

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3217

1 exercising the state's right to switch between taking its royalty in value or in kind for  
2 gas committed for firm transportation in the first binding open season of the project.

3 (c) To claim the inducement under (b) of this section, a lessee or other person  
4 qualified under AS 43.90.300 shall agree, on an application form provided by the  
5 Department of Natural Resources, that the lessee or other person, and the lessee's or  
6 other person's affiliates, successors, assigns, and agents will not protest or appeal a  
7 filing by the licensee to roll in expansion costs of the mainline up to a level that is  
8 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not  
9 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of  
10 the expansion of the project. The agreement not to protest may not preclude the lessee  
11 or other person, or the lessee's or other person's affiliates, successors, assigns, and  
12 agents from protesting a filing to roll in mainline expansion costs that licensee is not  
13 required to propose and support under AS 43.90.130(7).

14 (d) The commissioner of natural resources shall provide for review of the  
15 regulations adopted under (a) of this section at least every two years after the  
16 commencement of commercial operations to determine whether the regulations  
17 continue to meet the requirements of (a) of this section under current conditions, and  
18 shall amend the regulations when the requirements are not being met.

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

23 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for  
24 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is  
25 entitled to an annual exemption from the state's gas production tax in an amount equal  
26 to the difference between the amount of the person's gas production tax obligation  
27 calculated under the gas production tax in effect during that tax year and the amount of  
28 the person's gas production tax obligation calculated under the gas production tax in  
29 effect at the start of the first binding open season held under this chapter. If the  
30 difference is less than zero, the gas production tax exemption is zero.

31 (b) The exemption under this section may be applied within 10 years

1 immediately following commencement of commercial operations and only applied to  
2 production taxes that are levied on North Slope gas shipped through firm  
3 transportation capacity the person acquired during the first binding open season or  
4 shipped in the firm transportation capacity described in a voucher received by the gas  
5 producer under AS 43.90.330.

6 (c) The person claiming the exemption under this section shall agree that the  
7 person, and the person's affiliates, successors, assigns, and agents, will not protest or  
8 appeal a filing by the licensee to roll in mainline expansion costs up to the level that  
9 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
10 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
11 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
12 required under this subsection may not preclude the person, or the person's affiliates,  
13 successors, assigns, and agents, from protesting a filing to roll in mainline expansion  
14 costs that the licensee is not required to propose and support under AS 43.90.130(7).

15 (d) In this section, "gas production tax" means the tax levied on the production  
16 of gas under AS 43.55.

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

23 (b) A voucher issued by the commissioners under this section entitles the  
24 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for  
25 gas shipped in the firm transportation capacity acquired by the person applying for the  
26 voucher during the first binding open season of the project and described in the  
27 voucher. The voucher may be transferred to a gas producer that has a binding  
28 obligation to sell gas to the person transferring the voucher under a gas purchase  
29 agreement.

30 (c) A gas producer holding a voucher may claim the resource inducements for  
31 gas shipped through the firm transportation capacity described in the voucher and only

1 on gas that is produced and delivered to the purchaser on the North Slope. A gas  
 2 producer may claim the resource inducements under this subsection until the earlier of  
 3 the termination of the binding gas purchase agreement or the expiration of the  
 4 inducements by operation of law.

5 (d) A person that receives a voucher under this section and a gas producer that  
 6 receives resource inducements under a voucher shall agree that the person and the gas  
 7 producer and their respective affiliates, successors, assigns, or agents will not protest  
 8 or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that  
 9 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
 10 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
 11 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
 12 required under this subsection may not preclude the person or gas producer or their  
 13 respective affiliates, successors, assigns, or agents from protesting a filing to roll-in  
 14 mainline expansion costs that the licensee is not required to propose and support under  
 15 AS 43.90.130(7).

#### 16 Article 4. Miscellaneous Provisions.

17 Sec. 43.90.400. Alaska Gasline Inducement Act ~~matching~~ *House*  
 18 ~~contribution~~ reimbursement fund; disbursements; audits. (a) There is established  
 19 in the general fund an Alaska Gasline Inducement Act ~~matching~~ *House*  
 20 ~~contribution~~ reimbursement fund. The fund consists of money appropriated to it by the  
 21 legislature for disbursement to pay the state's ~~matching-contributions~~ reimbursements *House*  
 22 under AS 43.90.110. Money appropriated to the fund may be spent for the purposes of  
 23 the fund without further appropriation. Appropriations to the fund do not lapse under  
 24 AS 37.25.010, but remain in the fund for future disbursements. Nothing in this  
 25 subsection creates a dedicated fund.

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

30 (c) The commissioners shall adopt regulations that provide for application to  
 31 receive ~~matching-contributions-in-the-form-of-reimbursements~~ for qualified *House*

1 expenditures as provided under AS 43.90.110, and that provide for periodic audits of  
 2 the use of money disbursed as ~~matching contributions~~ reimbursements under this <sup>House</sup>  
 3 chapter.

4 (d) Within 10 days after the convening of each regular session of the  
 5 legislature, the commissioners shall submit to the legislature a report that lists all the  
 6 disbursements from the fund during the preceding fiscal year with a written  
 7 justification for each disbursement and the projected amount of money that will be  
 8 required for ~~contributions~~ reimbursements in each of the next three fiscal years. <sup>House</sup>

9 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt or amend  
 10 regulations for the purpose of implementing the provisions of this chapter. The  
 11 commissioner of revenue and the commissioner of natural resources may adopt or  
 12 amend regulations adopted under authority outside of this chapter as necessary to  
 13 implement the provisions of this chapter.

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

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

21 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise  
 22 provided in this chapter, the state grants a licensee assurances that the licensee has  
 23 exclusive enjoyment of the inducements provided under this chapter before the  
 24 commencement of commercial operations. If, before the commencement of  
 25 commercial operations, the state extends to another person preferential royalty or tax  
 26 treatment or grant of state money for the purpose of facilitating the construction of a  
 27 competing natural gas pipeline project in this state, and if the licensee is in compliance  
 28 with the requirements of the license and with the requirements of state and federal  
 29 statutes and regulations relevant to the project, the licensee is entitled to payment from  
 30 the state of an amount equal to three times the total amount of the expenditures  
 31 incurred and paid by the licensee that are qualified expenditures for the purposes of .

1 AS 43.90.110 that the licensee incurred in developing the licensee's project before the  
2 date that the state first extended preferential treatment to another person. The payment  
3 under this subsection is subject to appropriation. Upon payment by the state of the  
4 amount owed under this section, the licensee shall, at no additional cost to the state,  
5 assign to the state or the state's designee all engineering designs, contracts, permits,  
6 and other data related to the project that were acquired by the licensee during the term  
7 of the license. The payment under this subsection is in full satisfaction of all claims  
8 the licensee may bring in contract, tort, or other law related to the events that gave rise  
9 to the payment.

10 (b) The review, processing, or facilitation of a permit, right-of-way, or  
11 authorization by a state agency in connection with a competing natural gas pipeline  
12 project does not create an obligation on the part of the state under this section.

13 (c) In this section,

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

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

18 (A) the state's exercise of its right to resolve disputes involving  
19 royalties and taxes; or

20 (B) the state's exercise of its right to modify royalties as  
21 authorized by law in effect on the effective date of this section.

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

27 (1) the transfer is approved in writing in advance by the  
28 commissioners; and

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

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

5 (c) A person may transfer that person's rights to the royalty inducement under  
 6 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in  
 7 connection with a sale or merger that results in transfer of all the person's assets in the  
 8 North Slope along with the person's firm transportation capacity contracts in the  
 9 project.

10 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),  
 11 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of  
 12 firm transportation capacity in the first binding open season of the project may transfer  
 13 the voucher only if the transfer is in connection with the permanent assignment by the  
 14 person of 100 percent of the firm transportation capacity acquired in the first binding  
 15 open season of the project.

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

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

### 23 **Article 5. General Provisions.**

24 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise  
 25 requires,

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

29 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"  
 30 means the person appointed under AS 43.90.250;

31 (3) "applicant" means a person or group of persons that files an

1 application for a license;

2 (4) "certificate of public convenience and necessity" and "certificate"  
 3 ~~mean~~means a certificate of public convenience and necessity issued by the Federal *Senate*  
 4 Energy Regulatory Commission or the Regulatory Commission of Alaska, ~~and~~ or an *Senate*  
 5 amendment to a certificate of public convenience and necessity issued by the Federal  
 6 Energy Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas  
 7 Transportation Act of 1976);

8 (5) "commencement of commercial operations" means the first flow of  
 9 gas in the project that generates revenue to the owners;

10 (6) "commissioners" means the commissioner of revenue and the  
 11 commissioner of natural resources, acting jointly;

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

16 (8) "equity holder" means the

17 (A) stockholders of a corporation;

18 (B) members of a limited liability company;

19 (C) partners of a partnership;

20 (D) joint venturers of a joint venture;

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

22 or

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

24 (9) "gas treatment plant" means a facility downstream of the point of  
 25 production that conditions gas and removes nonhydrocarbon substances from the gas  
 26 for the purpose of rendering the gas acceptable for tender and acceptance into a gas  
 27 pipeline system.

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

- 1 (11) "lease" means an oil and gas, or gas, lease issued by this state;
- 2 (12) "lessee" means a person that holds a working interest in an oil and  
3 gas, or gas, lease issued by this state;
- 4 (13) "license" means a license issued under this chapter;
- 5 (14) "licensee" means the holder of a license issued under this chapter  
6 and all affiliates, successors, assigns, and agents of the holder;
- 7 (15) "net present value" means the discounted value of a future stream  
8 of cash flow;
- 9 (16) "North Slope" means that part of the state that lies north of 68  
10 degrees North latitude;
- 11 (17) "open season" means the process that complies with 18 C.F.R.  
12 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or  
13 a similar procedure~~process~~ for soliciting commitments for pipeline capacity under the *House*  
14 regulations, policies, rules, or precedent of the Regulatory Commission of Alaska;
- 15 (18) "point of production" has the meaning given in AS 43.55.900;
- 16 (19) "project" means a natural gas pipeline project authorized under a  
17 license issued under this chapter;
- 18 (20) "proprietary," when used to describe information, means that the  
19 information is treated by an applicant as confidential and the public disclosure of that  
20 information would adversely affect the competitive position of the applicant or  
21 materially diminish the commercial value of the information to the applicant;
- 22 (21) "recourse rates" means cost-based rates with a minimum and  
23 maximum range that are approved by the Federal Energy Regulatory Commission, the  
24 Regulatory Commission of Alaska, or the National Energy Board of Canada, as  
25 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those  
26 rates that the pipeline must make available to all shippers;
- 27 (22) "sanction" means to make financial commitments to go forward  
28 with the project as evidenced by entering into financial commitments of at least  
29 \$1,000,000,000 with third parties;
- 30 (23) "trade secret" has the meaning given in AS 45.50.940;
- 31 (24) "under common control with" has the meaning given "control" in

1 this section;

2 (25) "unit agreement" means an agreement executed by the working  
3 interest owners and royalty owners creating the unit.

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

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

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

10 \* Sec. 3. AS 38.05.020(b) is amended to read:

11 (b) The commissioner may

12 (1) establish reasonable procedures and adopt reasonable regulations  
13 necessary to carry out this chapter and, whenever necessary, issue directives or orders  
14 to the director to carry out specific functions and duties; regulations adopted by the  
15 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);  
16 orders by the commissioner classifying land, issued after January 3, 1959, are not  
17 required to be adopted under AS 44.62 (Administrative Procedure Act);

18 (2) enter into agreements considered necessary to carry out the  
19 purposes of this chapter, including agreements with federal and state agencies;

20 (3) review any order or action of the director;

21 (4) exercise the powers and do the acts necessary to carry out the  
22 provisions and objectives of this chapter;

23 (5) notwithstanding the provisions of any other section of this chapter,  
24 grant an extension of the time within which payments due on any exploration license,  
25 lease, or sale of state land, minerals, or materials may be made, including payment of  
26 rental and royalties, on a finding that compliance with the requirements is or was  
27 prevented by reason of war, riots, or acts of God;

28 (6) classify tracts for agricultural uses;

29 (7) after consulting with the Board of Agriculture and Conservation  
30 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements  
31 of a contract for the sale of agricultural land if

1 (A) the land is inaccessible by road; or  
 2 (B) transportation, marketing, and development costs render  
 3 the required development uneconomic;

4 (8) reconvey or relinquish land or an interest in land to the federal  
 5 government if

6 (A) the land is described in an amended application for an  
 7 allotment under 43 U.S.C. 1617; and

8 (B) the reconveyance or relinquishment is

9 (i) for the purposes provided in 43 U.S.C. 1617; and

10 (ii) in the best interests of the state;

11 (9) lead and coordinate all matters relating to the state's review and  
 12 authorization of resource development projects;

13 (10) exercise the powers and do the acts necessary to carry out the  
 14 provisions and objectives of AS 43.90 that relate to this chapter.

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

16 (41) the Alaska Gasline Inducement Act coordinator appointed under  
 17 AS 43.90.250.

18 \* Sec. 5. AS 40.25.120(a) is amended to read:

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

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

23 (2) records pertaining to juveniles unless disclosure is authorized by  
 24 law;

25 (3) medical and related public health records;

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

28 (5) to the extent the records are required to be kept confidential under  
 29 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
 30 or retain federal assistance;

31 (6) records or information compiled for law enforcement purposes, but

1 only to the extent that the production of the law enforcement records o. information

2 (A) could reasonably be expected to interfere with enforcement  
3 proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (12) records that are

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

14 (B) applications that are received under AS 43.90 until  
15 notice is published under AS 43.90.160.

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

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

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

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

30 \* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

1 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
2 of it to any person or circumstance, is held invalid, the remainder of this Act and the  
3 application to other persons or circumstances are no affected.  
4 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

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

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

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

House

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

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

8 Chapter 90. Alaska Gasline Inducement Act.

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

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

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

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

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

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

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

9 **Sec. 43.90.100. Gas project.** (a) The commissioners may award an Alaska  
10 Gasline Inducement Act license as provided in this chapter. The person awarded a  
11 license under this chapter is entitled to the inducement set out in AS 43.90.110.

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

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

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

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

28 (B) after the close of the first binding open season, the state  
29 shall reimburse the licensee's qualified expenditures at the level specified in  
30 the license; however, the state's reimbursements may not exceed 90 percent of  
31 the qualified expenditures incurred after the close of the first binding open

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season;

(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; and

Senate

Senate

(2) the benefit of an Alaska Gasline Inducement Act coordinator who has the authority prescribed in AS 43.90.250.

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

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

(b) The commissioners may use independent contractors to assist them in developing the request for applications and in evaluating applications received under this chapter.

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

**Sec. 43.90.130. Application requirements.** An application for a license must be consistent with the terms of the request for applications under AS 43.90.120 and must

(1) be filed by the deadline established by the commissioners in the request for applications;

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

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

5 (A) the route proposed for the natural gas pipeline, which may  
6 not be the route described in AS 38.35.017(b);

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

11 (C) an analysis of the project's economic and technical  
12 viability, including a description of all pipeline access and tariff terms the  
13 applicant plans to offer;

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

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

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

1 services by third parties; a detailed description of all proposed access  
2 and tariff terms for liquefaction services or, if third parties would  
3 perform liquefaction services, identification of the third parties and the  
4 terms applicable to the liquefaction services; a complete description of  
5 the marine segment of the project including the proposed ownership,  
6 control, and cost of liquefied natural gas tankers, the management of  
7 shipping services, liquefied natural gas export, destination, re-  
8 gasification facilities, and pipeline facilities needed for transport to  
9 market destinations, and the entity or entities that would be required to  
10 obtain necessary export permits and licenses or a certificate of public  
11 convenience and necessity from the Federal Energy Regulatory  
12 Commission for the transportation of liquefied natural gas in interstate  
13 commerce if United States markets are proposed; and all rights-of-way  
14 or authorizations required from a foreign country;

15 (3) commit that if the proposed project is within the jurisdiction of the  
16 Federal Energy Regulatory Commission, the applicant will

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

21 (B) apply for Federal Energy Regulatory Commission approval  
22 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,  
23 and use those procedures before filing an application for a certificate of public  
24 convenience and necessity, except where the procedures are not required as a  
25 result of sec. 5 of the President's Decision issued under 15 U.S.C. 719 et seq.  
26 (Alaska Natural Gas Transportation Act of 1976); and

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

31 (4) if the proposed project is within the jurisdiction of the Regulatory

1 Commission of Alaska, commit to

2 (A) conclude, by a date certain that is not later than 36 months  
3 after the date the license is issued, a binding open season that is consistent with  
4 the requirements of AS 42.06; and

5 (B) apply for a certificate of public convenience and necessity  
6 to authorize the construction and operation of the proposed project by a date  
7 certain;

8 (5) commit that after the first binding open season, the applicant will  
9 assess the market demand for additional pipeline capacity at least every two years  
10 through public nonbinding solicitations or similar means;

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

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

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

25 (7) commit that the applicant

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

31 (B) will propose and support the recovery of mainline capacity

1 expansion costs, including fuel costs, from all mainline system users through  
2 rolled-in rates; an applicant is obligated under this subparagraph only if the  
3 rolled-in rates would increase the rates

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

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

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

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

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described in (B) of this paragraph;

(D) may, for the recovery of mainline capacity expansion costs, including fuel costs, that, under rolled-in rate treatment, would result in rates that exceed the level in (B) of this paragraph, propose and support the recovery of those costs through any combination of incremental and rolled-in rates;

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

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

(9) propose a percentage and total dollar amount for the state's reimbursement under AS 43.90.110(a)(1)(A) and (B) to be specified in the license;

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

(11) describe the means for preventing and managing overruns in costs

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1 of the proposed project, and the measures for minimizing the effects on tariffs from  
2 any overruns;

3 (12) commit to provide a minimum of five delivery points of natural  
4 gas in this state;

5 (13) commit to

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

11 (B) offer distance-sensitive rates to delivery points in the state  
12 consistent with 18 C.F.R. 157.34(c)(8);

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

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

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

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

20 (C) establish hiring facilities or use existing hiring facilities in  
21 the state; and

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

25 (16) waive the right to appeal the rejection of the application as  
26 incomplete, the issuance of a license to another applicant, or the determination under  
27 AS 43.90.180(b) that no application merits the issuance of a license;

28 (17) commit to negotiate, before construction, a project labor  
29 agreement to the maximum extent permitted by law; in this paragraph, "project labor  
30 agreement" means a comprehensive collective bargaining agreement between the  
31 licensee or its agent and the appropriate labor representatives to ensure expedited

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1 construction with labor stability for the project by qualified residents of the state;

2 (18) commit that the state reimbursement received by a licensee may  
3 not be included in the applicant's rate base, and shall be used as a credit against  
4 licensee's cost of service;

5 (19) provide a detailed description of the applicant, all entities  
6 participating with the applicant in the application and the project proposed by the  
7 applicant, and persons the applicant intends to involve in the construction and  
8 operation of the proposed project; the description must include the nature of the  
9 affiliation for each person, the commitments by the person to the applicant, and other  
10 information relevant to the commissioners' evaluation of the readiness and ability of  
11 the applicant to complete the project presented in the application;

12 (20) demonstrate the readiness, financial resources, and technical  
13 ability to perform the activities specified in the application by describing the  
14 applicant's history of compliance with safety, health, and environmental requirements,  
15 the ability to follow a detailed work plan and timeline, and the ability to operate within  
16 an associated budget.

17 **Sec. 43.90.140. Initial application review; additional information requests;**  
18 **complete applications.** (a) After the deadline established by the commissioners for  
19 filing an application has passed, the commissioners shall open and review each  
20 application to determine whether it is consistent with the terms of the request for  
21 applications and meets the requirements of AS 43.90.130. The commissioners shall  
22 reject as incomplete an application that does not meet the requirements of  
23 AS 43.90.130.

24 (b) To evaluate whether an application should be rejected under (a) of this  
25 section, the commissioners may request additional information relating to the  
26 application.

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

30 (d) For an application not rejected under this section, the commissioners shall  
31 make a determination that the application, including any requested additional

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1 information, is complete.

2 (e) Except as provided under AS 43.90.150, and after determining which  
3 applications are complete, the commissioners shall make all applications available to  
4 the legislature.

5 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the  
6 request of the applicant, information submitted under this chapter that the applicant  
7 identifies and demonstrates is proprietary or is a trade secret is confidential and not  
8 subject to public disclosure under AS 40.25. After a license is awarded, all  
9 information submitted by the licensee, retained under this chapter, and not determined  
10 by the commissioners to be a proprietary or trade secret, shall be made public.

11 (b) If the commissioners determine that the information submitted by the  
12 applicant is not proprietary or is not a trade secret, the commissioners shall notify the  
13 applicant and return the information at the request of the applicant.

14 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall  
15 publish notice and provide a 60-day period for public review and comment on all  
16 applications determined complete under AS 43.90.140. Except as provided under  
17 AS 43.90.150, all applications filed under this chapter shall be made public, including  
18 applications rejected as incomplete under AS 43.90.140.

19 (b) Applications received under this chapter are not subject to public  
20 disclosure under AS 40.25 until the commissioners publish notice under this section.  
21 However, information that the commissioners have determined is proprietary or a  
22 trade secret under AS 43.90.150 may not be made public even after the notice is  
23 published under (a) of this section, except as otherwise provided in AS 43.90.150. If  
24 information is proprietary or a trade secret and is held confidential under  
25 AS 43.90.150, the applicant shall provide a summary of the confidential information  
26 that is satisfactory to the commissioners, and the commissioners shall make the  
27 summary of the information available to the public.

28 (c) After the commissioners determine that the applications are complete  
29 under AS 43.90.140, information provided by an applicant to the commissioners under  
30 this chapter, including information determined by the commissioners to be  
31 confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal

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1 analyst who serves as head of the legislative finance division, members of the  
2 legislature, and their respective agents and contractors, on request and after the  
3 individual making the request signs a confidentiality agreement prepared by the  
4 commissioners.

5 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners  
6 shall evaluate all applications determined to be complete under AS 43.90.140,  
7 consider public comments received under AS 43.90.160(a), and rank each application  
8 according to the net present value of the anticipated cash flow to the state from the  
9 applicant's project proposal using the factors in (b) of this section and weighted by the  
10 project's likelihood of success based on the commissioners' assessment of the factors  
11 listed in (c) of this section.

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

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

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

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

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

24 (5) the amount of the reimbursement by the state under  
25 AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9);

26 (6) economic value resulting from payments required to be made to the  
27 state under the terms of the proposal; and

28 (7) other factors found by the commissioners to be relevant to the  
29 evaluation of the net present value of the anticipated cash flow to the state.

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

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

6 (2) the financial resources of the applicant;

7 (3) the ability of the applicant to comply with the proposed  
 8 performance schedule;

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

12 (5) the applicant's record of

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

14 (B) integrity and good business ethics; and

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

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

23 (1) issue a determination, with written findings addressing the basis for  
 24 the determination; the determination becomes a final agency action on the effective  
 25 date of a bill approving the issuance of the license under AS 43.90.190;

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

28 (3) forward the notice under (2) of this subsection, along with the  
 29 findings, supporting documentation, and determination under (1) of this subsection, to  
 30 the presiding officer of each house of the legislature for action as provided in  
 31 AS 43.90.190.

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

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

8 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the  
 9 presiding officer of each house of the legislature receives a determination from the  
 10 commissioners under AS 43.90.180, the rules committee of each house of the  
 11 legislature shall introduce a bill in the committee's respective chamber that provides  
 12 for the approval of the license proposed to be issued by the commissioners.

13 (b) If a bill approving the issuance of the license passes the legislature within  
 14 60 days after the last date a presiding officer receives a determination by the  
 15 commissioners under AS 43.90.180, the commissioners shall issue the license as soon  
 16 as practicable after the effective date of the Act approving the issuance of the license.

17 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after  
 18 the end of a special session or after the end of a regular session of a legislature, a bill  
 19 introduced under (a) of this section that is not passed or not withdrawn, defeated,  
 20 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or  
 21 special legislative session convened during the 60-day period described in (b) of this  
 22 section in the same reading or status it was in at the time of adjournment. However, a  
 23 bill introduced under (a) of this section may not be carried over to the first regular  
 24 session of a legislature.

25 (d) If the legislature fails to approve the issuance of the license, the  
 26 commissioners

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

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

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

30 (a) A licensee that is awarded a certificate of public convenience and necessity from a  
 31 regulatory agency with jurisdiction over the project shall accept the certificate on or

1 before the date the order granting the certificate is no longer subject to judicial review.

2 (b) If the licensee has credit support sufficient to finance construction of the  
3 project through ownership of rights to produce and market gas resources, firm  
4 transportation commitments, or government financing, the licensee shall sanction the  
5 project within one year after the effective date of the certificate of public convenience  
6 and necessity issued by the regulatory agency with jurisdiction over the project.

7 (c) If the licensee does not have credit support sufficient to finance  
8 construction of the project through ownership of rights to produce and market gas  
9 resources, firm transportation commitments, or government financing, the licensee  
10 shall sanction the project before the later of

11 (1) two years after the effective date of the certificate of public  
12 convenience and necessity issued by the regulatory agency with jurisdiction over the  
13 project; or

14 (2) five years after the close of the first binding open season of the  
15 project.

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

18 (1) seek approval from the Federal Energy Regulatory Commission or  
19 the Regulatory Commission of Alaska, as applicable, to abandon and transfer the  
20 certificate to the state or the state's designee; and

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

24 (e) The transfer and assignments under (d) of this section as a result of failure  
25 to comply with (a) or (b) of this section are at no cost to the state or the state's  
26 designee. A transfer under (c) of this section shall be subject to the state's payment to  
27 the licensee of the net amount of expenditures incurred and paid by the licensee that  
28 are qualified expenditures for the purposes of AS 43.90.110.

29 (f) In this section, "effective date of the certificate of public convenience and  
30 necessity" means the earlier of the date the order granting the certificate is no longer  
31 subject to judicial review, or the date the licensee accepts the certificate.

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1           **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject  
 2 to the approval of the commissioners, a licensee may amend or modify its project plan  
 3 if the amendments or modifications improve the net present value of the project to the  
 4 state, are necessary because of an order or requirement by a regulatory agency with  
 5 jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission,  
 6 or the amendment or modification is necessary because of changed circumstances  
 7 outside the licensee's control and not reasonably foreseeable before the license was  
 8 issued. An amendment or modification approved under this section must be consistent  
 9 with the requirements of AS 43.90.130 and, except for an amendment or modification  
 10 required because of an order or requirement of a regulatory agency with jurisdiction  
 11 over the project or by the Alaska Oil and Gas Conservation Commission, may not  
 12 substantially diminish the value of the project to the state or the project's likelihood of  
 13 success.

14           **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A  
 15 licensee shall maintain complete and accurate records of all expenditures and  
 16 commitments of state money received under this chapter, including receipts and  
 17 records showing the payment or cost of purchased items and services, the names and  
 18 addresses of the sellers and service providers, and the dates of service or delivery.

19           (b) Upon reasonable notice, the commissioners may audit the records, books,  
 20 and files of the entity receiving the state money or making the expenditures and  
 21 commitments of money received from the state under this chapter.

22           (c) The commissioners may do the following with respect to information  
 23 relating to the project: conduct hearings or other investigative inquiries; compel the  
 24 attendance of witnesses and production of documents; and require the licensee to  
 25 furnish information in paper copy or electronic format.

26           (d) After a license has been issued and until commencement of commercial  
 27 operations of a natural gas pipeline, the licensee shall allow the commissioners to

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

30           (2) receive all relevant notices and information when and as sent to the  
 31 governing body or bodies and equity holders;

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

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

5 (c) All proprietary information, privileged information, and trade secrets  
6 received by the commissioners or their representative under (d) of this section are not  
7 subject to public disclosure under AS 40.25.

8 (f) A licensee shall maintain the records and reports required under this  
9 section for seven years from the date the licensee receives state money under this  
10 chapter.

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

13 (1) requested and received money from the state under this chapter for  
14 an expenditure that is not a qualified expenditure under AS 43.90.110;

15 (2) except as required to conform with a requirement of a regulatory  
16 agency with jurisdiction over the project, substantially departed from the  
17 specifications set out in the application without state approval of a project plan  
18 amendment or modification under AS 43.90.210;

19 (3) violated any provision of this chapter or any other provision of  
20 state or federal law material to the license;

21 (4) failed to accept a certificate as required under AS 43.90.200(a) or  
22 failed to sanction the project as required under AS 43.90.200(b); or

23 (5) otherwise violated a material term of the license.

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

27 (c) The commissioners may suspend disbursement of state reimbursements to  
28 the licensee beginning on the date that the notice of violation issued under (b) of this  
29 section is sent to the licensee. The commissioners may resume disbursement on the  
30 date that the commissioners determine that the violation is cured.

31 (d) If the commissioners and the licensee are unable to resolve the violation

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1 within the period described in (b) of this section, the commissioners shall notify the  
 2 licensee that the violation has not been cured and provide the licensee with an  
 3 opportunity to be heard. If, after notice and hearing, the commissioners determine that  
 4 the violation has not been cured, the commissioners shall issue a written decision that  
 5 is a final administrative action for purposes of appeal to the superior court in the state.

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

8 (1) discontinuation of state reimbursements under this chapter; House

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

12 (3) license revocation;

13 (4) assignment to the state or the state's designee of all engineering  
 14 designs, contracts, permits, and other data related to the project that are acquired by  
 15 the licensee during the term of the license; and

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

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

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

31 (1) uneconomic, the state and the licensee no longer have an obligation

1 under this chapter with respect to the license, except for requirements imposed on the  
2 licensee under (e) of this section and AS 43.90.220; or

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

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

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

11 (2) predicted costs of transportation at a 100 percent load factor, when  
12 deducted from predicted gas sales revenue using publicly available predictions of  
13 future gas prices, would result in a producer rate of return that is below the rate  
14 typically accepted by a prudent oil and gas exploration and production company for  
15 incremental upstream investment that is required to produce and deliver gas to the  
16 project.

17 (d) If the state makes a payment to the licensee under AS 43.90.440, the  
18 license is considered abandoned, and the state and the licensee no longer have any  
19 obligations under this chapter with respect to the license, except that the licensee must  
20 comply with the

21 (1) requirements imposed on the licensee under AS 43.90.220  
22 regarding state money received by the licensee before the license was considered  
23 abandoned; and

24 (2) requirements of AS 43.90.440.

25 (e) If the commissioners and the licensee agree that the project is uneconomic  
26 or an arbitration panel makes a final determination that the project is uneconomic, the  
27 licensee shall, upon the state's request, transfer to the state or the state's designee all  
28 engineering designs, contracts, permits, and other data related to the project that are  
29 acquired by the licensee during the term of the license upon reimbursement by the  
30 state of the net amount of expenditures incurred and paid by the licensee that are  
31 qualified expenditures for the purposes of AS 43.90.110.



1 receive the resource inducement in AS 43.90.310 and 43.90.320 for the gas shipped in  
 2 the firm transportation capacity described in the voucher for the period described in  
 3 AS 43.90.330.

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

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

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

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

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

24 (C) reasonable and actual costs for gas processing; in this  
 25 subparagraph, "gas processing" means post-production treatment of gas to  
 26 extract natural gas liquids; and

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

29 (3) establish terms under which the state will exercise its authority to  
 30 switch between taking its royalty gas in value and in kind to ensure that the state's  
 31 actions do not unreasonably

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

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

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

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

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

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

22 (2) to enter into a contract with the state that amends the existing lease  
23 terms by providing a mechanism that ensures that, when the state exercises its right to  
24 switch between taking its royalty in value or in kind for gas committed for firm  
25 transportation in the first binding open season of the project, the lessee or other person  
26 does not bear disproportionate transportation costs with respect to the state's royalty  
27 gas; and by modifying the required period of notice that the state must provide before  
28 exercising the state's right to switch between taking its royalty in value or in kind for  
29 gas committed for firm transportation in the first binding open season of the project.

30 (c) To claim the inducement under (b) of this section, a lessee or other person  
31 qualified under AS 43.90.300 shall agree, on an application form provided by the

1 Department of Natural Resources, that the lessee or other person, and the lessee's or  
2 other person's affiliates, successors, assigns, and agents will not protest or appeal a  
3 filing by the licensee to roll in expansion costs of the mainline up to a level that is  
4 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not  
5 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of  
6 the expansion of the project. The agreement not to protest may not preclude the lessee  
7 or other person, or the lessee's or other person's affiliates, successors, assigns, and  
8 agents from protesting a filing to roll in mainline expansion costs that licensee is not  
9 required to propose and support under AS 43.90.130(7).

10 (d) The commissioner of natural resources shall provide for review of the  
11 regulations adopted under (a) of this section at least every two years after the  
12 commencement of commercial operations to determine whether the regulations  
13 continue to meet the requirements of (a) of this section under current conditions, and  
14 shall amend the regulations when the requirements are not being met.

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

19 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for  
20 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is  
21 entitled to an annual exemption from the state's gas production tax in an amount equal  
22 to the difference between the amount of the person's gas production tax obligation  
23 calculated under the gas production tax in effect during that tax year and the amount of  
24 the person's gas production tax obligation calculated under the gas production tax in  
25 effect at the start of the first binding open season held under this chapter. If the  
26 difference is less than zero, the gas production tax exemption is zero.

27 (b) The exemption under this section may be applied within 10 years  
28 immediately following commencement of commercial operations and only applied to  
29 production taxes that are levied on North Slope gas shipped through firm  
30 transportation capacity the person acquired during the first binding open season or  
31 shipped in the firm transportation capacity described in a voucher received by the gas

1 producer under AS 43.90.330.

2 (c) The person claiming the exemption under this section shall agree that the  
3 person, and the person's affiliates, successors, assigns, and agents, will not protest or  
4 appeal a filing by the licensee to roll in mainline expansion costs up to the level that  
5 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
6 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
7 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
8 required under this subsection may not preclude the person, or the person's affiliates,  
9 successors, assigns, and agents, from protesting a filing to roll in mainline expansion  
10 costs that the licensee is not required to propose and support under AS 43.90.130(7).

11 (d) In this section, "gas production tax" means the tax levied on the production  
12 of gas under AS 43.55.

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

19 (b) A voucher issued by the commissioners under this section entitles the  
20 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for  
21 gas shipped in the firm transportation capacity acquired by the person applying for the  
22 voucher during the first binding open season of the project and described in the  
23 voucher. The voucher may be transferred to a gas producer that has a binding  
24 obligation to sell gas to the person transferring the voucher under a gas purchase  
25 agreement.

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

1 (d) A person that receives a voucher under this section and a gas producer that  
 2 receives resource inducements under a voucher shall agree that the person and the gas  
 3 producer and their respective affiliates, successors, assigns, or agents will not protest  
 4 or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that  
 5 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
 6 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
 7 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
 8 required under this subsection may not preclude the person or gas producer or their  
 9 respective affiliates, successors, assigns, or agents from protesting a filing to roll-in  
 10 mainline expansion costs that the licensee is not required to propose and support under  
 11 AS 43.90.130(7).

#### 12 Article 4. Miscellaneous Provisions.

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

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

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

29 (d) Within 10 days after the convening of each regular session of the  
 30 legislature, the commissioners shall submit to the legislature a report that lists all the  
 31 disbursements from the fund during the preceding fiscal year with a written

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1 justification for each disbursement and the projected amount of money that will be  
2 required for reimbursements in each of the next three fiscal years.

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3 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt or amend  
4 regulations for the purpose of implementing the provisions of this chapter. The  
5 commissioner of revenue and the commissioner of natural resources may adopt or  
6 amend regulations adopted under authority outside of this chapter as necessary to  
7 implement the provisions of this chapter.

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

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

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

1 of the license. The payment under this subsection is in full satisfaction of all claims  
2 the licensee may bring in contract, tort, or other law related to the events that gave rise  
3 to the payment.

4 (b) The review, processing, or facilitation of a permit, right-of-way, or  
5 authorization by a state agency in connection with a competing natural gas pipeline  
6 project does not create an obligation on the part of the state under this section.

7 (c) In this section,

8 (1) "competing natura' gas pipeline project" means a project designed  
9 to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope  
10 gas to market;

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

12 (A) the state's exercise of its right to resolve disputes involving  
13 royalties and taxes; or

14 (B) the state's exercise of its right to modify royalties as  
15 authorized by law in effect on the effective date of this section.

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

21 (1) the transfer is approved in writing in advance by the  
22 commissioners; and

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

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

30 (c) A person may transfer that person's rights to the royalty inducement under  
31 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in

1 connection with a sale or merger that results in transfer of all the person's assets in the  
 2 North Slope along with the person's firm transportation capacity contracts in the  
 3 project.

4 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),  
 5 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of  
 6 firm transportation capacity in the first binding open season of the project may transfer  
 7 the voucher only if the transfer is in connection with the permanent assignment by the  
 8 person of 100 percent of the firm transportation capacity acquired in the first binding  
 9 open season of the project.

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

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

#### 17 **Article 5. General Provisions.**

18 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise  
 19 requires,

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

23 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"  
 24 means the person appointed under AS 43.90.250;

25 (3) "applicant" means a person or group of persons that files an  
 26 application for a license;

27 (4) "certificate of public convenience and necessity" and "certificate"  
 28 mean a certificate of public convenience and necessity issued by the Federal Energy  
 29 Regulatory Commission or the Regulatory Commission of Alaska and an amendment  
 30 to a certificate of public convenience and necessity issued by the Federal Energy  
 31 Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas

*comma from Senate version omitted  
 for gramatic correctness per Legal  
 Services*

1 Transportation Act of 1976);

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

4 (6) "commissioners" means the commissioner of revenue and the  
5 commissioner of natural resources, acting jointly;

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

10 (8) "equity holder" means the

11 (A) stockholders of a corporation;

12 (B) members of a limited liability company;

13 (C) partners of a partnership;

14 (D) joint venturers of a joint venture;

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

16 or

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

18 (9) "gas treatment plant" means a facility downstream of the point of  
19 production that conditions gas and removes nonhydrocarbon substances from the gas  
20 for the purpose of rendering the gas acceptable for tender and acceptance into a gas  
21 pipeline system.

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

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

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

29 (13) "license" means a license issued under this chapter;

30 (14) "licensee" means the holder of a license issued under this chapter  
31 and all affiliates, successors, assigns, and agents of the holder;

1 (15) "net present value" means the discounted value of a future stream  
2 of cash flow;

3 (16) "North Slope" means that part of the state that lies north of 68  
4 degrees North latitude;

5 (17) "open season" means the process that complies with 18 C.F.R.  
6 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or  
7 a similar process for soliciting commitments for pipeline capacity under the  
8 regulations, policies, rules, or precedent of the Regulatory Commission of Alaska;

9 (18) "point of production" has the meaning given in AS 43.55.900;

10 (19) "project" means a natural gas pipeline project authorized under a  
11 license issued under this chapter;

12 (20) "proprietary," when used to describe information, means that the  
13 information is treated by an applicant as confidential and the public disclosure of that  
14 information would adversely affect the competitive position of the applicant or  
15 materially diminish the commercial value of the information to the applicant;

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

21 (22) "sanction" means to make financial commitments to go forward  
22 with the project as evidenced by entering into financial commitments of at least  
23 \$1,000,000,000 with third parties;

24 (23) "trade secret" has the meaning given in AS 45.50.940;

25 (24) "under common control with" has the meaning given "control" in  
26 this section;

27 (25) "unit agreement" means an agreement executed by the working  
28 interest owners and royalty owners creating the unit.

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

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

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

4 \* Sec. 3. AS 38.05.020(b) is amended to read:

5 (b) The commissioner may

6 (1) establish reasonable procedures and adopt reasonable regulations  
 7 necessary to carry out this chapter and, whenever necessary, issue directives or orders  
 8 to the director to carry out specific functions and duties; regulations adopted by the  
 9 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);  
 10 orders by the commissioner classifying land, issued after January 3, 1959, are not  
 11 required to be adopted under AS 44.62 (Administrative Procedure Act);

12 (2) enter into agreements considered necessary to carry out the  
 13 purposes of this chapter, including agreements with federal and state agencies;

14 (3) review any order or action of the director;

15 (4) exercise the powers and do the acts necessary to carry out the  
 16 provisions and objectives of this chapter;

17 (5) notwithstanding the provisions of any other section of this chapter,  
 18 grant an extension of the time within which payments due on any exploration license,  
 19 lease, or sale of state land, minerals, or materials may be made, including payment of  
 20 rental and royalties, on a finding that compliance with the requirements is or was  
 21 prevented by reason of war, riots, or acts of God;

22 (6) classify tracts for agricultural uses;

23 (7) after consulting with the Board of Agriculture and Conservation  
 24 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements  
 25 of a contract for the sale of agricultural land if

26 (A) the land is inaccessible by road; or

27 (B) transportation, marketing, and development costs render  
 28 the required development uneconomic;

29 (8) reconvey or relinquish land or an interest in land to the federal  
 30 government if

31 (A) the land is described in an amended application for an

1 allotment under 43 U.S.C. 1617; and

2 (B) the reconveyance or relinquishment is

3 (i) for the purposes provided in 43 U.S.C. 1617; and

4 (ii) in the best interests of the state;

5 (9) lead and coordinate all matters relating to the state's review and  
6 authorization of resource development projects;

7 (10) exercise the powers and do the acts necessary to carry out the  
8 provisions and objectives of AS 43.90 that relate to this chapter.

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

10 (41) the Alaska Gasline Inducement Act coordinator appointed under  
11 AS 43.90.250.

12 \* Sec. 5. AS 40.25.120(a) is amended to read:

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

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

17 (2) records pertaining to juveniles unless disclosure is authorized by  
18 law;

19 (3) medical and related public health records;

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

22 (5) to the extent the records are required to be kept confidential under  
23 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
24 or retain federal assistance;

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

27 (A) could reasonably be expected to interfere with enforcement  
28 proceedings;

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

31 (C) could reasonably be expected to constitute an unwarranted

1 invasion of the personal privacy of a suspect, defendant, victim, or witness;

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

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

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

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

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

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

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

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

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

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

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

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

5 (12) records that are

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

8 (B) applications that are received under AS 43.90 until  
 9 notice is published under AS 43.90.160.

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

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

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

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

24 \* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to  
 25 read:

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

29 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).



Official Business

# Alaska State Senate

## Senate Finance Committee

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State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

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TO: Legal Services

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FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: Final Please  
SCS CS HB 177 (FIN) 25-GH1060\N.F

to reflect the indicated selections  
made on comparison document  
of CS HB 177 (FIN) am to  
CS SB 104 (FIN) 25-GS1060\W

*Thx  
Mindy*

Steve Porter, staff to Sen. Stedman  
can respond to any questions  
586-2131

CS FOR SENATEHOUSE BILL NO. ~~104~~177(FIN) am  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATEHOUSE FINANCE COMMITTEE

Amended: 5/11/07

Offered: 5/11/07

Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

8 Chapter 90. Alaska Gasline Inducement Act.

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

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

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

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

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

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

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

9 **Sec. 43.90.100. Gas project.** (a) The commissioners may award an Alaska  
10 Gasline Inducement Act license as provided in this chapter. The person awarded a  
11 license under this chapter is entitled to the inducement set out in AS 43.90.110.

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

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

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

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

28 (B) after the close of the first binding open season, the state  
29 shall reimburse the licensee's qualified expenditures at the level specified in  
30 the license; however, the state's ~~matching contribution~~ reimbursements may not  
31 exceed 90 percent of the qualified expenditures incurred after the close of the

1 first binding open season;

2 (C) a qualified expenditure is a cost that is incurred after the  
3 license is issued under this chapter by the licensee or the licensee's designated  
4 affiliate, and is directly and reasonably related to ~~pursuing transportation~~  
5 ~~commitments in a binding open season, to securing financing for the project, or~~  
6 ~~to~~ obtaining a certificate of public convenience and necessity from the Federal  
7 Energy Regulatory Commission or the Regulatory Commission of Alaska, as  
8 appropriate, or satisfying a requirement of an agency with jurisdiction over the  
9 project; in this subparagraph, "qualified expenditures" does not include  
10 overhead costs, ~~lobbying costs,~~ litigation costs, the cost of an asset or work  
11 product acquired or developed by the licensee before the license is issued, or  
12 civil or criminal penalties or fines; and

13 (2) the benefit of an Alaska Gasline Inducement Act coordinator who  
14 has the authority prescribed in AS 43.90.250.

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

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

21 (b) The commissioners may use independent contractors to assist them in  
22 developing the request for applications and in evaluating applications received under  
23 this chapter.

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

26 **Sec. 43.90.130. Application requirements.** An application for a license must  
27 be consistent with the terms of the request for applications under AS 43.90.120 and  
28 must

29 (1) be filed by the deadline established by the commissioners in the  
30 request for applications;

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

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

5 (A) the route proposed for the natural gas pipeline, which may  
6 not be the route described in AS 38.35.017(b);

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

11 (C) an analysis of the project's economic and technical  
12 viability, including a description of all pipeline access and tariff terms the  
13 applicant plans to offer;

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

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

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

1 services by third parties; a detailed description of all proposed access  
2 and tariff terms for liquefaction services or, if third parties would  
3 perform liquefaction services, identification of the third parties and the  
4 terms applicable to the liquefaction services; a complete description of  
5 the marine segment of the project including the proposed ownership,  
6 control, and cost of liquefied natural gas tankers, the management of  
7 shipping services, liquefied natural gas export, destination, re-  
8 gasification facilities, and pipeline facilities needed for transport to  
9 market destinations, and the entity or entities that would be required to  
10 obtain necessary export permits and licenses or a certificate of public  
11 convenience and necessity from the Federal Energy Regulatory  
12 Commission for the transportation of liquefied natural gas in interstate  
13 commerce if United States markets are proposed; and all rights-of-way  
14 or authorizations required from a foreign country;

15 (3) commit that if the proposed project is within the jurisdiction of the  
16 Federal Energy Regulatory Commission, the applicant will

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

21 (B) apply for Federal Energy Regulatory Commission approval  
22 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,  
23 and use those procedures before filing an application for a certificate of public  
24 convenience and necessity, except where the procedures are not required as a  
25 result of sec. 5 of the President's Decision issued under 15 U.S.C. 719 et seq.  
26 (Alaska Natural Gas Transportation Act of 1976); and

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

31 (4) if the proposed project is within the jurisdiction of the Regulatory

1 Commission of Alaska, commit to

2 (A) conclude, by a date certain that is not later than 36 months  
3 after the date the license is issued, a binding open season that is consistent with  
4 the requirements of AS 42.06; and

5 (B) apply for a certificate of public convenience and necessity  
6 to authorize the construction and operation of the proposed project by a date  
7 certain;

8 (5) commit that after the first binding open season, the applicant will  
9 assess the market demand for additional pipeline capacity at least every two years  
10 through public nonbinding solicitations or similar means;

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

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

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

25 (7) commit that the applicant

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

31 (B) will propose and support the recovery of mainline capacity

1 expansion costs, including fuel costs, from all mainline system users through  
2 rolled-in rates; an applicant is obligated under this subparagraph only if the  
3 rolled-in rates would increase the rates

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

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

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

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

1 described in (B) of this paragraph;

2 (D) may, for the recovery of mainline capacity expansion costs,  
3 including fuel costs, that, under rolled-in rate treatment, would result in rates  
4 that exceed the level in (B) of this paragraph, propose and support the recovery  
5 of those costs through any combination of incremental and rolled-in rates;

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

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

25 (9) propose a percentage and total dollar amount for the state's  
26 ~~matching contribution~~reimbursement under AS 43.90.110(a)(1)(A) and (B) to be  
27 specified in the license;

28 (10) commit to propose and support rates for the proposed project and  
29 for any North Slope gas treatment plant that the applicant may own, in whole or in  
30 part, that are based on a capital structure for rate-making that consists of not less than  
31 70 percent debt;

1 (11) describe the means for preventing and managing overruns in costs  
2 of the proposed project, and the measures for minimizing the effects on tariffs from  
3 any overruns;

4 (12) commit to provide a minimum of five delivery points of natural  
5 gas in this state;

6 (13) commit to

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

12 (B) offer distance-sensitive rates to delivery points in the state  
13 consistent with 18 C.F.R. 157.34(c)(8);

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

16 (15) to the maximum extent permitted by law, commit to

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

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

21 (C) establish hiring facilities or use existing hiring facilities in  
22 the state; and

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

26 (16) waive the right to appeal the rejection of the application as  
27 incomplete, the issuance of a license to another applicant, or the determination under  
28 AS 43.90.180(b) that no application merits the issuance of a license;

29 (17) commit to negotiate, before construction, a project labor  
30 agreement to the maximum extent permitted by law; in this paragraph, "project labor  
31 agreement" means a comprehensive collective bargaining agreement between the

1 licensee or its agent and the appropriate labor representatives to ensure expedited  
2 construction with labor stability for the project by qualified residents of the state;

3 (18) commit that the state ~~matching-contribution~~reimbursement  
4 received by a licensee may not be included in the applicant's rate base, and shall be  
5 used as a credit against licensee's cost of service;

6 (19) provide a detailed description of the applicant, all entities  
7 participating with the applicant in the application and the project proposed by the  
8 applicant, and persons the applicant intends to involve in the construction and  
9 operation of the proposed project; the description must include the nature of the  
10 affiliation for each person, the commitments by the person to the applicant, and other  
11 information relevant to the commissioners' evaluation of the readiness and ability of  
12 the applicant to complete the project presented in the application;

13 (20) demonstrate the readiness, financial resources, and technical  
14 ability to perform the activities specified in the application by describing the  
15 applicant's history of compliance with safety, health, and environmental requirements,  
16 the ability to follow a detailed work plan and timeline, and the ability to operate within  
17 an associated budget.

18 **Sec. 43.90.140. Initial application review; additional information requests;**  
19 **complete applications.** (a) After the deadline established by the commissioners for  
20 filing an application has passed, the commissioners shall open and review each  
21 application to determine whether it is consistent with the terms of the request for  
22 applications and meets the requirements of AS 43.90.130. The commissioners shall  
23 reject as incomplete an application that does not meet the requirements of  
24 AS 43.90.130.

25 (b) To evaluate whether an application should be rejected under (a) of this  
26 section, the commissioners may request additional information relating to the  
27 application.

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

31 (d) For an application not rejected under this section, the commissioners shall

1 make a determination that the application, including any requested additional  
2 information, is complete.

3 (e) Except as provided under AS 43.90.150, and after determining which  
4 applications are complete, the commissioners shall make all applications available to  
5 the legislature.

6 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the  
7 request of the applicant, information submitted under this chapter that the applicant  
8 identifies and demonstrates is proprietary or is a trade secret is confidential and not  
9 subject to public disclosure under AS 40.25. After a license is awarded, all  
10 information submitted by the licensee, retained under this chapter, and not determined  
11 by the commissioners to be a proprietary or trade secret, shall be made public.

12 (b) If the commissioners determine that the information submitted by the  
13 applicant is not proprietary or is not a trade secret, the commissioners shall notify the  
14 applicant and return the information at the request of the applicant.

15 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall  
16 publish notice and provide a 60-day period for public review and comment on all  
17 applications determined complete under AS 43.90.140. Except as provided under  
18 AS 43.90.150, all applications filed under this chapter shall be made public, including  
19 applications rejected as incomplete under AS 43.90.140.

20 (b) Applications received under this chapter are not subject to public  
21 disclosure under AS 40.25 until the commissioners publish notice under this section.  
22 However, information that the commissioners have determined is proprietary or a  
23 trade secret under AS 43.90.150 may not be made public even after the notice is  
24 published under (a) of this section, except as otherwise provided in AS 43.90.150. If  
25 information is proprietary or a trade secret and is held confidential under  
26 AS 43.90.150, the applicant shall provide a summary of the confidential information  
27 that is satisfactory to the commissioners, and the commissioners shall make the  
28 summary of the information available to the public.

29 (c) After the commissioners determine that ~~the all~~ applications that have not  
30 been rejected are complete under AS 43.90.140, information provided by an  
31 applicant the applicants to the commissioners under this chapter, including information

1 determined by the commissioners to be confidential under AS 43.90.150, shall be  
 2 disclosed to the legislative auditor, the fiscal analyst who serves as head of the  
 3 legislative finance division, members of the legislature, and their respective agents and  
 4 contractors, on request and after the individual making the request signs a  
 5 confidentiality agreement prepared by the commissioners.

6 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners  
 7 shall evaluate all applications determined to be complete under AS 43.90.140,  
 8 consider public comments received under AS 43.90.160(a), and rank each application  
 9 according to the net present value of the anticipated cash flow to the state from the  
 10 applicant's project proposal using the factors in (b) of this section and weighted by the  
 11 project's likelihood of success based on the commissioners' assessment of the factors  
 12 listed in (c) of this section.

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

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

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

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

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

25 (5) the amount of the ~~matching contribution~~ reimbursement by the state  
 26 under AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under  
 27 AS 43.90.130(9);

28 (6) economic value resulting from payments required to be made to the  
 29 state under the terms of the proposal; and

30 (7) other factors found by the commissioners to be relevant to the  
 31 evaluation of the net present value of the anticipated cash flow to the state.

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

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

8 (2) the financial resources of the applicant;

9 (3) the ability of the applicant to comply with the proposed  
10 performance schedule;

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

14 (5) the applicant's record of

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

16 (B) integrity and good business ethics; and

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

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

25 (1) issue a determination, with written findings addressing the basis for  
26 the determination; the determination becomes a final agency action on the effective  
27 date of a bill approving the issuance of the license under AS 43.90.190;

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

30 (3) forward the notice under (2) of this subsection, along with the  
31 findings, supporting documentation, and determination under (1) of this subsection, to

1 the presiding officer of each house of the legislature for action as provided in  
2 AS 43.90.190.

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

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

10 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the  
11 presiding officer of each house of the legislature receives a determination from the  
12 commissioners under AS 43.90.180, the rules committee of each house of the  
13 legislature shall introduce a bill in the committee's respective chamber that provides  
14 for the approval of the license proposed to be issued by the commissioners.

15 (b) If a bill approving the issuance of the license passes the legislature within  
16 60 days after the last date a presiding officer receives a determination by the  
17 commissioners under AS 43.90.180, the commissioners shall issue the license as soon  
18 as practicable after the effective date of the Act approving the issuance of the license.

19 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after  
20 the end of a special session or after the end of a regular session of a legislature, a bill  
21 introduced under (a) of this section that is not passed or not withdrawn, defeated,  
22 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or  
23 special legislative session convened during the 60-day period described in (b) of this  
24 section in the same reading or status it was in at the time of adjournment. However, a  
25 bill introduced under (a) of this section may not be carried over to the first regular  
26 session of a legislature.

27 (d) If the legislature fails to approve the issuance of the license, the  
28 commissioners

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

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

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

1 (a) A licensee that is awarded a certificate of public convenience and necessity from a  
 2 regulatory agency with jurisdiction over the project shall accept the certificate on or  
 3 before the date the order granting the certificate is no longer subject to judicial review.

4 (b) If the licensee has credit support sufficient to finance construction of the  
 5 project through ownership of rights to produce and market gas resources, firm  
 6 transportation commitments, or government financing, the licensee shall sanction the  
 7 project within one year after the effective date of the certificate of public convenience  
 8 and necessity issued by the regulatory agency with jurisdiction over the project.

9 (c) If the licensee does not have credit support sufficient to finance  
 10 construction of the project through ownership of rights to produce and market gas  
 11 resources, firm transportation commitments, or government financing, the licensee  
 12 shall sanction the project before the later of

13 (1) two years after the effective date of the certificate of public  
 14 convenience and necessity issued by the regulatory agency with jurisdiction over the  
 15 project; or

16 (2) five years after the close of the first binding open season of the  
 17 project.

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

20 (1) seek approval from the Federal Energy Regulatory Commission or  
 21 the Regulatory Commission of Alaska, as applicable, to abandon and transfer the  
 22 certificate to the state or the state's designee; and

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

26 (e) The transfers and assignments under (d) of this section as a result of failure  
 27 to comply with (a) or (b) of this section are at no cost to the state or the state's  
 28 designee. A transfer under (c) of this section shall be subject to the state's payment to  
 29 the licensee of the net amount of expenditures incurred and paid by the licensee that  
 30 are qualified expenditures for the purposes of AS 43.90.110100.

31 (f) In this section, "effective date of the certificate of public convenience and

1 necessity" means the earlier of the date the order granting the certificate is no longer  
2 subject to judicial review, or the date the licensee accepts the certificate.

3 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject  
4 to the approval of the commissioners, a licensee may amend or modify its project plan  
5 if the amendments or modifications improve the net present value of the project to the  
6 state, are necessary because of an order or requirement by a regulatory agency with  
7 jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission,  
8 or the amendment or modification is necessary because of changed circumstances  
9 outside the licensee's control and not reasonably foreseeable before the license was  
10 issued. An amendment or modification approved under this section must be consistent  
11 with the requirements of AS 43.90.130 and, except for an amendment or modification  
12 required because of an order or requirement of a regulatory agency with jurisdiction  
13 over the project or by the Alaska Oil and Gas Conservation Commission, may not  
14 substantially diminish the value of the project to the state or the project's likelihood of  
15 success.

16 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A  
17 licensee shall maintain complete and accurate records of all expenditures and  
18 commitments of state money received under this chapter, including receipts and  
19 records showing the payment or cost of purchased items and services, the names and  
20 addresses of the sellers and service providers, and the dates of service or delivery.

21 (b) Upon reasonable notice, the commissioners may audit the records, books,  
22 and files of the entity receiving the state money or making the expenditures and  
23 commitments of money received from the state under this chapter.

24 (c) The commissioners may do the following with respect to information  
25 relating to the project: conduct hearings or other investigative inquiries; compel the  
26 attendance of witnesses and production of documents; and require the licensee to  
27 furnish information in paper copy or electronic format.

28 (d) After a license has been issued and until commencement of commercial  
29 operations of a natural gas pipeline, the licensee shall allow the commissioners to

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

1 (2) receive all relevant notices ~~when and as issued~~ and information  
2 when and as sent to the governing body or bodies and equity holders;

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

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

7 (e) All proprietary information, privileged information, and trade secrets  
8 received by the commissioners or their representative under (d) of this section are not  
9 subject to public disclosure under AS 40.25.

10 (f) A licensee shall maintain the records and reports required under this  
11 section for seven years from the date the licensee receives state money under this  
12 chapter.

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

15 (1) requested and received money from the state under this chapter for  
16 an expenditure that is not a qualified expenditure under AS 43.90.110;

17 (2) except as required to conform with a requirement of a regulatory  
18 agency with jurisdiction over the project, substantially departed from the  
19 specifications set out in the application without state approval of a project plan  
20 amendment or modification under AS 43.90.210;

21 (3) violated any provision of this chapter or any other provision of  
22 state or federal law material to the license;

23 (4) failed to accept a certificate as required under AS 43.90.200(a) or  
24 failed to sanction the project as required under AS 43.90.200(b); or

25 (5) otherwise violated a material term of the license.

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

29 (c) The commissioners may suspend disbursement of state ~~matching~~  
30 ~~contributions~~ reimbursements to the licensee beginning on the date that the notice of  
31 violation issued under (b) of this section is sent to the licensee. The commissioners

1 may resume disbursement on the date that the commissioners determine that the  
2 violation is cured.

3 (d) If the commissioners and the licensee are unable to resolve the violation.  
4 within the period described in (b) of this section, the commissioners shall notify the  
5 licensee that the violation has not been cured and provide the licensee with an  
6 opportunity to be heard. If, after notice and hearing, the commissioners determine that  
7 the violation has not been cured, the commissioners shall issue a written decision that  
8 is a final administrative action for purposes of appeal to the superior court in the state.

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

11 (1) discontinuation of state ~~matching contributions~~ reimbursements  
12 under this chapter;

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

16 (3) license revocation;

17 (4) assignment to the state or the state's designee of all engineering  
18 designs, contracts, permits, and other data related to the project that are acquired by  
19 the licensee during the term of the license; and

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

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

26 (b) If the commissioners ~~and/or~~ and/or the licensee ~~do not agree~~ determine that the  
27 project is uneconomic and the other party disagrees, the disagreement shall be settled  
28 by arbitration administered by the American Arbitration Association under the  
29 substantive and procedural laws of this state, and judgment on the award rendered by  
30 the arbitrators may be entered in superior court in the state. In the event of arbitration,  
31 each party shall select an arbitrator from the American Arbitration Association's

1 National Roster, and the two arbitrators shall appoint a third arbitrator from the  
2 American Arbitration Association's National Roster who shall serve as the chair of the  
3 three-member arbitration panel. If the arbitration panel determines that the project is

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

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

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

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

15 (2) predicted costs of transportation at a 100 percent load factor, when  
16 deducted from predicted gas sales revenue using publicly available predictions of  
17 future gas prices, would result in a producer rate of return that is below the rate  
18 typically accepted by a prudent oil and gas exploration and production company for  
19 incremental upstream investment that is required to produce and deliver gas to the  
20 project.

21 (d) If the state makes a payment to the licensee under AS 43.90.440, the  
22 license is considered abandoned, and the state and the licensee no longer have any  
23 obligations under this chapter with respect to the license, except that the licensee must  
24 comply with the

25 (1) requirements imposed on the licensee under AS 43.90.220  
26 regarding state money received by the licensee before the license was considered  
27 abandoned; and

28 (2) requirements of AS 43.90.440.

29 (e) If the commissioners and the licensee agree that the project is uneconomic  
30 or an arbitration panel makes a final determination that the project is uneconomic, the  
31 licensee shall, upon the state's request, transfer to the state or the state's designee all

1 engineering designs, contracts, permits, and other data related to the project that are  
 2 acquired by the licensee during the term of the license upon reimbursement by the  
 3 state of the net amount of expenditures incurred and paid by the licensee that are  
 4 qualified expenditures for the purposes of AS 43.90.110.

5 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is  
 6 created in the Office of the Governor the position of Alaska Gasline Inducement Act  
 7 coordinator. Administrative support for the position shall be provided by the Office of  
 8 the Governor. The position shall continue until one year after commencement of  
 9 commercial operations of the project.

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

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

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

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

### 26 **Article 3. Resource Inducements.**

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

1 produced on the North Slope and shipped in firm transportation capacity acquired in  
 2 the first binding open season of the project. The inducement in AS 43.90.310 is  
 3 contractual.

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

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

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

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

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

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

28 (C) reasonable and actual costs for gas processing; in this  
 29 subparagraph, "gas processing" means post-production treatment of gas to  
 30 extract natural gas liquids; and

31 (D) deductions permitted under the 1980 Royalty Settlement

1 Agreement for Prudhoe Bay gas; and

2 (3) establish terms under which the state will exercise its authority to  
3 switch between taking its royalty gas in value and in kind to ensure that the state's  
4 actions do not unreasonably

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

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

9 (b) If a lessee or other person qualified for resource inducement under  
10 AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to  
11 elect

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

16 (A) upon the request of the lessee, the commissioner of natural  
17 resources shall contractually amend the existing lease to effect the election  
18 under this paragraph and incorporate as fixed contract terms the relevant  
19 regulatory provisions; and

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

26 (2) to enter into a contract with the state that amends the existing lease  
27 terms by providing a mechanism that ensures that, when the state exercises its right to  
28 switch between taking its royalty in value or in kind for gas committed for firm  
29 transportation in the first binding open season of the project, the lessee or other person  
30 does not bear disproportionate transportation costs with respect to the state's royalty  
31 gas; and by modifying the required period of notice that the state must provide before

1 exercising the state's right to switch between taking its royalty in value or in kind for  
2 gas committed for firm transportation in the first binding open season of the project.

3 (c) To claim the inducement under (b) of this section, a lessee or other person  
4 qualified under AS 43.90.300 shall agree, on an application form provided by the  
5 Department of Natural Resources, that the lessee or other person, and the lessee's or  
6 other person's affiliates, successors, assigns, and agents will not protest or appeal a  
7 filing by the licensee to roll in expansion costs of the mainline up to a level that is  
8 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not  
9 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of  
10 the expansion of the project. The agreement not to protest may not preclude the lessee  
11 or other person, or the lessee's or other person's affiliates, successors, assigns, and  
12 agents from protesting a filing to roll in mainline expansion costs that licensee is not  
13 required to propose and support under AS 43.90.130(7).

14 (d) The commissioner of natural resources shall provide for review of the  
15 regulations adopted under (a) of this section at least every two years after the  
16 commencement of commercial operations to determine whether the regulations  
17 continue to meet the requirements of (a) of this section under current conditions, and  
18 shall amend the regulations when the requirements are not being met.

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

23 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for  
24 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is  
25 entitled to an annual exemption from the state's gas production tax in an amount equal  
26 to the difference between the amount of the person's gas production tax obligation  
27 calculated under the gas production tax in effect during that tax year and the amount of  
28 the person's gas production tax obligation calculated under the gas production tax in  
29 effect at the start of the first binding open season held under this chapter. If the  
30 difference is less than zero, the gas production tax exemption is zero.

31 (b) The exemption under this section may be applied within 10 years

1 immediately following commencement of commercial operations and only applied to  
2 production taxes that are levied on North Slope gas shipped through firm  
3 transportation capacity the person acquired during the first binding open season or  
4 shipped in the firm transportation capacity described in a voucher received by the gas  
5 producer under AS 43.90.330.

6 (c) The person claiming the exemption under this section shall agree that the  
7 person, and the person's affiliates, successors, assigns, and agents, will not protest or  
8 appeal a filing by the licensee to roll in mainline expansion costs up to the level that  
9 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
10 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
11 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
12 required under this subsection may not preclude the person, or the person's affiliates,  
13 successors, assigns, and agents, from protesting a filing to roll in mainline expansion  
14 costs that the licensee is not required to propose and support under AS 43.90.130(7).

15 (d) In this section, "gas production tax" means the tax levied on the production  
16 of gas under AS 43.55.

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

23 (b) A voucher issued by the commissioners under this section entitles the  
24 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for  
25 gas shipped in the firm transportation capacity acquired by the person applying for the  
26 voucher during the first binding open season of the project and described in the  
27 voucher. The voucher may be transferred to a gas producer that has a binding  
28 obligation to sell gas to the person transferring the voucher under a gas purchase  
29 agreement.

30 (c) A gas producer holding a voucher may claim the resource inducements for  
31 gas shipped through the firm transportation capacity described in the voucher and only

1 on gas that is produced and delivered to the purchaser on the North Slope. A gas  
 2 producer may claim the resource inducements under this subsection until the earlier of  
 3 the termination of the binding gas purchase agreement or the expiration of the  
 4 inducements by operation of law.

5 (d) A person that receives a voucher under this section and a gas producer that  
 6 receives resource inducements under a voucher shall agree that the person and the gas  
 7 producer and their respective affiliates, successors, assigns, or agents will not protest  
 8 or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that  
 9 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
 10 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
 11 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
 12 required under this subsection may not preclude the person or gas producer or their  
 13 respective affiliates, successors, assigns, or agents from protesting a filing to roll-in  
 14 mainline expansion costs that the licensee is not required to propose and support under  
 15 AS 43.90.130(7).

#### 16 Article 4. Miscellaneous Provisions.

17 Sec. 43.90.400. Alaska Gasline Inducement Act ~~matching~~  
 18 ~~contribution~~reimbursement fund; disbursements; audits. (a) There is established  
 19 in the general fund an Alaska Gasline Inducement Act ~~matching~~  
 20 ~~contribution~~reimbursement fund. The fund consists of money appropriated to it by the  
 21 legislature for disbursement to pay the state's ~~matching-contributions~~reimbursements  
 22 under AS 43.90.110. Money appropriated to the fund may be spent for the purposes of  
 23 the fund without further appropriation. Appropriations to the fund do not lapse under  
 24 AS 37.25.010, but remain in the fund for future disbursements. Nothing in this  
 25 subsection creates a dedicated fund.

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

30 (c) The commissioners shall adopt regulations that provide for application to  
 31 receive ~~matching-contributions in the form of~~ reimbursements for qualified

1 expenditures as provided under AS 43.90.110, and that provide for periodic audits of  
2 the use of money disbursed as ~~matching contributions~~reimbursements under this  
3 chapter.

4 (d) Within 10 days after the convening of each regular session of the  
5 legislature, the commissioners shall submit to the legislature a report that lists all the  
6 disbursements from the fund during the preceding fiscal year with a written  
7 justification for each disbursement and the projected amount of money that will be  
8 required for ~~contributions~~reimbursements in each of the next three fiscal years.

9 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt or amend  
10 regulations for the purpose of implementing the provisions of this chapter. The  
11 commissioner of revenue and the commissioner of natural resources may adopt or  
12 amend regulations adopted under authority outside of this chapter as necessary to  
13 implement the provisions of this chapter.

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

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

21 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise  
22 provided in this chapter, the state grants a licensee assurances that the licensee has  
23 exclusive enjoyment of the inducements provided under this chapter before the  
24 commencement of commercial operations. If, before the commencement of  
25 commercial operations, the state extends to another person preferential royalty or tax  
26 treatment or grant of state money for the purpose of facilitating the construction of a  
27 competing natural gas pipeline project in this state, and if the licensee is in compliance  
28 with the requirements of the license and with the requirements of state and federal  
29 statutes and regulations relevant to the project, the licensee is entitled to payment from  
30 the state of an amount equal to three times the total amount of the expenditures  
31 incurred and paid by the licensee that are qualified expenditures for the purposes of

1 AS 43.90.110 that the licensee incurred in developing the licensee's project before the  
2 date that the state first extended preferential treatment to another person. The payment  
3 under this subsection is subject to appropriation. Upon payment by the state of the  
4 amount owed under this section, the licensee shall, at no additional cost to the state,  
5 assign to the state or the state's designee all engineering designs, contracts, permits,  
6 and other data related to the project that were acquired by the licensee during the term  
7 of the license. The payment under this subsection is in full satisfaction of all claims  
8 the licensee may bring in contract, tort, or other law related to the events that gave rise  
9 to the payment.

10 (b) The review, processing, or facilitation of a permit, right-of-way, or  
11 authorization by a state agency in connection with a competing natural gas pipeline  
12 project does not create an obligation on the part of the state under this section.

13 (c) In this section,

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

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

18 (A) the state's exercise of its right to resolve disputes involving  
19 royalties and taxes; or

20 (B) the state's exercise of its right to modify royalties as  
21 authorized by law in effect on the effective date of this section.

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

27 (1) the transfer is approved in writing in advance by the  
28 commissioners; and

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

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

5 (c) A person may transfer that person's rights to the royalty inducement under  
 6 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in  
 7 connection with a sale or merger that results in transfer of all the person's assets in the  
 8 North Slope along with the person's firm transportation capacity contracts in the  
 9 project.

10 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),  
 11 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of  
 12 firm transportation capacity in the first binding open season of the project may transfer  
 13 the voucher only if the transfer is in connection with the permanent assignment by the  
 14 person of 100 percent of the firm transportation capacity acquired in the first binding  
 15 open season of the project.

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

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

#### 23 **Article 5. General Provisions.**

24 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise  
 25 requires,

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

29 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"  
 30 means the person appointed under AS 43.90.250;

31 (3) "applicant" means a person or group of persons that files an

1 application for a license;

2 (4) "certificate of public convenience and necessity" and "certificate"  
 3 ~~mean~~means a certificate of public convenience and necessity issued by the Federal  
 4 Energy Regulatory Commission or the Regulatory Commission of Alaska, ~~and~~ or an  
 5 amendment to a certificate of public convenience and necessity issued by the Federal  
 6 Energy Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas  
 7 Transportation Act of 1976);

8 (5) "commencement of commercial operations" means the first flow of  
 9 gas in the project that generates revenue to the owners;

10 (6) "commissioners" means the commissioner of revenue and the  
 11 commissioner of natural resources, acting jointly;

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

16 (8) "equity holder" means the

17 (A) stockholders of a corporation;

18 (B) members of a limited liability company;

19 (C) partners of a partnership;

20 (D) joint venturers of a joint venture;

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

22 or

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

24 (9) "gas treatment plant" means a facility downstream of the point of  
 25 production that conditions gas and removes nonhydrocarbon substances from the gas  
 26 for the purpose of rendering the gas acceptable for tender and acceptance into a gas  
 27 pipeline system.

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

- 1 (11) "lease" means an oil and gas, or gas, lease issued by this state;
- 2 (12) "lessee" means a person that holds a working interest in an oil and  
3 gas, or gas, lease issued by this state;
- 4 (13) "license" means a license issued under this chapter;
- 5 (14) "licensee" means the holder of a license issued under this chapter  
6 and all affiliates, successors, assigns, and agents of the holder;
- 7 (15) "net present value" means the discounted value of a future stream  
8 of cash flow;
- 9 (16) "North Slope" means that part of the state that lies north of 68  
10 degrees North latitude;
- 11 (17) "open season" means the process that complies with 18 C.F.R.  
12 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or  
13 a similar procedure ~~process~~ for soliciting commitments for pipeline capacity under the  
14 regulations, policies, rules, or precedent of the Regulatory Commission of Alaska;
- 15 (18) "point of production" has the meaning given in AS 43.55.900;
- 16 (19) "project" means a natural gas pipeline project authorized under a  
17 license issued under this chapter;
- 18 (20) "proprietary," when used to describe information, means that the  
19 information is treated by an applicant as confidential and the public disclosure of that  
20 information would adversely affect the competitive position of the applicant or  
21 materially diminish the commercial value of the information to the applicant;
- 22 (21) "recourse rates" means cost-based rates with a minimum and  
23 maximum range that are approved by the Federal Energy Regulatory Commission, the  
24 Regulatory Commission of Alaska, or the National Energy Board of Canada, as  
25 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those  
26 rates that the pipeline must make available to all shippers;
- 27 (22) "sanction" means to make financial commitments to go forward  
28 with the project as evidenced by entering into financial commitments of at least  
29 \$1,000,000,000 with third parties;
- 30 (23) "trade secret" has the meaning given in AS 45.50.940;
- 31 (24) "under common control with" has the meaning given "control" in

1 this section;

2 (25) "unit agreement" means an agreement executed by the working  
3 interest owners and royalty owners creating the unit.

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

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

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

10 \* **Sec. 3.** AS 38.05.020(b) is amended to read:

11 (b) The commissioner may

12 (1) establish reasonable procedures and adopt reasonable regulations  
13 necessary to carry out this chapter and, whenever necessary, issue directives or orders  
14 to the director to carry out specific functions and duties; regulations adopted by the  
15 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);  
16 orders by the commissioner classifying land, issued after January 3, 1959, are not  
17 required to be adopted under AS 44.62 (Administrative Procedure Act);

18 (2) enter into agreements considered necessary to carry out the  
19 purposes of this chapter, including agreements with federal and state agencies;

20 (3) review any order or action of the director;

21 (4) exercise the powers and do the acts necessary to carry out the  
22 provisions and objectives of this chapter;

23 (5) notwithstanding the provisions of any other section of this chapter,  
24 grant an extension of the time within which payments due on any exploration license,  
25 lease, or sale of state land, minerals, or materials may be made, including payment of  
26 rental and royalties, on a finding that compliance with the requirements is or was  
27 prevented by reason of war, riots, or acts of God;

28 (6) classify tracts for agricultural uses;

29 (7) after consulting with the Board of Agriculture and Conservation  
30 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements  
31 of a contract for the sale of agricultural land if

1 (A) the land is inaccessible by road; or  
 2 (B) transportation, marketing, and development costs render  
 3 the required development uneconomic;

4 (8) reconvey or relinquish land or an interest in land to the federal  
 5 government if

6 (A) the land is described in an amended application for an  
 7 allotment under 43 U.S.C. 1617; and

8 (B) the reconveyance or relinquishment is

9 (i) for the purposes provided in 43 U.S.C. 1617; and

10 (ii) in the best interests of the state;

11 (9) lead and coordinate all matters relating to the state's review and  
 12 authorization of resource development projects;

13 (10) exercise the powers and do the acts necessary to carry out the  
 14 provisions and objectives of AS 43.90 that relate to this chapter.

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

16 (41) the Alaska Gasline Inducement Act coordinator appointed under  
 17 AS 43.90.250.

18 \* Sec. 5. AS 40.25.120(a) is amended to read:

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

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

23 (2) records pertaining to juveniles unless disclosure is authorized by  
 24 law;

25 (3) medical and related public health records;

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

28 (5) to the extent the records are required to be kept confidential under  
 29 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure  
 30 or retain federal assistance;

31 (6) records or information compiled for law enforcement purposes, but

1 only to the extent that the production of the law enforcement records or information

2 (A) could reasonably be expected to interfere with enforcement  
3 proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (12) records that are

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

14 (B) applications that are received under AS 43.90 until  
15 notice is published under AS 43.90.160.

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

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

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

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

30 \* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

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

4 \* **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).

SARAH PALIN  
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

March 2, 2007

The Honorable John Harris  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill that facilitates commercialization of Alaska's North Slope natural gas resources and promotes continued exploration and development of those resources. The bill will induce expeditious construction of a natural gas pipeline to transport Alaska's North Slope natural gas to market using a process that is fair, transparent, and competitive. Our nation's energy markets are hungry for Alaska's gas resources, and Alaskans have waited for decades to see these resources developed.

Earlier this week I had several successful meetings with federal officials in Washington, D.C., including the distinguished members of Alaska's Congressional delegation. These meetings affirmed for me that it is time for Alaska's natural gas resources to be developed in order to meet the energy demands of our nation. The Chairman of the Federal Energy Regulatory Commission, Joseph Kelliher, made the statement that my plan does "represent the best hope for building a pipeline to bring Alaska's vast natural gas resources to the energy consuming lower 48 states."

This bill sets forth the following: (a) midstream inducements to encourage companies to identify development benchmarks and build the gas pipeline; (b) upstream inducements that will encourage the holders of North Slope gas reserves to commit their gas to the project; (c) terms that an application must contain to qualify to compete for an exclusive license to the midstream inducements; (d) evaluative criteria by which competing applications will be measured; (e) a public process for reviewing the applications; (f) a procedure by which the applications will be reviewed and a notice of intent to issue a license that will be transmitted to the legislature; and (g) auditing and enforcement tools to protect state contributions and interests.

The Honorable John Harris

March 2, 2007

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The midstream inducements will include a matching contribution of up to \$500 million paid out during the highest risk phase of the project, which is the period the licensee is completing the work necessary to obtain a certificate from either the Federal Energy Regulatory Commission (FERC) or the Regulatory Commission of Alaska (RCA). The licensed project will also benefit from a state program that provides training to Alaskans for gas pipeline jobs.

The bill offers explicit requirements that state permits and authorizations relating to the pipeline be expedited and coordinated in order to avoid complicated, time-consuming and conflicting state and federal permitting processes. In order to facilitate a successful project and an expedient process, the bill will empower the governor to appoint a gas pipeline coordinator to oversee the state permitting process and work with the federal pipeline coordinator to integrate the state and federal permitting processes.

The upstream inducements will encourage those who hold gas reserves under lease to commit that gas to the pipeline licensed under the bill. Under the "royalty inducements," the state will develop regulations to provide predictability in the determination of royalty value and the exercise of its right to take its royalty share in kind (as gas) or in value (as money). A "gas production tax exemption" will give shippers of gas an exemption from production tax equal to the difference between the tax obligation based upon the tax rate in affect at Open Season, and any higher rate that becomes effective in the ten years following commencement of the gas pipeline commercial operations. These provisions address leaseholders' concerns that they need to know how their royalty and tax obligations will be measured for a reasonable period into the future before they irrevocably commit to ship their gas at an Open Season. The benefits will be available to all leaseholders who commit gas to the licensed gas pipeline project during the initial Open Season.

The bill will accomplish six primary goals: (1) initiate an application process open to any project sponsor; (2) take clear steps to promote the construction of a gas pipeline as quickly as possible, (3) ensure the North Slope basin is open to long-term gas exploration and development, (4) ensure reasonable tariff rates are available to transport Alaska's natural gas to market, (5) ensure North Slope natural gas is available to Alaskans, and (6) ensure Alaskans are trained and ready for the natural gas pipeline jobs and those jobs are made available to Alaskans.

To accomplish the first goal, applications will be welcomed from any entity or a coalition of entities interested in constructing the gas pipeline. However, only those