEMBER


ROBERT MOLLOY, COUNCIL MEMBER


BRIAN GABRIEL, COUNCIL MEMBER


TERRY BOOKEY, COUNCIL MEMBER

ATTEST:

Sandra Modigh, City Clerk

North Slope Borough
OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723
Phone: 907 852-2611 or 0200
Fax: 907 852-0337 or 2595



Charlotte E. Brower, Mayor

February 28, 2013

The Honorable Mike Hawker
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99811

Subject: Support for House Bill 4

Dear Representative Hawker:

On behalf of the office of Mayor of the North Slope Borough, please convey my support to your colleagues for the passage of HB4- development of an in-state natural gas pipeline.

The North Slope Borough is comprised of villages who understand the burden of high energy costs. All across Alaska, the issue is becoming more and more of a concern for both urban and rural communities. Both you and Speaker Chenault should be commended for your efforts to connect the natural gas supply here on the North Slope with as many Alaskans as possible.

Development of a natural gas pipeline is something that has waited for many years. The North Slope Borough is willing to work with the Governor and the Legislature towards solving whatever issues may stand in our way. We must work together if we are to accomplish anything.

The North Slope Borough believes the benefits of an in-state natural gas pipeline built by AGDC include:

- Increased access to affordable, clean, and secure energy along the pipeline corridor for both urban and rural communities
- Greater economic development opportunities across the state, including community and industrial development during and after construction
- Expanded property tax base (post-construction) for communities along the route, due to infrastructure development and activity

As the Legislature works on the issue of developing the natural gas resources here on the North Slope, please continue to recognize the needs of all communities and respect the concerns of Alaskan residents in cities and villages who need access to affordable energy and jobs.

Please let me know if my staff or I can provide you with assistance in moving this project forward.

Sincerely,

A handwritten signature in cursive script that reads "Charlotte Brower".

Charlotte E. Brower
Mayor, North Slope Borough

CITY OF NORTH POLE

RESOLUTION 13-01

**A RESOLUTION SUPPORTING LEGISLATIVE EFFORTS TO CONSTRUCT A
NATURAL GAS PIPELINE FROM THE NORTH SLOPE TO SOUTH CENTRAL
ALASKA.**

WHEREAS, the development of an in-state gas pipeline would provide stable and affordable gas for Alaskans for many years; and

WHEREAS, known reserves in the Cook Inlet Basin are insufficient to supply the demand for natural gas in South Central Alaska in the future; and

WHEREAS, many Interior and Rural Alaskan communities are suffering from extremely high energy cost; and

WHEREAS, development of vibrant local and statewide economies are dependent on affordable energy; and

WHEREAS, Alaskans wish to leave a legacy of prosperity through development of our natural resources to the maximum benefit for the most Alaskans; and

WHEREAS, Alaska Gasline Development Corporation (AGDC) has created the Alaska Stand Alone Gas Pipeline (ASAP) and is seeking monies to bring a instate gas-line to open season; and ultimately to fruition; and

WHEREAS, House Bill 4 includes the necessary provisions to advance a successful Alaska natural gas pipeline project.

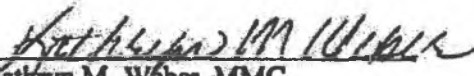
NOW, THEREFORE, BE IT RESOLVED that the North Pole City Council supports legislative efforts to fund AGDC as they move forward in developing and advancing a project to construct a natural gas pipeline from the North Slope to South Central Alaska.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this 4th day of February, 2013



Bryce J Ward, Mayor

ATTEST:



Kathryn M. Weber, MMC
North Pole City Clerk

PASSED

Yes: Nelson, McGhee, Holm, Smith, Sikma, Ward

No: 0

Absent: Hunter



**City of Nenana
Resolution 2013-03**

A Resolution Supporting the Legislative Efforts to Construct a Natural Gas Pipeline From the North Slope to South Central Alaska

Whereas the development of an in-state gas pipeline is in the best interest of the State of Alaska, AND

Whereas known reserves in Cook Inlet are insufficient to supply the demand for natural gas in South Central Alaska in the future, AND

Whereas the Interior area of Alaska is in dire need of a means to lower energy costs in both short and long terms, AND

Whereas an Alaska natural gas pipeline project will provide a long-term affordable and clean energy solution for the majority of Alaskans and Alaskan businesses, AND

Whereas House Bill 4 includes the necessary provisions and solutions to forward a successful Alaska natural gas pipeline project.

Therefore be it resolved that the Nenana Assembly supports Legislative efforts to fund AGDC in order to continue moving forward developing a project to construct a natural gas pipeline.

Adopted by a duly constituted quorum of the Municipal Assembly on the 14 day of February 2013

MUNICIPALITY OF NENANA



Jason R. Mayrand, Mayor

ADOPTED:

ATTEST:



Sharon Ridlington

Amended: 02/19/13
Adopted: 02/19/13

**MATANUSKA-SUSITNA BOROUGH
RESOLUTION SERIAL NO. 13-030**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY SUPPORTING A GASLINE PROJECT FROM THE NORTH SLOPE THAT PROVIDES FOR A LARGE DIAMETER PIPELINE TO FAIRBANKS WITH EXPORT CAPACITY AND IS DESIGNED FOR SMALLER FEEDER GASLINES TO SERVE ALASKAN COMMUNITIES DEVELOPED BY THE ALASKA GASLINE DEVELOPMENT CORPORATION.

WHEREAS, available supplies of natural gas in Southcentral Alaska are forecast to be inadequate to meet demand in the near future; and

WHEREAS, interior Alaska and Rural Alaska would benefit from an in-state pipeline as proposed in House Bill (HB) 4 with a reliable and cheaper energy; and

WHEREAS, reliable and affordable energy supplies are critically important to Alaska residents and are vitally needed to grow our economy and provide energy for resource development; and

WHEREAS, HB 4, which empowers the Alaska Gasline Development Corporation (AGDC) to further advance an in-state gas pipeline; and

WHEREAS, the best case for Alaska is a large capacity line serving both in-state and export (lower 48) markets, HB 4 allows the AGDC to participate in a large diameter gas line project; and

WHEREAS, the retention of gas liquids in an in-state pipeline will provide for a larger economic spinoff by creating the opportunity for a manufacturing industry at Port McKenzie; and

WHEREAS, it is in the best interest of the State to include the gas liquids within the transported gas for the in-state pipeline project; and


NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly supports legislation to move the Alaska Stand Alone Pipeline forward, with amendments to require retention of the gas liquids.

BE IT FURTHER RESOLVED, that the Matanuska-Susitna Borough Assembly also supports a large diameter gasline project and supports integration of the projects to deliver gas for in-state needs as well as for export.

ADOPTED by the Matanuska-Susitna Borough Assembly this 19 day of February, 2013.


LARRY DEVILBISS, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk
(SEAL)

PASSED UNANIMOUSLY: Keogh, Woods, Arvin, Colligan, Salmon,
Colver, and Halter

Introduced by:

Mayor

Date:

03/19/13

Action:

Adopted as Amended

Vote:

6 Yes, 0 No, 3 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2013-018**

**A RESOLUTION SUPPORTING LEGISLATIVE EFFORTS TO FUND
CONSTRUCTION OF A NATURAL GAS PIPELINE FROM THE NORTH SLOPE TO
SOUTH CENTRAL ALASKA**

WHEREAS, known reserves in the Cook Inlet Basin are insufficient to supply the demand for natural gas in South Central Alaska in the future; and

WHEREAS, the available gas supply does not meet regional energy needs, compelling a decision by ConocoPhillips Alaska to not apply for an extension of its federal export license and to reduce the Nikiski LNG plant to stand-by mode; and

WHEREAS, an Alaska natural gas pipeline project may provide a long-term affordable energy solution for the majority of Kenai Peninsula Borough and South Central Alaska residents and businesses; and

WHEREAS, as part of an overall Alaska energy plan, an Alaska natural gas pipeline project will help address the energy needs of all Alaskans; and

WHEREAS, the Kenai Peninsula Borough appreciates Legislative action in creating the Alaska Gasline Development Corporation (AGDC), which in turn created the Alaska Stand Alone Gas Pipeline (ASAP); and

WHEREAS, House Bill 4 includes some of the necessary provisions and solutions to advance a successful Alaska natural gas pipeline project;

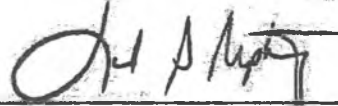
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly supports Legislative efforts to fund the AGDC as it moves forward in developing a responsible and economically viable project to construct a natural gas pipeline from the North Slope to South Central Alaska.

SECTION 2. That copies of this resolution be forwarded to the Borough's Legislative delegation.

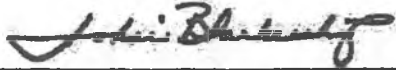
SECTION 3. That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
19TH DAY OF MARCH, 2013.**



Linda Murphy, Assembly President

ATTEST:



John Blankenship, MMC, Borough Clerk

Yes: Haggerty, Johnson, Pierce, Smith, Wolf, Smalley
No: None
Absent: McClure, Murphy, Tauriainen

Sponsored by: Hunt

**CITY OF SEWARD, ALASKA
RESOLUTION 2013-008**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,
ALASKA, SUPPORTING LEGISLATIVE EFFORTS TO CONSTRUCT A
NATURAL GAS PIPELINE FROM THE NORTH SLOPE TO SOUTH-
CENTRAL ALASKA**

WHEREAS, the electricity produced by Chugach Electric and purchased by the Seward Electric Utility is primarily produced from plants fueled by natural gas; and

WHEREAS, the gas used for power production comes exclusively from the Cook Inlet basin; and

WHEREAS, Chugach, other power producers, and ENSTAR currently consume all of the gas produced in Cook Inlet and are expected to face supply shortage; and

WHEREAS, recent exploration resulting in added gas production and the Cook Inlet Natural Gas Storage facility have postponed the projected shortfall until 2015; and

WHEREAS, options for mitigating the projected shortfall are new hydro or other alternative facilities producing sufficient volume, imported liquefied or compressed gas, or gas from the North Slope; and

WHEREAS, Speaker Chenault and Representative Hawker have sponsored House Bill 4, which supports the Alaska Gasline Development Corporation's (AGDC) pipeline project; and

WHEREAS, the bill provides the necessary structure, changes to existing statute, and direction to move forward a natural gas pipeline for instate use whether as a stand-alone project or in conjunction with the producers and Trans-Canada in a larger project; and

WHEREAS, of all the options presented to date, the instate gas supply from the North Slope has the best potential for the earliest positive impact on the cost of electric power to Seward residents and businesses in the near term, and the possibility of gas delivery for local use in the longer term; and

WHEREAS, the bill, as introduced, includes the necessary provisions and solutions to forward a successful Alaska natural gas pipeline project that best benefits Seward and all the Railbelt utilities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA that:

**CITY OF SEWARD, ALASKA
RESOLUTION 2013-008**

Section 1. The City Council of the City of Seward supports House Bill 4 as introduced and Legislative efforts to fund AGDC as they move forward in developing a project to construct a natural gas pipeline from the North Slope to South-Central Alaska.

Section 2. That a copy of this Resolution be sent to Speaker Mike Chenault, Senator Cathy Giesel, and Representative Mike Hawker.

Section 3. This resolution shall take effect immediately.

PASSED AND APPROVED by the City Council of the City of Seward, Alaska, this 28th day of January 2013.

THE CITY OF SEWARD, ALASKA



David Seaward, Mayor

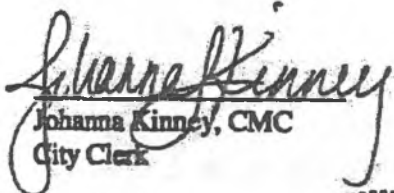
AYES: Bardarson, Terry, Casagrande, Keil, Valdatta, Shafer, Mayor Seaward

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:


Johanna Kinney, CMC
City Clerk

(City Seal)



Council Agenda Statement



Meeting Date: January 28, 2013
 Through: City Manager Jim Hunt
 From: Community Development Director Ron Long
 Agenda Item: Supporting Legislative Efforts to Construct a Natural Gas Pipeline from the North Slope to South-central Alaska

BACKGROUND & JUSTIFICATION:

Administration respectfully requests Council support for this resolution as part of the City's effort to maintain affordable energy costs for local residents and business through power sales by the Electric Utility in the near term and potential availability of natural gas to Seward in the longer term.

The City supported various measures designed to fund and maintain critical infrastructure and cost control measures for the delivery of electricity along the rail belt and to Seward, including transmission lines and the City's participation in Alaska Energy Authority measures and in The Alaska Railbelt Cooperative Transmission and Electric Company (ARCTEC).

Speaker Chenault and Representative Hawker have introduced House Bill 4 to provide the necessary structure, changes to existing statute, and direction to move forward a natural gas pipeline. South-central's present and projected future consumption of natural gas used for electric generation and for heating exceeds known natural gas reserves in the Cook Inlet basin and it is imperative that sufficient quantities of gas remain available. Exploration in the basin is not forecasted to yield sufficient gas to avoid a shortfall, now projected for 2015, and the only near term sources for replacement gas are via import. Utility rates would skyrocket under this scenario.

Seward's primary interest in this project is to ensure Chugach Electric and other ARCTEC members have sufficient contract gas to provide affordable power into the future. Once the power generation picture for south-central is stabilized, we would want to pursue pipeline delivery of burner tip gas to Seward.

INTENT: Support Legislative Efforts to Construct a Natural Gas Pipeline from the North Slope to South-central Alaska

<u>CONSISTENCY CHECKLIST:</u>		Yes	No	N/A
1.	Comprehensive Plan (<i>document source here</i>): Section 3.1, Economic Development and 3.9 Quality of Life.	x		
2.	Strategic Plan (<i>document source here</i>): Page 2, city mission. Page 3 vision. Page 5, economic base. Page 7, Reduce Energy Costs, and throughout	x		
3.	Other (<i>list</i>):			x

FISCAL NOTE: This is a resolution of support that has no fiscal impact.

Approved by Finance Department: *Walter Krueger*

ATTORNEY REVIEW: Yes _____ No X _____

RECOMMENDATION: Council approve Resolution 2013-⁰⁰⁸ supporting Legislative Efforts to Construct a Natural Gas Pipeline from the North Slope to South-central Alaska.

**RESOLUTION
OF
MAYOR SULLIVAN'S ENERGY TASK FORCE**

WHEREAS, natural gas produced in Cook Inlet is now and has been for decades, the predominant source of energy for the generation of electricity and for the heating the homes and businesses in Southcentral Alaska; and

WHEREAS, there are no viable options for heating homes and businesses other than natural gas given the regions long term dependence on that source for heating; and

WHEREAS, because of a critical shortfall of natural gas supply and deliverability in Cook Inlet which developed in the decade prior to his election, upon taking office in July 2010, Anchorage Mayor Dan Sullivan appointed an Energy Task Force consisting of knowledgeable individuals whose responsibilities are to review the energy situation in South Central Alaska and to make recommendations to the Mayor as to actions that the Municipality of Anchorage might take or might recommend that would reduce and/or eliminate the risks of an energy emergency in the Municipality of Anchorage and the region; and

WHEREAS, the Mayor's Energy Task Force has met regularly over the last four (4) years to review and discuss the energy situation and energy solution for Southcentral Alaska and the Railbelt;

WHEREAS, as a result of recommendations made by the Task Force to the Mayor and the actions the Mayor has taken as a result of those recommendations, the potential for an energy crisis in the near term has been substantially reduced and numerous activities such as emergency preparedness, the development of a storage facility for natural gas (CINGSA), additional drilling for natural gas in the Cook Inlet basin has begun and long term cooperative planning efforts by the utilities in the area have be ongoing; and

WHEREAS, despite these actions, there still exists a very real and significant energy supply and deliverability shortage in the intermediate term with the area utility companies not having supply contracts signed with the producers to provide for the needs of the utilities; and

WHEREAS, various options are under consideration by the area utilities to meet their needs for natural gas in the intermediate term including the importation of liquefied natural gas, importation of compressed natural gas and/or natural gas trucked from the north slope; and

WHEREAS, one potential solution to the energy needs of the Railbelt and Southcentral Alaska is a pipeline from the North Slope to tidewater in Cook Inlet which could be built and operational by 2020, thus meeting the long term needs for natural gas in Southcentral Alaska and the Railbelt; and

WHEREAS, House Bill 4 provides, among other things, for continued funding for this proposed pipeline as well as for other matters relating to the development and construction of a pipeline from the North Slope to tidewater; and

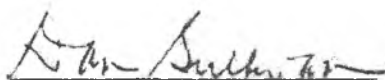
WHEREAS, the Mayor of Anchorage and his Energy Task Force are not in a position to evaluate all of the provisions of House Bill 4, but are in a position to advocate for the continued evaluation and planning for the possible development of the pipeline envisioned by the Bill so that if it is determined that this pipeline is the best option for energy for the Railbelt and Southcentral Alaska, construction can begin as soon as that determination is made; and

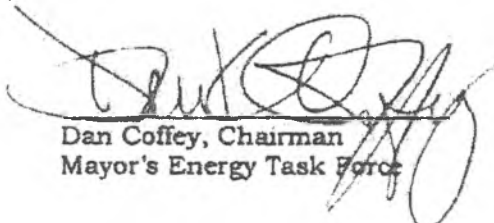
NOW THEREFORE, AFTER REVIEW AND DISCUSSION, IT IS HEREBY RESOLVED, as follows:

1) The Mayor's Energy Task Force support the continuation of sufficient funding that will result in the opportunity to construct the pipeline in as short a time frame as possible should this be determined to be the best option for the residents of Southcentral Alaska and the Railbelt.

2) Mayor Dan Sullivan and the Mayor's Energy Task Force support a full, fair and extensive evaluation of the other provisions of the Bill by both the House and the Senate so that, to the degree these provisions are appropriate and necessary to the continued development of the pipeline, they are incorporated into the legislation so as not to delay or impede the ultimate decision as to the development or the abandonment of this pipeline.

DATED at Anchorage, Alaska this 14th day of March 2013.


Dan Sullivan
Mayor of Anchorage


Dan Coffey, Chairman
Mayor's Energy Task Force

1 CITY OF HOMER
2 HOMER, ALASKA

Mayor

3
4 RESOLUTION 13-027

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER,
7 ALASKA, EXPRESSING SUPPORT FOR HB 4, LEGISLATIVE
8 EFFORTS TO CONSTRUCT A NATURAL GAS PIPELINE
9 FROM THE NORTH SLOPE TO SOUTH CENTRAL ALASKA.

10
11 WHEREAS, The City of Homer will be receiving access to natural gas for the first time
12 in 2013 with the construction of a natural gas trunk line into the community; and

13
14 WHEREAS, Known reserves in the Cook Inlet Basin are insufficient to supply the future
15 demand for natural gas in South Central Alaska; and

16
17 WHEREAS, A stable supply of energy is key to the economic future of the entire South
18 Central region; and


19
20 WHEREAS, There is a critical need for a long-term solution that provides affordable
21 energy throughout the Railbelt; and

22
23 WHEREAS, HB 4 empowers the Alaska Gasline Development Corporation (AGDC) to
24 further advance an in-state gas pipeline.

25
26 NOW, THEREFORE, BE IT RESOLVED that the City of Homer supports legislative
27 efforts to construct a natural gas pipeline from the North Slope to South Central Alaska.

28
29 PASSED AND ADOPTED by the Homer City Council this 11th day of March, 2013.

30
31 CITY OF HOMER

32
33 
34 MARY E. WYTHE, MAYOR

35
36 ATTEST:

37
38 
39 JO JOHNSON, CMC, CITY CLERK

40
41 Fiscal Note: N/A

42



**Kenai Chamber of Commerce and Visitor Center
Resolution 2013-01
SUPPORTING LEGISLATIVE EFFORTS TO CONSTRUCT A
NATURAL GAS PIPE LINE FROM THE NORTH SLOPE TO
SOUTH CENTRAL ALASKA**

WHEREAS, It is the mission of the Kenai Chamber of Commerce and Visitor Center (KCCVC) to promote economic development, stimulate job growth, provide initiatives to promote local businesses, and foster positive relations between business and community for the benefit of Kenai; and

WHEREAS, KCCVC represents nearly 460 business throughout the community of Kenai by continually seeking to improve the business climate and ensure a healthy economy for future generations; and

WHEREAS, the development of an in-state natural gas pipeline is the in the best interest of the State of Alaska; and,

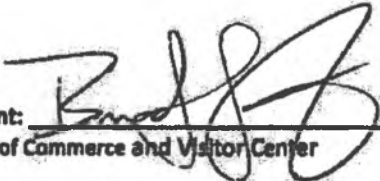
WHEREAS, known reserves in the Cook Inlet Basin are insufficient to supply the demand for natural gas in South Central Alaska in the future; and

WHEREAS, KCCVC continues to support an Alaska North Slope natural gas pipeline and appreciated the Legislature's actions in creating the Alaska Gasline Development Corporation (AGDC) which in turn has created the Alaska Stand Alone Gas Pipeline (ASAP); and,

WHEREAS, an Alaska natural gas pipeline project will provide a long-term affordable, clean energy solution for the Majority of Alaskans and Alaska businesses; and

WHEREAS, House Bill 4 includes many of the necessary provisions and solutions to forward a successful Alaska natural gas pipeline project.

THEREFORE, BE IT RESOLVED, THE KENAI CHAMBER OF COMMERCE AND VISITOR CENTER supports Legislative efforts to fund AGDC as they move forward in developing a project to construct a natural gas pipeline from the North Slope to South Central Alaska.

Board President: 
Kenai Chamber of Commerce and Visitor Center Brandyn Shiflea

Date: 3-7-13

Board Secretary: 
Kenai Chamber of Commerce and Visitor Center Penny Furnish

Date: 3-7-13



BIG LAKE

CHAMBER OF COMMERCE

"Alaska's Year-Round Playground"

Big Lake

Big Lake Chamber of Commerce RESOLUTION 2013-2

A Resolution Supporting the Legislative Efforts to Construct a Natural Gas Pipeline From the North Slope to South Central Alaska

Whereas, the development of an in-state gas pipeline is in the best interest of the state of Alaska; and

Whereas, known reserves in Cook Inlet are insufficient to supply the demand for natural gas in south-central Alaska in the future; and

Whereas, many Interior and Rural Alaskan communities are in dire need of a means to lower energy costs in both short and long terms; and

Whereas, development of vibrant local and statewide economies are dependant on affordable energy; and

Whereas, in Alaska natural gas pipeline project will provide a long-term affordable and clean energy solution for the majority of Alaskans and Alaska businesses; and

Whereas, House Bill 4 includes the necessary provisions and solutions to advance a successful Alaska natural gas pipeline project

NOW, THEREFORE, BE IT RESOLVED that the Big Lake Chamber of Commerce supports legislation efforts to fund Alaska Gasline Development Corporation in order to continue moving forward developing a project to construct a natural gas pipeline.

PASSED AND APPROVED by a duly constituted quorum of the Big Lake Chamber of Commerce this 20th day of March, 2013

Ina Mueller

Ina Mueller, President, Big Lake Chamber of Commerce

ATTEST:

John Smith
Treasurer, 308 3/20/13



Interior Alaska – The “Place” To Do Business

100 Cushman St., Suite 102 | Fairbanks, Alaska 99701-4665
ph (907) 452-1105 | fax (907) 456-8968 | www.FairbanksChamber.org

March 12, 2013

Representative Mike Chenault
Alaska State Capitol Building
Room 208
Juneau, AK 99801-1182

Representative Mike Hawker
Alaska State Capitol Building
Room 502
Juneau, AK 99801-1182

I N V E S T O R S

D I A M O N D

- BP Exploration
- ConocoPhillips
- ExxonMobil
- Fairbanks Daily News-Miner
- Fairbanks Memorial Hospital & Denali Center
- Flint Hills Resources Alaska
- Mt. McKinley Bank
- Santina's Flowers & Gifts

P L A T I N U M

- Alyaska Pipeline Service Co
- Doyon, Limited
- Fred Meyer Stores
- Golden Heart Utilities
- Wells Fargo Bank Alaska

G O L D

- Alaska Railroad
- Birchwood Homes
- Carlson Center
- Denali State Bank
- Design Alaska
- Doyon Utilities LLC
- First National Bank Alaska
- Kinross Fort Knox Mine
- Lynden
- MAC Federal Credit Union
- Northrim Bank
- Sumitomo Metal Mining Pogo LLC
- Usibelli Coal Mine

S I L V E R

- ACS
- Alaska Airlines
- Alaska USA
- Dr. Christopher Henry – Henry Orthodontics
- Everts Air Cargo, Everts Air AK
- Exclusive Paving/Univ. Redi-Mix
- Fairbanks Natural Gas
- Flowline Alaska
- GCI
- General Teamsters Local 959
- GVEA
- Hale & Associates, Inc.
- JL Properties, Inc.
- Key Bank
- Personnel Plus
- Sam's Club
- Shell Exploration & Production Co
- Spirit of Alaska FCU
- Tanana Valley Clinic
- TDL Staffing
- Totem Ocean Trailer Express, Inc
- Tower Hill Mines-Livengood Gold Project
- University of Alaska Fairbanks
- Venzon Wireless
- WAL-MART Stores, Inc
- Yukon Title Company

RE: Letter of Support for House Bill 4: In-State Gasline Development Corp

Dear Representatives Chenault and Hawker:

The Greater Fairbanks Chamber of Commerce appreciates the support and interest shown in Alaska's energy crisis through your efforts to bring natural gas from the North Slope to the citizens of Alaska. Reducing the high cost of energy in the Interior is the Fairbanks Chamber's top priority this legislative session. Your participation in the teleconference regarding House Bill 4 with our Energy Committee was welcomed, informative to the members, and encouraging for the future.

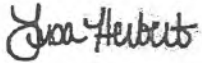
The Chamber supported the Alaska Stand Alone Pipeline Project (ASAP) and HB 9 last legislative session. The bullet line remains one of the Chamber's mid-term priority projects for reducing the cost of energy in the interior. Trucking of liquefied natural gas remains the top priority of the entire community, primarily due to lower capital costs and more immediate delivery schedules. It is also accepted that the best way to transport gas over the long-term may be to transition from trucking to a pipeline.

The progress on the ASAP line, including preliminary design, environmental, permitting, and right-of-way (ROW) work places it far ahead of any other in-state pipeline options. The entity created by HB 4 could also serve as a catalyst and/or partner for other gas line solutions. The Chamber is supportive of your efforts with HB 4 and of the ASAP project.

Please accept this letter of support from the Chamber for passage of HB 4 this session. We are supportive of the funding necessary to bring the ASAP line to open season as a companion to, but not as a substitute for, the funding necessary to bring trucked LNG to the interior.

We thank you for your leadership on this critical issue facing our community.

Sincerely,



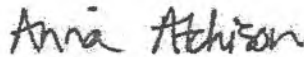
Lisa Herbert
Executive Director



Terri Froese
Board of Directors, Chair



Bob Shefchik
Energy Committee, Chair



Anna Atchison
Government Relations Committee, Chair

cc: Governor Sean Parnell
Mike Nizich, Governor's Chief of Staff
U.S. Senator Lisa Murkowski
U.S. Senator Mark Begich
U.S. Representative Don Young
Dan Sullivan, Commissioner of Natural Resources
Joe Balash, Deputy Commissioner of Natural Resources
Interior Delegation
Alaska State Legislature
Alaska Gasline Development Corporation
Alaska State Chamber of Commerce
Fairbanks Daily News-Miner
Membership of the Greater Fairbanks Chamber of Commerce



Copper Valley Development Association, Inc.

P.O. Box 9, Glennallen, AK 99588 * 907-822-5001 phone * 888-256-5569 fax
www.coppervalley.org * Info@coppervalley.org

February 19, 2013

Representative Mike Hawker
State Capitol, Room 502
Juneau, Alaska 99801

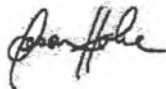
RE: HB 4 Support

Representative Hawker,

I would like to offer support from Copper Valley Development Association, the regional ARDOR with Department of Commerce, Community and Economic Development for House Bill 4. This bill provides framework for the Alaska Gasline Development Corporation (AGDC) and a natural gas distribution system and affiliated infrastructure within the state of Alaska. These facilities will make it feasible to deliver liquefied natural gas from the North Slope to the Interior, and will allow for a wider distribution of gas and propane elsewhere in the state. House Bill 4 will help reduce the high cost of energy, bring gas to the interior, raise the number and quality of economic development projects in the state, and increase the number of jobs available to Alaskans. The establishment of this is the first step in a series of incremental steps necessary to alleviate the high cost of energy in rural Alaska, and broaden the possibilities for this region. In order for our great state to move forward, we need measures such as HB 4 to occur.

Thank you very much for your attention to this Representative, and please feel free to contact me for additional information.

Sincerely,



Jason Hoke,
Executive Director



THE ALLIANCE

...for responsible development of Alaska's Oil, Gas & Mineral Resources

Resolution 02-13

WHEREAS, the Alaska Support Industry Alliance was established in 1979;
and

WHEREAS, the Alliance represents more than 500 businesses who employ
more than 35,000 workers in the State of Alaska; and

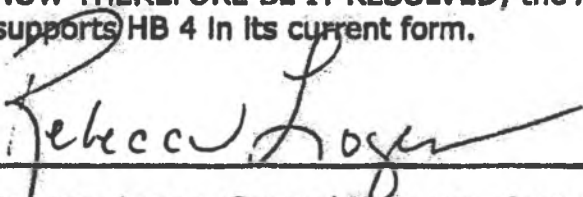
WHEREAS, the Alliance mission statement is to promote responsible
exploration, development and production of oil, gas and mineral resources
for the benefit of all Alaskans; and

WHEREAS, the Alaska Stand Alone Pipeline (ASAP) is an opportunity to
develop and produce Alaska's natural gas resources for the benefit of all
Alaskans; and

WHEREAS, the ASAP project utilizes a risk-based, phased and gated
methodology which employs a disciplined approach towards project
development and allows for appropriately timed exits to ensure
accountability and fiscal responsibility, and

WHEREAS, House Bill 4 makes the Alaska Gas Line Development
Corporation an independent public corporation of the state, with the correct
authority, autonomy, and responsibility to execute the legislative priority of
bringing affordable natural gas to Alaskans.,

NOW THEREFORE BE IT RESOLVED; the Alaska Support Industry Alliance
supports HB 4 in its current form.



1/30/2013

Rebecca Logan, General Manager - January 30, 2013



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., Ste. 105, Anchorage, Alaska 99503 (907) 563-9229 www.alaskaminers.org

February 5, 2013

Speaker of the House Mike Chenault
Representative Mike Hawker
Capitol Room 208
Juneau, AK 99801

Dear Speaker Chenault and Representative Hawker:

The Alaska Miners Association (AMA) writes to express its support for HB4, an Act to advance an in-state natural gas pipeline.

AMA is a non-profit membership organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,500 individual prospectors, geologists, engineers, vendors, suction dredge miners, small family mines, junior mining companies, and major mining companies. Our members look for and produce gold, silver, platinum, molybdenum, lead, zinc, copper, coal, limestone, sand and gravel, crushed stone, armor rock, and other materials.

It is without question that Alaskans across the state are struggling with substantial energy costs. Our large mines and development projects are no exception. Hardrock mines with milling processes are extremely energy-intensive operations, and our mines pay millions of dollars each year for power. Alaska's operating mines consume power from coal, hydro, and limited natural gas sources, with all using at least some diesel generation. Only four of seven large mines are connected to power grids in the state. The mines currently in operation require anywhere from 20 to 50 megawatts of power, and development projects on the horizon estimate needing hundreds of megawatts of power. At least two development projects in the state are pursuing gas pipelines connecting directly to their projects - infrastructure that could benefit surrounding communities, provided a stable supply of gas is available. Many more projects are in locations that would directly benefit from an in-state line and consistent supply of gas.

Today mining is Alaska's second largest industry, and our mines employ over 5,000 people directly, paying \$650 million in payroll each year. Mining pays millions in revenues to local governments, the state government through rents, royalties, and taxes, and Alaska Native Corporations. It is important to keep operation costs manageable and ensure mining is feasible; energy is by far the highest cost factor. Actions that reduce costs will help to ensure the industry stays strong and new projects come on board.

AMA believes HB4 allows the Alaska Gasline Development Corporation (AGDC) to pursue a large diameter line, which would improve the commercial viability of Alaska's natural gas resources and help move the resources to market outside of Alaska. It also allows AGDC to pursue the needed infrastructure that will meet our in-state residential and industrial energy needs. This is a win-win situation for all Alaskans, and we applaud your leadership in the introduction of this legislation.

Thank you,

Deantha Crockett
Executive Director



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

Founded 1975
Executive Director
Rick Rogers
2012-2013 Executive Committee
Phil Cochran, President
L.P. "Len" Horst, Sr. Vice President
Ralph Semuels, Vice President
Eric Fjelstad, Treasurer
Laura Shaw, Secretary
Tom Maloney, Past President

Bob Berto
Patty Bielawski
J.B. "Bill" Brackin
Pat Carner
Steve Danden
Ella Bels
Stan Poe

Paul Grawinovich
Bill Johnson
Scott Johnson
Wendy Lindeman

Laron Miller
Kara Moriarty
Ethan Schmitt
John Sivilsky

Jaruna St. John
Scott Thomson
Cam Toohay
Director

Todd Abbott
Greg Baker
John Barnes
Dave Benton

Jason Bergerson
Allen Blumhagen
Rick Boyles
Dave Charpit

Steve Connolly
Bob Cox
Dave Cruz

Allen Dolynny
Paula Estley
Brad Evans
Carri Fairs

Jeff Fairs
Carol Finner
Tim Gallagher
Ricky Giese

Matt Gill
Dan Graham
Chuck Greene
Scott Halberstad

Karl Hirsensma
Rick Harris
Paul Henry
Steve Hitts

Larry Houde
Terena Iann
Mike Jungreis
Frank Kelly

Thomas Kozarinski
John Lasi
Tom Lovas
Thomas Mack

John MacKinnon
Suzanne Madson
Karen Matthias
Sam Mazzoni

Ron McPheters
James Mary
Denise Michals
Hans Naidig

Lisa Parker
Judy Patrick
Charla Powers
Glen Reed

Mike Saxe
Keith Silver
Lorah Scowen
John Stutzman

Jan Tigg
Es-Officio Members
Senator Mark Begich
Senator Lisa Murkowski
Congressman Don Young
Governor Sean Parnell

February 1, 2013

The Honorable Mike Chenault
The Honorable Mike Hawker
Alaska House of Representatives
Capital Room 208
Juneau, AK 99801

RE: HB 4

Dear Speaker Chenault and Representative Hawker,

On behalf of the Resource Development Council for Alaska, Inc., (RDC), I am writing in support of HB 4, which empowers the Alaska Gasline Development Corporation (AGDC) to further advance an in-state gas pipeline.

RDC is a statewide, non-profit, membership-funded organization founded in 1975. The RDC membership is comprised of individuals and companies from Alaska's oil and gas, mining, timber, tourism, and fisheries industries, as well as Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to link these diverse interests together to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

Reliable and affordable energy supplies are critically important to Alaska residents and are vitally needed to grow our economy and provide energy for resource development projects and community development. RDC has consistently supported the development of commercially-viable energy from diverse sources, including coal, natural gas, hydroelectric and other renewable and nonrenewable alternatives. RDC has also supported public policies and fiscal decisions to improve the commercial viability of developing Alaska's North Slope and Interior natural gas resources. HB 4 removes constraints identified by AGDC in moving an in-state gas line development project forward: funding the project to an open season; providing needed confidentiality for collaboration with private entities and information sharing; and establishing contract carrier status to support firm commercial transportation commitments.

The economics of natural gas delivery are inversely proportionate to line capacity, and a 500 MCF or smaller line faces significant economic challenges. HB 4 requires any line to stand on its own, underpinned by capacity commitments and without incurring

future financial liabilities to the State. Future appropriations, loan guarantees or other underwriting of an AGDC gas line project would require legislative approval. Should such become necessary, RDC would evaluate the appropriateness of public financial support carefully. The ultimate determination of whether to commit additional public funds would need to be based on the project's merits, the impacts on competing sources of energy, and the burden such a project may put on the fiscal health of the State.

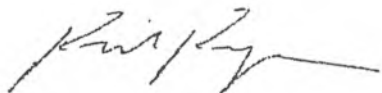
The best case for Alaska is a large capacity line serving both in-state and export (or Lower 48) markets. While market forces will dictate the viability of a large capacity line, HB 4 allows AGDC to participate in a large diameter gas line project. AGDC could add value to such a project by providing for the in-state gas infrastructure to meet our growing energy needs, both residential and industrial.

HB4 establishes AGDC as a stand-alone agency with a specific mission to deliver gas to Alaskans at the most affordable price. Given the growing concern we have with regard to the long-term fiscal sustainability of our State, we encourage the AGDC enabling legislation to sunset the agency should future circumstances render its mission obsolete or unachievable.

RDC looks forward to passage of HB 4. Ultimately free market forces will allow project economics to dictate the best energy solutions for Alaska consumers considering both price and reliability. HB4 provides an appropriate balance by providing public sector support in early stages sufficient to bring the project to an open season where economics will determine the project's fate.

RDC applauds your leadership as cosponsors of this legislation, and we appreciate the opportunity to share our views of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Rogers", with a long horizontal flourish extending to the right.

Rick Rogers
Executive Director

February 20, 2013

The Honorable Mike Hawker
Alaska House of Representatives
Capitol Room 502
Juneau, AK 99801

Re: Support of House Bill 4

Dear Representative Hawker,

The Alaska State Chamber of Commerce (Alaska Chamber) is an organization dedicated to improving the business climate in Alaska. The Alaska Chamber represents hundreds of statewide businesses from Ketchikan to Barrow that share a common goal: to make Alaska a viable and competitive place to do business. Today, I am writing in support of House Bill 4 (HB 4).

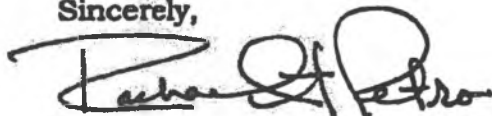
Last fall Alaska Chamber members adopted dozens of positions they believe will positively impact the business environment in Alaska and three top priorities. One of the three top priority positions is "reducing the high cost of energy" by supporting initiatives that lower the high cost of energy in Alaska by developing energy resources.

The Alaska Chamber supports HB 4 which allows AGDC to advance an in state pipeline to the construction stage. Such a process will identify opportunities for getting natural gas to Alaskans in the most commercially and economically viable manner available. Additionally, should it be an option, HB 4 allows AGDC to participate in a large diameter export gasline project.

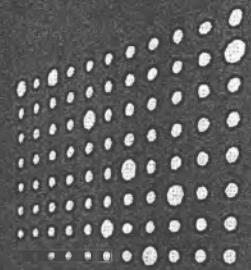
As an organization representing private sector business in Alaska, the Alaska Chamber will evaluate future recommendations stemming from the AGDC process carefully. In other words, we prefer projects be funded by the private sector.

The Alaska Chamber looks forward to passage of HB 4.

Sincerely,



Rachael A. Petro
President/CEO



ALASKA STATE
CHAMBER
OF COMMERCE

Headquarters

Regional Office

www.alaskachamber.com



Alaska Chapter

March 29, 2013

Representative Hawker
State Capitol
Juneau, AK 99801

Dear Mike:

On behalf of the Associated Builders and Contractors of Alaska (ABC of Alaska), I would like to thank you for sponsoring House Bill 4. We commend you, the Alaska Gas Pipeline Development Corporation Team, the Alaska Legislature and the Parnell Administration on your continuing efforts to provide energy to Alaska and specifically in your pursuit of natural gas for Alaska.

Be it ASAP Project, a large diameter natural gas pipeline, hydro, geothermal, increased production of gas or most likely some combination of all of the above, Alaska's policy leaders need to pursue paths that lead to reasoned and informed decisions and action. It is imperative to the residents of our state and Alaska's economy to have access to reliable, affordable energy.

ABC of Alaska supports progressing the ASAP Project as outlined in House Bill 4 and encourages legislative action to ensure the project progresses.

As a trade association that represents contractors, subcontractors, material suppliers and construction related firms across Alaska, we are particularly interested in contracting procurement strategies. We share and applaud the commitment AGDC has made to maximize local hire.

With regard to local Alaska hire we encourage you to consider two items:

1. Consider the possibility of leveraging the state's financial contributions to the project to require application of resident employment preferences in AS 36.10.150; and
2. Consider asserting the application of prevailing wages standard up front.

We recognize focus on the workforce and employment issues may seem premature, but we believe addressing some of these concerns now, will provide Alaska businesses and workers with an assurance of open and fair practices; thus allowing AGDC to focus on completing the design, engineering and permitting phases of the project.

ABC of Alaska strongly opposes any effort to exclude non-union Alaska businesses and non-union Alaska workers from the construction project. Alaskans, union and non-union, should be allowed to compete for work equally.

We look forward to assisting in furthering this project and appreciate your efforts in trying to ensure Alaskans have affordable energy as a foundation for jobs and an economy for many years to come.

Amy Nibert
President/CEO
ABC of Alaska



**Alaska State
Home Building Association**

March 13, 2013

The Honorable Mike Chenault
Speaker of the House
Alaska House of Representatives
State Capitol Building
Juneau, Alaska

Subject: Support for House Bill 4, in-state natural gas pipeline

Dear Speaker Chenault:

In addition to expressing thanks and appreciation to you for spending time yesterday with the Alaska State Home Building Association, this is a letter of support for House Bill 4 that was approved by unanimous vote of the Board of Directors.

Our understanding is that HB4, sponsored by Rep. Mike Hawker and yourself, would authorize the Alaska Gasline Development Corporation to proceed towards an open season and sanctioning of a project. We strongly support that goal, and want to help advocate for the passage of HB4.

The home building industry relies upon the creation of jobs and a healthy economy. People with a job need a home, and we want to build those homes. HB4 is good for our industry.

As builders, we can also testify to impacts we're seeing amongst consumers who are growing more and more concerned about the economy and the rising cost of energy. In some regions of our state, monthly costs to heat a home are becoming as expensive as the mortgage payments. This is not a good situation for our industry, our communities, and the State of Alaska.

Our members have discussed this issue at length, and our Board of Directors appreciates this opportunity to express support towards passage of legislation that will move an in-state natural gas pipeline project forward. We support HB4.

Thank you again for all your efforts.

Sincerely,

Jess Hall, President
Alaska State Home Building Association

*P.S. Mike,
thanks for dropping by
the Home Builders Tuesday & updating
us on the issues. Jess*

8301 Schoon, Ste 200 • Anchorage, Alaska 99518
Phone (907) 644-4190 • FAX (907) 522-3757
Website: www.buildersofalaska.com • E-mail: info@buildersofalaska.com



ASSOCIATED GENERAL CONTRACTORS of ALASKA

8005 Schoon Street • Anchorage, Alaska 99518
Telephone (907) 561-5354 • Fax (907) 562-6118

3750 Bonita Street • Fairbanks, Alaska 99706
Telephone (907) 452-1809 • Fax (907) 456-8599

February 1, 2013

**Representatives Chenault and Hawker
State Capitol
Juneau, AK 99801**

Re: HB 4

Dear Mike:

On behalf of the Associated General Contractors of Alaska, a construction trade association of over 660 business members, representing the majority of the construction industry in Alaska, thank you for sponsoring HB 4.

Alaskans have been talking about a gas line for over thirty years, and until recently, it has been a lot of hot air. Your effort almost 3 years ago to fund the Alaska Gas Line Development Corporation resulted in considerable progress and momentum on a badly needed project. We are at a critical juncture in Alaska's energy future and an Alaska Gas Line is important to our future and our sustainability. The momentum needs to continue, and frankly needs some of the "acceleration" that HB4 will provide.

An Alaska natural gas pipeline will provide clean energy and great economic opportunities for decades, for the maximum benefit of all Alaskans.

I assure you that we are continually working to maintain the highest level of skills and talent in the construction industry in Alaska and we are ready, willing and able to take on this project.

Thank you for your service to the people of Alaska and your sponsorship of HB4.

Sincerely,

**John MacKinnon
Executive Director
Associated General Contractors of Alaska**



March 21, 2013

The Honorable Bill Stoltze, Co-Chair House Finance
The Honorable Alan Austerman, Co-Chair House Finance
State Capitol
Juneau, Alaska 99801-1182

SUBJECT: Support for HB4, Instate Gasline and SB23, LNG Trucking

Dear Committee Chairmen Stoltze & Austerman,

Rising energy costs are working against the long-term viability for hotel and lodging businesses. AkH&LA supports the Governor and Legislature in their efforts to advance cost-effective and timely projects to provide Alaskans and Alaskan businesses with a long-term reduction and stabilization of energy costs. The Alaska Hotel & Lodging Association supports current projects such as; an In-State Gas Line, the Susitna Hydro Project, the Southeast Hydro projects, a North Slope LNG Trucking project as proposed by Governor Parnell, and alternative energy projects around the state.

The Alaska Hotel & Lodging Association views HB 4 & SB 23 as a comprehensive energy package advancing projects proposing both short and long term energy cost reduction to thousands of Alaskans. AkH&LA appreciates the introduction of HB4 by Representative Hawker & Representative Chenault as well as the Governor's introduction of SB23. These bills not only recognize the problem but address it by moving forward with specific projects in an effort to solve the high cost of energy in Southcentral, Interior and Rural Alaska. The hotel and lodging industry is a major consumer of energy and to that end, the situation in Southcentral and the current costs in Interior Alaska are untenable having the potential to jeopardize the economic viability of hotel businesses throughout the region.

Over 27,000 Alaskans are employed by the lodging and restaurant industries. These employees and the businesses that hire them are vital to the Alaskan economy. AkH&LA supports efforts by the Legislature to reduce the cost of energy to all Alaskans and Alaska's businesses. It is imperative that Alaska's economy not be constrained by our own inertia. Passage of these two vital pieces of legislation will move Alaska's economy forward. We urge you to take immediate action on these bills and pass them this legislative session.

Sincerely,

Gretchen Kenney
Executive Director
Alaska Hotel & Lodging Association

Cc:
Governor Parnell
Alaska Legislature



United in a common goal to make Alaska the most hospitable place on earth!

330 E. 4th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 272-1229 • Fax: (907) 272-1289 • E-mail: akhla@4aha.org



TESORO

**Tesoro Alaska Company
1601 Tidewater Road
Anchorage, AK 99501**

February 20, 2013

**Speaker of the House Mike Chenault
Representative Mike Hawker
Capitol Room 208
Juneau, Alaska 99801**

Dear Speaker Chenault and Representative Hawker:

On behalf of Tesoro Alaska, I am writing in support of House Bill 4, an Act relating to the Alaska Gasline Development Corporation.

Tesoro Alaska's Kenal refinery is located on the Cook Inlet, 70 miles southwest of Anchorage. The refinery can process up to 72,000 barrels of crude oil per day. The refinery produces gasoline, jet fuel, ultra-low sulfur diesel, heating oil, heavy fuel oils, propane and asphalt. A reliable supply of natural gas is critical for the continued success of our refinery operations.

Your combined leadership on Cook Inlet issues is recognized and appreciated by our approximately 550 full-time Alaskan employees. House Bill 4 is another critical step towards supplying Alaskan residents and businesses with access to the state's abundant natural gas supplies on the North Slope.

Tesoro Alaska believes House Bill 4 would help Alaska move forward towards and assist in the development of much needed infrastructure that would provide the state with a permanent and reliable supply of natural gas. The benefits to both residents and businesses would be substantial.

We applaud your efforts and leadership and encourage your colleagues in the Alaska State Legislature to support the passage of House Bill 4.

Sincerely,

James Tangaro

**Vice President Kenal Refinery
Tesoro Alaska**



LEADER in All We Do

February 22, 2013

Dear Alaska Legislators,

This letter is statement of support for the passage of HB 4, and the Alaska Stand Alone Gas Pipeline Project.

Doyon, Limited is the state chartered Alaska Native Claims Settlement Act Regional Corporation for Interior Alaska. Doyon has over 18,500 shareholders, most of whom reside within the State of Alaska; and many of our shareholders share the need of Alaskans for new options for heating and power generation fuels.

Furthermore, Doyon, Limited is the largest private land owner in the State. One of our highest priorities, made possible by the passage of SB 23 during the 2012 legislative session, is continued exploration for oil and gas resources on both Doyon and State owned lands along the proposed Alaska Stand Alone Pipeline corridor. Pipeline access for new discoveries of gas resources along the ASAP route would be good for all Alaskans.

Therefore, we support the passage of HB 4. We believe the ASAP gas pipeline effort has the potential to move forward this year. The project has made progress as indicated by the completion of the Final Environmental Impact Statement, the 604 miles State of Alaska lease ROW, and plan of development.

Thank you for the work you do to support Alaska, and for the opportunity to comment. If you have any questions about this letter of support, please contact our office at (907) 459-2000.

Sincerely,

Aaron M. Schutt
President and CEO
Doyon, Limited

Cook Inlet Energy

February 19, 2013

Dear Representative Hawker,

Thank you very much for your continuing efforts to improve and enhance the energy markets in Alaska. Last year Cook Inlet Energy supported your efforts to pass HB 9, and we find that the passing of the last year has only sharpened the case for creating mechanisms that can move gas into and out of the Cook Inlet. HB 4 would take concrete steps towards doing just that.

Cook Inlet Energy is a small, Anchorage-based oil and gas company working hard to develop and deliver oil and gas to market to try to contribute to the solution to Alaska's future energy needs. We have had some success in increasing our gas production recently, and with several exciting gas exploration opportunities we hope to grow production for years to come.

Unfortunately, no explorer can predict how successful they will be, let alone know for certain what the future cost or deliverability of any discovered gas would be.

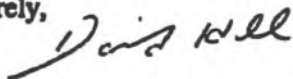
However, just as I emphasized last year, the economics of gas exploration in Cook Inlet are challenged because it is a small, isolated market with a limited consumer base. Without an ability to import and export gas from outside the region there is no spot market to sell into or buy from, and no market price. We will constantly be in either a state of shortage, or a state of oversupply. The last few winters we have seen very tight gas markets. This was especially challenging for our efforts to try to purchase fuel gas for our facilities. But we in Southcentral are also vulnerable to the risk that a large producer could lock the entire market up under long-term contracts, shutting competitors out of the market and stifling development of the Cook Inlet's abundant gas potential. And a truly large discovery could never find the necessary markets to recoup its investment. To have stable supply and stable prices, the region must be able to purchase additional gas when needed, and sell it when it can.

HB 4 will take concrete steps toward the construction of a pipeline to Southcentral Alaska. It is our understanding that development of such a pipeline would involve an anchor shipper in Southcentral that would expand demand. This seems like the best plan on the table for creating a larger and more liquid gas market in Cook Inlet.

Some fear that bringing North Slope gas into the region would pose a threat to Cook Inlet producers. Far from it. The threat posed to future Cook Inlet gas production is monopolization. Cook Inlet gas will always be able to compete against North Slope gas, as long as the pipeline tariff is not subsidized. But if there is no market to sell into who will invest in Cook Inlet gas production?

Please keep up the good work. We earnestly hope that HB 4 can pass both chambers this year, and that it ultimately results in a project that helps monetize North Slope gas and stabilizes energy supply on the Rail belt. We very much hope as Alaskans that the resulting infrastructure in Southcentral has enough capacity to accommodate additional deliveries from the Cook Inlet Basin, and will be open to all on commercially reasonable terms.

Sincerely,



David Hall,
CEO
Cook Inlet Energy, LLC

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1948

www.aktrucks.org

The authoritative voice of the trucking industry in Alaska

March 15, 2013

The Honorable Mike Chenault
Speaker of the Alaska House of Representatives
Juneau, Alaska

Via e-mail: tom.wright@akleg.gov

Dear Mr. Speaker,

The Alaska Trucking Association is a state wide organization representing the interests of our nearly 200 member companies.

The ATA believes that Alaska's huge energy supply must be harnessed to be delivered to Alaskans and to the world markets. The economic future of our state depends on providing systems to deliver gas to market. ATA supports funding for work that advances the knowledge base for future gas line construction. Recognizing that first gas from a pipeline will take several years, we also support short term solutions such as trucking LNG from Prudhoe Bay to Fairbanks and possibly other locations.

We urge you to take action to deliver gas to Alaskans and to the world markets.

Thank you.

Sincerely,



Aves Thompson
Executive Director



If you got it, a truck brought it...

Hilcorp Alaska, LLC

Post Office Box 244027
Anchorage, AK 99524-4027

3800 Centerpoint Drive
Suite 100
Anchorage, AK 99503

Phone: 907/777-8300
Fax: 907/777-8301

5 February 2013



The Honorable Mike Chenault
The Honorable Mike Hawker
Alaska State Capitol
Juneau, AK 99801

Re: HOUSE BILL NO. 4

Dear Speaker Chenault and Representative Hawker:

You have asked Hilcorp Alaska, LLC ("Hilcorp") to comment on House Bill No. 4 which lays the groundwork for the development of an in-state natural gas pipeline via the Alaska Gasline Development Corporation.

As a natural gas producer in Cook Inlet, we have been paying close attention to the discussions regarding in-state natural gas supply. We are working hard to increase natural gas production from the Cook Inlet Basin. Moving forward we remain focused on maintaining good working relationships with our vendors, stakeholders and regulators. Ultimately we plan to develop our assets in Cook Inlet to their full potential, providing a reliable energy source for Southcentral Alaska while creating value for our company, our employees and our community.

A stable and predictable fiscal and regulatory framework that supports a competitive business climate is essential to our success.

However, we also acknowledge the potential and desire to develop natural gas resources in other parts of the state. Accordingly, Hilcorp does not object to the construction and operation of the pipeline outlined House Bill No. 4 so long as the tariff would reflect the capital and O&M costs typically approved for such a pipeline by the Regulatory Commission of Alaska.

We thank you for the opportunity to provide our thoughts regarding House Bill No. 4 and look forward to working with you and others in the Alaska Legislature and Administration in the future.

Best regards,

A handwritten signature in black ink, appearing to read 'John A. Barnes'. The signature is fluid and cursive, written over the printed name.

John A. Barnes
Senior Vice President

Thank you for the opportunity to speak,

My name is Terry Hinman, I live north of Healy in the Denali Borough. I currently represent the Denali Borough on the Alaska Stand Alone Pipeline (ASAP) Community Advisory Committee (CAC). I receive no compensation financial or other for my time or travel.

As a retiree on a fixed income the rapidly increasing costs of energy are having a dramatic effect on my life. I know I am not unique in that situation but can speak to the costs from personal experience. Though my electrical cost has somewhat stabilized it is still well above national average. The cost of heat however continues to climb. There is an urgent need for affordable (not cheap just affordable) energy and I believe the pipeline for Alaskan's can provide that.

I understand the confusion about the different pipeline projects, there is only one plan that is more than concept. Compared to the dollars spent on larger scale ideas with nothing of substance the Alaskan or ASAP plan has a long list of accomplishments on a very frugal budget including route, Right of Way (ROW), Environmental Impact Statement (EIS) and field data.

A few years ago there was a world market for gas and gas products , Natural Gas Liquids (NGL'S), currently however there is a large supply and the market is saturated meaning prices are down. For the large companies to spend 45 to 65 Billion dollars to move product there has to be a return worthy of the expenditure. The relatively few residents in Alaska as potential consumers are to the large companies not cost effective, it is a matter of scale.

The idea of spending 7 to 9 Billion dollars constructing a line to provide low cost gas directly via pipeline and indirectly via river, road, rail, ocean as well as via the grid to Alaskan residents for the next 100 years does make sense. With the lean gas plan moving only methane and propane there is no need for expensive gasification straddle plants.

That is not to say if world market conditions change in the future a large pipeline with all the gas components or Liquefied Natural Gas (LNG) could not be constructed.

The biggest problem facing our state is energy, the passage of HB 4 and moving a gas-line for Alaskan's forward would go along way to addressing what I believe to be critical.

Time is crucial, the future of our State is in your decision.

Thank You for your time, any questions-

Terry Hinman

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946

www.aktrucks.org

The authoritative voice of the trucking industry in Alaska

April 3, 2013

The Honorable Senator Cathy Giessel
Chair, Senate Resources Committee
Alaska State Senate
Juneau, Alaska

re: HB4

Via e-mail: Sen.Cathy.Giessel@akleg.gov

Dear Chair Giessel,

The Alaska Trucking Association is a state wide organization representing the interests of our nearly 200 member companies.

The ATA believes that Alaska's huge energy supply must be harnessed to be delivered to Alaskans and to the world markets. The economic future of our state depends on providing systems to deliver gas to market. ATA supports funding for work that advances the knowledge base for future gas line construction. Recognizing that first gas from a pipeline will take several years, we also support short term solutions such as trucking LNG from Prudhoe Bay to Fairbanks and possibly other locations.

We urge you to take action to deliver gas to Alaskans and to the world markets.

Thank you.

Sincerely,



Aves Thompson

Executive Director



If you got it, a truck brought it...



RESOLUTION 2012-05

A Resolution Supporting Research of Transporting Natural Gas to Interior Alaska

Whereas, the Richardson Highway transportation corridor from Fairbanks in the Interior to tidewater in Valdez is home to over 110,000 Alaskans. It is the home of three major military facilities: Fort Wainwright near Fairbanks, Eielson Air Force Base near North Pole, and Fort Greely near Delta Junction.

Whereas, the Richardson has been the route of the Trans-Alaska Pipeline (TAPS) for over 30 years, yet our homes and businesses are starving for affordable energy.

Whereas, the Highway Interior needs affordable energy to heat people's homes and fuel their vehicles, but people need jobs too. The TAPS statutory policy of high oil producer taxation and selling State royalty oil for the highest dollar has produced a Permanent Fund Dividend that benefits all Alaskans equally, but has produced unsustainable energy expenses for the Interior.

Whereas, individuals get Permanent Fund Dividends every year, but our employers, businesses, schools, military bases, and other users get nothing but the high cost. Businesses are constrained or lost and with their disappearance comes empty houses and family out-migration.

Whereas, Eielson AFB will now possibly relocate a major portion of its functions with the loss of hundreds of jobs due to high cost of operations, a large part of which is energy cost related. Refining is uneconomic and Flint Hills Refinery is partially shut down due to the high cost of State royalty oil. Our electric cooperative, Golden Valley Electric Association, is now forced to sell electricity at over 20¢ a KWH due to the cost of State royalty oil.

Whereas, it is understood that Alaska is a very small market and that to properly amortize the cost of the TAPS pipeline a much bigger market is needed, thus the terminus in Valdez where the vast majority of oil is shipped to the world market. Tax policy and economies of scale thus produce the puzzling fact that much of the petroleum products used in the Interior are produced from TAPS oil that is shipped to the Lower 48, processed and transported back here to be sold at a price lower than is possible with local production.

Whereas, Alaskans have recognized for many years that the vast North Slope supply of natural gas holds the best promise of reasonably priced-energy for the Interior road system, provided that this gas can be brought to market in Alaska relatively inexpensively, which may well have to include a different tax and royalty gas pricing structure than what currently exists under TAPS.

Whereas, economic laws undoubtedly function similarly with natural gas, and a gas pipeline to the Lower 48 or to Valdez tidewater would have been built long ago by private enterprise venture capital if it were clearly profitable. However, it is particularly peculiar that Flint Hills and GVEA can combine to somewhat cut the cost of Interior energy production by building a processing plant on the North Slope and operating a fleet of tanker trucks to haul natural gas hundreds of miles over gravel roads to North Pole to replace their current feedstock coming straight out of the TAPS pipe.

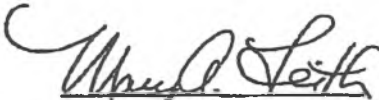
Whereas, it is also particularly peculiar that the Legislature would seriously consider using State dollars otherwise available for statewide capital projects to build a small diameter "bullet line" from the Slope to Anchorage that bypasses Fairbanks, North Pole, Delta Junction, Glennallen and Valdez when Anchorage clearly has nearby proven natural gas reserves of its own under a lower tax structure than TAPS.

Now therefore be it Resolved by the City of Delta Junction, that

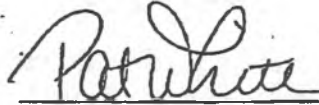
1. The City of Delta Junction, on behalf of the 5,000 residents of our area, hereby supports construction of a gas pipeline from the North Slope to the Interior and on to Valdez tidewater along the Richardson Highway corridor, with a potential arm from Glennallen to Anchorage.
2. That natural gas be made available in the Interior to businesses, schools, electric cooperatives, military bases, and individual consumers at a reasonable rate so as to reduce the current uneconomic cost of energy.
3. That we go on record as opposing construction of a "bullet line" constructed with State dollars to serve mainly Anchorage and outlying communities.

PASSED AND APPROVED this 19th day of June 2012.

ROLL CALL	YES	NO	ABSENT	ABSTAIN
Seat A: Leith	x			
Seat B: Musgrove	x			
Seat C: Saarloos	x			
Seat D: Stebbins			x	
Seat E: Grossmann	x			
Seat F: Porter	x			
Seat G: Hallgren	x			


 Mary Leith, Mayor




 Pat White, City Clerk

CITY OF VALDEZ, ALASKA

RESOLUTION 13-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ,
ALASKA OPPOSING HOUSE BILL FOUR (HB4) OF THE TWENTY-
EIGHTH ALASKA STATE LEGISLATURE AND THE ASAP GASLINE
IT WOULD PROMOTE

Whereas natural gas reserves in Southcentral Alaska are dwindling; and

Whereas interior Alaska and rural communities off the existing gas grid are paying the highest energy costs in the country; and

Whereas 90 percent of state revenues are dependent on declining oil production, creating a desperate need for new sources of state revenue; and

Whereas House Bill 4 (HB4) currently being considered by the Alaska Legislature, is the enabling legislation for the Alaska Stand Alone Pipeline (ASAP) concept; a state subsidized, thin-walled, low-volume, low-pressure gas pipeline that will ultimately cost upwards of \$10 billion to build; and

Whereas the HB4 - ASAP project will not generate any new revenues for Alaska; and

Whereas the Alaska Constitution states that our resources must be developed for the maximum benefit of all Alaskans, yet the HB4 - ASAP project will limit benefits of our North Slope gas resources to only about 50 percent of Alaska's residents; and

Whereas the so-called "ASAP" line will take upwards of 10 years to build and is therefore not a short-term solution and will not do anything to solve the state's immediate energy needs; and

Whereas according to the HB4 - ASAP project plan, energy costs for residents of Southcentral Alaska will increase significantly under this small-volume project (example: Anchorage under ASAP would be \$9 - \$11.25/MMBtu, current price ~\$8.60/MMBtu); and

Whereas the HB4 - ASAP project will leave the valuable gas liquids (propane, butane, etc) stranded on the North Slope, depriving the state of the thousands of high-paying, long-term jobs these resources represent; and

Whereas HB4 will exempt the Alaska Gasline Development Corporation (AGDC) from public records laws, removing any responsibility to operate with transparency and

public oversight and will consolidate the gas pipeline decision-making process entirely into AGDC, removing the checks and balances that should be provided by the public, the governor and the legislature; and

Whereas there is a far better alternative to the HB4 - ASAP project; and

Whereas building a Maximum Volume Pipeline (MVP) fulfills the voter mandate of 2002, when Alaskans overwhelmingly voted in favor of a large state owned gas pipeline to tidewater (AS 41.41.010); and

Whereas the Maximum Volume Pipeline (MVP) is an 800-mile, large-volume gas pipeline from Prudhoe Bay to tidewater in Southcentral that is consistent with the project currently being pursued by the North Slope Oil Producers and the State of Alaska under the AGIA process; and

Whereas a Maximum Volume Pipeline will deliver the cheapest possible energy to all Alaskans through the economies of scale that become possible due to exports; and

Whereas the LNG exports associated with a MVP project could generate State revenues between \$220 billion and \$419 billion over the life of the project. These annual State revenues from the MVP project are projected to start at \$2.4 billion in the first year and climb each year to \$24 billion in year 30; and

Whereas revenues generated by a MVP project, could continue to fund critical state programs, such as education, transportation, and public safety, despite future projections of falling state oil revenues; and

Whereas during the last Open Season in September of 2012, letters of interest were received from the Asian market indicating their desire to purchase Alaskan liquefied natural gas (LNG) at quantities equal to twice the amount needed to make the MVP project commercially viable; and

Whereas because a liquefied natural gas (LNG) terminal is included in a Maximum Volume Pipeline project, it will provide opportunities to ship affordable energy to communities all across Alaska; and

Whereas the MVP project has always enjoyed bipartisan support, with proponents including the late Alaska statesmen Gov. Bill Egan, Gov. Jay Hammond, Gov. Wally Hickel, and U.S. Sen. Ted Stevens; and

Whereas the HB4 - ASAP concept is a dangerous diversion that draws time, attention and resources away from the large-volume project that Alaska truly needs; and

Whereas it is completely unrealistic to assume that two multi-billion dollar gas pipeline projects will be developed within the next 20-year timeframe; and

Whereas if the HB4 - ASAP concept goes forward, we will lose the opportunity for a Maximum Volume Pipeline (MVP) that can generate long-term revenue, create long-term jobs, and provide affordable energy for all Alaskans for generations to come.

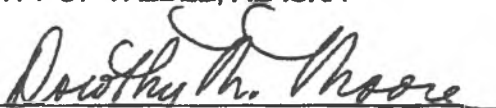
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that

Section 1. The City Council **strongly** urges the Alaska State Legislature to defeat House Bill 4 and/or any substantially similar legislation; and to support legislation that facilitates the development of a large volume, high pressure, natural gas pipeline to tidewater; one which includes transportation of all gas liquids, enables distribution of energy throughout the state, and supports exports sufficient to generate meaningful future state revenues.

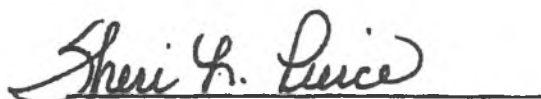
Section 2. This resolution is effective upon adoption and is to be immediately transmitted to every member of the Alaska State Legislature, the House and Senate Resource Committees, the House and Senate Finance Committees, the House Special Committee on Energy, the Senate Special Committee on In-state Energy, and Governor Sean Parnell.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 18th day of March, 2013.

CITY OF VALDEZ, ALASKA


Dorothy M. Moore, Mayor Pro Tempore

ATTEST:


Sheri L. Pierce, MMC, City Clerk



From: delta meat
Sent: Wednesday, April 03, 2013 12:29 PM
To: Sen. Cathy Giessel
Cc: Sen. Click Bishop; Peter Fellman
Subject: HB4

Senator Giessel:

Please forward this message to all of the Senators as I would hope that they would have more common sense than the Representatives that just voted for HB 4.

How much studying can be done? Why are you are willing to waste another \$400 Million on another study and that is all you are going to get is another study!!

Use your head and our money wisely. Immediate results would be to use the \$400M to pay for the distribution and trucking infrastructure to get gas immediately going via trucking. This projects can be built significantly faster and cheaper than the ASAP line and will give the flexibility to continue the MVP project that would benefit ALL Alaskans!!

I would rather see HB 4 dropped versus voting for another 400M study and no project developed! Then we could work on the immediate solution of trucking LNG and getting some relief coming in to help with these high energy costs. Get your gloves on beat this bill down!

Sincerely,

Jeannie Pinkelman

Delta Junction, Alaska

Regulatory Timeline

