

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3331

213

## EKLUTNA QUARRY Q&A

### Proposal Title:

Railroad Transfers Eklutna Quarry to Eklutna, Inc.

### Proposal Summary:

ARRC proposes to transfer its entire interest in the Eklutna Quarry site north of Eagle River to Eklutna, Inc., and seeks legislative approval of the conveyance. This property and its use as a quarry has been the subject of a long-running dispute between ARRC on one side and the Native Village of Eklutna and the Municipality of Anchorage on the other. That dispute culminated in three Alaska Supreme Court decisions, which denied ARRC continued use of the quarry without first obtaining a municipal conditional use permit. While ARRC has recently obtained a permit to remove processed materials stockpiled in the quarry, it is unlikely to ever obtain a permit for new blasting without consent of the Village as tribal representative of the Dena'ina Native people. That consent is highly unlikely because the hills that comprise the quarry have valid historic and cultural significance to the Dena'ina.

Eklutna, Inc. is the ANCSA village corporation created for this area and is entitled to the Quarry property in the future under certain agreements that resolved ANCSA Native land claims. Under the North Anchorage Land Agreement (NALA), and the ARRC-Eklutna 3(e) Claims Settlement Agreement (the 3(e) Agreement), the Quarry will revert to Eklutna, Inc. when it ceases to be used for certain transportation purposes.

ARRC has determined that it will not use the Quarry again for mining rock, which potentially triggers transfer to Eklutna, Inc. An Agreement has been reached between the ARRC, Eklutna, Inc. and the Village that commits ARRC to transferring the Quarry to Eklutna, Inc., subject to legislative approval. The agreement also commits the Village and Eklutna, Inc. to support ARRC's application for a conditional use permit to allow the ARRC to remove previously stockpiled materials at the ARRC Quarry and to support its efforts to obtain federal approval for using the rock on federally funded projects.

Because of the application of NALA to this location, the transfer to Eklutna, Inc. will operate as an ANCSA conveyance under Section 1425 of the Alaska National Interest Lands Conservation Act (ANILCA). Under ANCSA and NALA, CIRI will receive the subsurface rights with Eklutna receiving the surface rights. Any transfer by ARRC of its entire interest in land is subject to legislative approval under the Alaska Railroad Corporation Act. To this end, ARRC is seeking and Eklutna, Inc. and the Village will support appropriate legislation this session.

### Attachments:

- Agreement between ARRC, Eklutna, Inc., and Native Village of Eklutna

- Railroad Board of Director Resolution No. 2007-07
- Map/aerial photo of area
- ANILCA Section 1425
- NALA excerpt
- AS 42.40.285
- 3(e) Agreement excerpt
- Conditional Use Permit

## Questions & Answers:

### What is the history behind the Eklutna Quarry?

The Eklutna Hills, just outside the Native Village of Eklutna, are a culturally significant part of the heritage of the Dena'ina Native people. In addition, the larger area was administered by the Bureau of Indian Affairs as a Native school reserve from 1935 until 1946. During World War II, the BIA authorized the Alaska Railroad to develop a rock quarry on one of the knobs of granite that comprise the Eklutna Hills. That location still exists as the Eklutna Quarry. BIA abandoned the school complex in 1946 and decided to surplus the Native school reserve lands beginning in 1952. BIA transferred the quarry and other nearby lands to the federal Alaska Railroad in 1955. In keeping with the attitudes of the times, the government does not appear to have involved the Eklutna villagers in any of the transactions or decisions about how to handle this land. Usage as a quarry was fairly steady albeit light until the early 1980s, the heaviest use being for earthquake recovery efforts in 1964.

After the passage of ANCSA in 1971, Eklutna, Inc. (as the village corporation established for this area) asserted selection rights for a number of Alaska Railroad lands. Those selections were still in dispute when the State bought the Alaska Railroad in 1985. In 1987 ARRC negotiated a settlement of ANCSA land claims with Eklutna, Inc. known as the "3(e) Agreement" under which ARRC received a limited title to the Quarry and the right to mine the rock down, essentially, to ground level.

The Railroad's somewhat sporadic use of the Quarry intensified in the early 1990s and was opposed by the Native Village of Eklutna, which is a tribal council and a separate legal entity from Eklutna, Inc. This led to three separate lawsuits and three separate Alaska Supreme Court decisions. The cases established that ARRC had to obtain a conditional use permit in order to use the Quarry. The Village's opposition, based on the cultural significance of the Eklutna Hills, made it highly unlikely that ARRC would be able to get a permit. In addition, this opposition prevented ARRC from using rock from the Quarry on federally funded projects because federal law requires certain accommodations for culturally significant properties.

In 2001, the last season of blasting at the Quarry, ARRC produced over \$1 million's worth of railroad ballast and rip rap. Due to the ongoing lawsuits and the federal funding restrictions, most of this inventory remains stockpiled at the Quarry. A conditional use permit is required even to remove this already processed rock, and satisfaction of the Village's concerns is necessary before this rock can be used on federally funded projects.

After years of litigation, the ARRC, Eklutna, Inc. and the Native Village of Eklutna have settled their differences about the Quarry. An agreement was signed effective January 22, 2007 under which ARRC will transfer the Quarry to Eklutna, Inc., subject to legislative approval and other due diligence being agreed and performed (such as an environmental site assessment). A conditional use permit to remove the stockpiled rock is in hand. Based on this most recent agreement, the federal funding agency has removed its prohibition on use. Legislative approval of the transfer of the Quarry to Eklutna, Inc will bring this contentious chapter to a close and create a foundation for a future land exchange at other locations.

**What is the North Anchorage Land Agreement and how does it affect the current situation?**

The North Anchorage Land Agreement (NALA) was executed by the State of Alaska, the Municipality of Anchorage and Eklutna, Inc. in March 1982 to resolve numerous long-standing land ownership and management issues in the area north of downtown Anchorage and south of the City of Palmer. Native land selections under ANCSA in this area overlapped with state selections and municipal entitlements. Section 1425 of ANILCA authorized local parties to enter an agreement like NALA to resolve their issues directly instead of through BLM adjudications and individual litigation. Section 1425 requires that conveyances made under agreements like NALA be treated as conveyances under ANCSA.

For the Quarry location, NALA has two direct effects. One is the general principle of designating the lands around Eklutna Village as available for selection by Eklutna to the extent it was not actually used by a federal agency in 1971. NALA expressly recognized that the State was negotiating for purchase of the Alaska Railroad and the parties agreed such a transfer would not come within NALA's control. However, they went on to agree that if the State or its assignee (for owning the railroad, i.e. ARRC) ceased to use the lands "in connection with furnishing mass or bulk transportation", the Quarry land would be conveyed to Eklutna.

**What is the ARRC-Eklutna "3(e) Agreement" and how does it affect the current situation?**

ARRC inherited a number of ANCSA Native land selection disputes when the federal railroad was transferred in January 1985. One of the first negotiations was between ARRC and Eklutna, Inc. and it culminated in an agreement dated January 8, 1987. As to the Eklutna Quarry site, the agreement provided that it

was further implementing the previously agreed requirements of NALA. Specifically, the 3(e) Agreement stated that "cessation of use of the Quarry in connection with furnishing mass or bulk transportation will occur only when (i) the rock structure occupying the parcel has been exhausted and no quarry rock that can be removed remains above the of the track bed presently situated on the parcel, or (ii) the parcel is devoted principally to a use other than the mining of rock."

**What is the proposal?**

The proposal is to obtain legislative approval and transfer ARRC's entire interest in the 48-acre Eklutna Quarry parcel to Eklutna, Inc. under NALA and Section 1425 of ANILCA.

**Why is it needed?**

ARRC has determined that the corporation will no longer use the Quarry for mining rock. This is because the likelihood of getting a permit to conduct future blasting is slim and the likelihood of being allowed to use the rock on federal projects, which are the vast majority of ARRC's capital improvements, is even slimmer given the cultural significance of the knob. The cost of seeking these approvals is considerable, both in terms of direct expense and public and community bad will. Given that decision, the ultimate disposition of the land to Eklutna, Inc. under the applicable settlement agreements need not and should not be delayed. Under ARRC's governing statute, AS 42.40.285(1), legislative approval is required before the corporation can convey its entire interest in land. However limited or conditioned ARRC's interest in the Quarry might be, it is still an interest in land and therefore legislative approval is necessary.

**Why is it needed now?**

There is an estimated 145,000 tons of stockpiled material on the Quarry floor that ARRC needs for the upcoming spring break up season and summer construction projects. These materials cost ARRC over \$1 million to produce six years ago. Without assured access to the stockpile, ARRC would have had to spend at least \$2 million to purchase the same quantity of materials for use this year. The good faith cooperation of Eklutna, Inc. and the Village, which was based on the ARRC's commitment to seek authority for this transfer, has enabled ARRC to obtain the necessary permit and federal approvals. It's now ARRC's turn to follow through on its commitment and pursue this legislation, satisfying any legislative concerns that may be expressed.

**Who owns the land value of the quarry?**

ARRC currently holds title to the quarry under an interim conveyance issued by the U.S. on November 23, 2004, but the conveyance is expressly subject to the provisions of ARRC and Eklutna's 3(e) Agreement. Under NALA and the 3(e) Agreement, the residual land value of the quarry belongs to Eklutna, Inc. The ARRC can only extract the rock resource down to ground level under those agreements, with the "reversionary interest" belonging to Eklutna.

**What is the resource value of the quarry?**

The ARRC is unable to extract the resource because of its inability to obtain a conditional use permit from the Municipality of Anchorage for further production. Any third party owning the quarry would face the same requirement. In addition, if more material could be produced, the National Historic Preservation Act (NHPA) would prohibit its use on federal projects, greatly limiting use, without a successful NHPA consultation over the historic cultural aspect with the Village and Alaska SHPO. While a private owner would not face the NHPA issue, it would still have similar difficulties getting a municipal permit. As a result of all this, to the ARRC, there is little value in the raw resource (the remaining undisturbed knob). ARRC estimates that about 5 million tons of rock remain in place at the Eklutna Quarry.

**Describe the future land exchange needed between the Alaska Railroad and Eklutna Inc.? Is DOT involved? What about the Birchwood Airport Expansion?**

The ARRC and Eklutna, Inc. are considering a future land exchange that would benefit both parties' commercial and operational interests. The ARRC would give up its rights to "Parcel C", an area of about 400 acres adjacent to the North Eagle River interchange. Eklutna would incorporate this into its Powder Ridge development. Any conveyance of this land would, of course, also require legislative approval and we would expect to present a bill on this subject in the 2008 session.

ARRC would receive an equivalent value of land at Birchwood. ARRC intends this land for industrial development. It is zoned industrial and is easily accessible to the railroad.

Alaska DOTPF may be involved in the land exchange. DOTPF wants certain ARRC and Eklutna lands for expansion of the Birchwood Airport. DOTPF has been attending the discussions about a land exchange, but it is not clear that their timing and funding is consistent with the other parties' desired timeline. They will, however, continue to be invited to the discussions in an effort to incorporate their needs.

**Isn't the quarry ARRC's leverage for the future land exchange? If yes...why does the transfer need to occur now rather than at the time the larger deal is finalized?**

First and foremost, the Eklutna Quarry exchange stands out as an important symbol of good faith. It demonstrates the potential of a new business relationship, one whose strength issues from cooperation and trust as opposed to the exercise of leverage and maneuver.

Second, ARRC has inventory in the Quarry that can be particularly useful in early 2007. The ARRC would like to liquidate this inventory while preparing for

production of similar materials from a new source at Curry, 20 miles north of Talkeetna. Curry production is not expected to come on line until late 2007.

**Does the Railroad need the Quarry any longer? Why not?**

No. The Railroad has no "long-term" right to the land under NALA and the 3(e) Agreement; it only has the right to extract rock down to ground level. However, any realistic possibilities for further resource extraction are severely limited by the Village's opposition to further destruction of a culturally significant site. The only remaining value to ARRC is in the produced inventory, and as a demonstration of good faith to overcome the harsh legacy of years of litigation and in order to create favorable conditions for a reasonable negotiation on the exchange of lands at Birchwood and Eagle River.

**What does the Railroad get out of this agreement?**

Immediate use of the stockpiled materials with the associated cost avoidance, and the building of good will with its neighbors, particularly the Village and Eklutna, Inc.

**What does Eklutna get out of this agreement?**

Expressly, it gets land and the remaining resource intact and well in advance of when it would otherwise. This is important to the many Village residents who are also Eklutna shareholders. CIRI similarly gets the subsurface rights in advance of when it would have gotten them otherwise.

**Are there limitations on what Eklutna can do with the land once it is transferred?**

No, nor would there be any if it were transferred in the future after ARRC exhausted the above ground level resource. The granite resource probably extends far below ground level, and the regional corporation, CIRI, will own the subsurface rights in keeping with the usual ANCSA ownership scenario.

**Are community leaders on board with this proposal?**

ARRC has begun concerted public outreach with local government and community leaders, briefings of area legislators, and media briefings, and will continue this effort. We have not had any negative feedback to date.

**Is there opposition to this proposal that we are aware of?**

No.

**Are there adjacent land owners or other land interests that should be considered? (Wells Fargo, CIRI etc.)**

Eklutna, Inc. and Wells Fargo own most of the adjacent property. There are also individual land owners who are Village residents. CIRI owns the subsurface rights to the other Eklutna land in the area.

Wells Fargo's situation is somewhat unique. By historical quirk, it owns about half of the larger knob of the two Eklutna Hills, which is the same knob in which the ARRC's Quarry is located. Its predecessor NBA acquired this land through foreclosure on another early homesteader in the area. NBA tried to obtain a conditional use permit to mine its half of the knob in the 1990s, and while it was initially successful at the municipal level, it too was sued by the Native Village of Eklutna and lost at the Alaska Supreme Court level. It has not made any further efforts to mine the knob to our knowledge. It is reported that Wells Fargo is trying to sell the entire parcel of approximately 157.77 acres.



NORTH ANCHORAGE  
LAND AGREEMENT  
&  
AMENDMENTS

Work Session

File Copy

MARCH 1982

NORTH ANCHORAGE LAND AGREEMENT

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ject of litigation in the case of Eklutna, Inc. v. Andrus, A78-192 Civ., U.S.D.C. Alaska. This portion of the Agreement is authorized by Section 1425(f) of ANILCA.

Section IV of this Agreement contains miscellaneous provisions concerning the relationships between and among the parties which do not affect the conveyance of lands by the Department of the Interior.

I.

DISPOSITION OF LAND WITHDRAWN BY SECTION 1425(b)(1) OF ANILCA

- A. For the purposes of this Section I, the parties agree that Section 1425(b)(1) of ANILCA withdrew the following lands located within Townships 18 North, Ranges 1 and 2 East, and Ranges 1 and 2 West; Townships 17 North, Ranges 1 and 2 East, and Ranges 1 and 2 West; Townships 16 North, Ranges 1, 2 and 3 East, and Ranges 1, 2 and 3 West; Townships 15 North, Ranges 1, 2 and 3 East, and Ranges 1, 2 and 3 West; and Townships 14 North, Ranges 1, 2 and 3 East and Ranges 1, 2 and 3 West, Seward Meridian, and provided for their disposition pursuant to this Agreement:
- (1) Lands withdrawn or reserved for national defense purposes; and
  - (2) Lands determined by the Secretary under Section 3(e)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq. ("ANCSA") not to be public lands for the purposes of ANCSA.
- B. The parties agree that upon termination or revocation of any withdrawal or upon a declaration of excess status in whole or in part of lands withdrawn by Section 1425(b)(1), or disposition other than in accordance with Section 1425 and this Agreement, the Secretary shall convey such lands

Eklutna's or the State's entitlement, a conveyance of an undivided one-half interest (or a surface estate in an undivided one-half interest) in an acre shall be charged as if each party had received one-half acre. The parties agree that the cross reference in Section 1425 of ANILCA to Section 906(c) is a typographical error and should in fact be to Section 906(b).

(3) Lands Determined by the Secretary Pursuant to Section 3(e)(1) of ANCSA not to be Public Lands for the Purposes of ANCSA.

(a) Any lands within the following described areas which are finally determined under Section 3(e)(1) of ANCSA not to be public lands shall be conveyed to Eklutna:

Sections 13, 23, 24, 25 and 26, Township 16 North, Range 1 West, and Sections 18, 19 and 30, Township 16 North, Range 1 East, Seward Meridian.

(b) Any other lands which are finally determined under Section 3(e)(1) of ANCSA not to be public lands shall be conveyed to the State.

(c) The parties agree that the revocation of P.L.O. 5187 and power project withdrawals effected by the filing of this Agreement shall not affect the Secretary's authority to make 3(e) determinations under ANCSA concerning such land. The parties understand that the lands within Power Site Classification 107 within Township 14 North, Range 1 East, Seward Meridian, should be conveyed to the State.

- (d) This paragraph A shall not affect the rights of Eklutna in lands finally determined by the Secretary under Section 3(e)(1) of ANCSA to be public lands.
- (e) Notwithstanding subparagraph B(3)(a) of the introduction language to this paragraph B, the parties agree that the Alaska Railroad may become the property of the State of Alaska as an operating entity whether or not first exceded without there being any violation of Section 1425 or this Agreement, to the extent of the lands lawfully determined by the Secretary under Section 3(e)(1) of ANCSA not to have been public lands (including any of the same that may be included in the descriptions in subparagraph B(3)(a)); if lands or interests in lands in Paragraph (a) above are transferred to the State by the United States as part of the railroad transfer, the State will reconvey the land to Eklutna if it ceases to use them in connection with furnishing mass or bulk transportation. For so long as the railroad is in operation, the Secretary shall no convey to Eklutna the lands lawfully determined not to have been public lands.
- B. Section 1425(c) provides that the State and Eklutna are authorized pursuant to the agreement contemplated by Section 1425(b), to relinquish one or more land selections whether or not such selections have been previously approved or tentatively approved. Pursuant to this authority, Eklutna hereby relinquishes its selections of the

desires to mine, the parties acting by registered professional engineers with experience in fluvial geomorphology shall prepare a plan of operations based upon sustained yield. The plans shall address the volume of materials which can be removed without damage to the bridge or to other riparian lands. Eklutna and the State shall likewise agree upon a system of accounting for materials removed and other necessary aspects of the operation.

STATE OF ALASKA

WILSON CONDON, ESQ.  
Attorney General

By: [Signature]  
Chip Dennerlein, Director  
Subject to the approval of  
the Commissioner of the Department  
of Natural Resources and the  
Legislature of the State of Alaska

By: [Signature]  
Barbara J. Miracle, Esq.  
Assistant Attorney General.

ATTEST:

ANCHORAGE, a municipal corporation

[Signature]  
Municipal Clerk

By: [Signature]  
Tony Knowles, Mayor

EKLUTNA, INC.

BURR, PEASE & KURTZ

By: [Signature]  
Daniel Alex, President

By: [Signature]  
Edward Gould Burton

RECOMMENDED AND APPROVED:

By: [Signature]  
Dorothy Cook, Vice President

By: [Signature]  
Jerry Weitzbaugher  
Acting Municipal Attorney

**SB**

**104**

**(FILE 1)**

**SFIN**

**FILE**



**SENATE FINANCE COMMITTEE REPORT**

REPORTED OUT  
MAY 10 2007  
SENATE FINANCE COMMITTEE

DATE: 4/20/07

FURTHER:

DATE TURNED IN TO OFFICE: 11 May 2007

Finance Committee considered SENATE BILL NO. 104

**SB 104 NATURAL GAS PIPELINE PROJECT**

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

and recommends:

- be replaced with  SCS or  CS SB 104 (FIN)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

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

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DNR-Oil & Gas	2/1/07			<input checked="" type="checkbox"/>	#2
REVENUE	2/28/07	2,226.0			#3
DCCED	2/28/07			<input checked="" type="checkbox"/>	#4
Admin	3/2/07			<input checked="" type="checkbox"/>	#5
DNR-AGIA	4/10/07	302.1			#6
labor	4/12/07			<input checked="" type="checkbox"/>	#7

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Thomas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Dyson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Huggins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Olson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR:	Hoffman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR:	Stedman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

# FISCAL NOTE

REPORTED OUT  
MAY 10 2007  
SENATE FINANCE COMMITTEE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: SB 104  
(S) Publish Date: 3/5/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title: Alaska Gasline Inducements Act RDU: Resource Development  
Sponsor: Rules Committee Component: Oil & Gas Development  
Requester: Governor Component No.: 439

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 6,550.0 \*\* Requested as a capital project  
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

POSITIONS	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Full-time						
Part-time						
Temporary						

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

\*\*This fiscal note represents the gasline-related supplemental requested in HB138/SB82, Section 2 (a). This was requested as a capital project with an effective date of February 1, 2007.

Section 2(a) - \$6,550,000 general fund for gas pipeline analysis projects. This funding will be used to pay for consultants to advise the state on the structure of an RFP for gasline proposals; and to cover the cost of outside experts and legal counsel on federal pipeline law and the FERC process. DNR estimates that \$4,135,000 will be expended in FY07, and \$2,415,000 in FY08.

Prepared by: Kevin Banks, Acting Director Phone: 907-269-8800  
Division: Oil & Gas Date/Time: 3/1/2007  
Approved by: Tom Irwin, Commissioner Date: 3/1/2007  
Agency: Natural Resources

# FISCAL NOTE

REPORTED OUT  
 MAY 10 2007  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 3  
 Bill Version: SB 104  
 (S) Publish Date: 3/5/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title AGIA RDU Administration & Support  
 Component Natural Gas Commercialization  
 Sponsor Governor  
 Requester Rules Committee Component No. 2859

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	294.0	294.0	294.0	294.0	294.0	294.0
Travel	25.0	25.0	25.0	25.0	25.0	25.0
Contractual	1,897.0	900.0	450.0	10.0	10.0	10.0
Supplies	10.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>2,226.0</b>	<b>1,221.0</b>	<b>771.0</b>	<b>331.0</b>	<b>331.0</b>	<b>331.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,226.0	1,221.0	771.0	331.0	331.0	331.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>2,226.0</b>	<b>1,221.0</b>	<b>771.0</b>	<b>331.0</b>	<b>331.0</b>	<b>331.0</b>

Estimate of any current year (FY2007) cost: 784.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

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

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

Operating expenditures include costs for 2 additional economists/commercial analysts in exempt positions. These positions would be used to draft the tax related provisions of the request for application, assess economic viability of projects contained in applications, including economic impacts on future state revenues and value of inducements, and develop the Department's recommendations for changes to the existing gas production tax statutes and regulations that will need to be in place as inducement for producer's gas commitments under the Alaska Gasline Inducements Act. In addition, property tax impacts of pipeline construction to state and municipal revenues will need to be understood and forecasted.

Prepared by: Roger Marks Phone 269-0082  
 Division: Tax Division Date/Time 2/28/07 12:00 AM  
 Approved by: Jerry Burnett Date 2/28/2007  
 Agency: Department of Revenue

FISCAL NOTE # 3

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

BILL NO. SB 104

ANALYSIS CONTINUATION

Contractual expenditures include assistance in formulating revisions to the tax structure, studying comparative international fiscal systems for gas to ensure changes to state's gas production taxes leave Alaska in a globally competitive position, and writing regulations.

Other contractual costs are for legal support for attorneys/law firms with appropriate specialties outside of AGs office to advise us on tax structures and creation of new tax structure; assessment of legal issues and impediments to marketing options now being considered to assist in evaluation of projects; and legal assessment of financial covenants impacting state and its project selection in standard commercial financing arrangements and governmentally guaranteed financing scenarios.

The FY 2008 costs are also in the Oil & Gas Supplemental Bill (SB 82). In addition, that Bill contains FY 2007 costs of \$123,000 personal services, \$425,000 contractual, \$10,000 travel, and \$365,000 legal support.

# FISCAL NOTE

REPORTED OUT  
 MAY 16 2007  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 4  
 Bill Version: SB 104  
 (S) Publish Date: 3/5/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Alaska Gasline Inducements Act RDU Regulatory Commission of Alaska (399)  
 Component Regulatory Commission of Alaska  
 Sponsor Rules  
 Requester By Request of the Governor Component No. 2417

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1141 RCA Receipts)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 The Regulatory Commission of Alaska (RCA) regulates pipelines and pipeline carriers operating in Alaska under AS 42.06.140(a). AS 42.06.240 requires the RCA to issue a certificate of public convenience and necessity for pipeline carriers engaged in the intrastate transportation of oil or gas by pipeline, or constructing or extending pipeline facilities. To the extent this legislation results in the construction of an intrastate pipeline subject to RCA regulation, costs will be accounted for under the existing RCA structure.

The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. General funds are not allocated for support of the agency, nor are they anticipated to be necessary as a result of this legislation. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of economically regulated utilities and pipeline carriers.

Prepared by: Kate Gard, Chair Phone 907 276 6222  
 Division Regulatory Commission of Alaska Date/Time 2/28/07 3:06 PM  
 Approved by: Emil Notti, Commissioner Date 2/28/2007  
 Agency Commerce, Community, and Economic Development

# FISCAL NOTE

REPORTED OUT  
 MAY 10 2007  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 5  
 Bill Version: SB 104  
 (S) Publish Date: 3/5/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title Alaska Gasline Inducement Act RDU AOGCC  
 Component AOGCC  
 Sponsor Rules Committee  
 Requester Governor Component No. 2010

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation will not have a fiscal impact upon the Alaska Oil and Gas Conservation Commission.

Prepared by: Jody J. Colombio, Special Assistant I  
 Division: Alaska Oil and Gas Conservation Commission  
 Approved by: Rachael Petro, Deputy Commissioner  
 Agency: Department of Administration

Phone 793-1221  
 Date/Time 3/2/07 3:19 PM  
 Date 3/2/2007 1:00pm

# FISCAL NOTE

REPORTED OUT  
**MAY 10 2007**  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 6  
 Bill Version: CSSB 104(JUD)  
 (S) Publish Date: 4/20/07

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

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	261.3	612.2	612.2	612.2	612.2	612.2
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	10.8	27.0	27.0	27.0	27.0	27.0
Supplies	10.0	19.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>302.1</b>	<b>678.2</b>	<b>669.2</b>	<b>669.2</b>	<b>669.2</b>	<b>669.2</b>

<b>CAPITAL EXPENDITURES</b>	<b>500,000.0*</b>				
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<b>CHANGE IN REVENUES ( )</b>					
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	302.1	678.2	669.2	669.2	669.2	669.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>302.1</b>	<b>678.2</b>	<b>669.2</b>	<b>669.2</b>	<b>669.2</b>	<b>669.2</b>

Estimate of any current year (FY2007) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time	2	5	5	5	5	5
Part-time						
Temporary						

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

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

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

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

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

BILL NO. CSSB 104(JUD)

**ANALYSIS CONTINUATION**

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

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

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

Second, AGIA's requirement of a minimum 70 percent share of debt in the determination of tariffs ensures that the state will not pay unnecessarily high transportation costs. Without this protection, project tariffs could be calculated on the basis of 60 or even 50 percent debt and still pass regulatory scrutiny. The tariff benefits of a 70 percent debt structure, rather than 60 percent or 50 percent, are 26 cents and 55 cents per MMBtu, respectively. The savings to the state are \$1.25 billion and \$2.63 billion, respectively. Meanwhile, lower tariffs improve project economics for holders of both existing and yet to be discovered gas reserves, thereby increasing the likelihood that the project will commence sooner. The degree to which such savings are realized depends on how, absent AGIA's requirements, project tariffs would otherwise have been determined.

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

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

The state gas pipeline coordinator will help expedite the review and coordination of all state and federal permits and processes, ensure that all state and federal environmental requirements have been completed, and coordinate with the federal coordinator for natural gas transportation projects in Alaska. It is this position's responsibility to ensure that no steps have been missed that may slow down the construction of the pipeline and that the state's involvement in the Federal EIS process facilitates expeditious permitting.

The state gas pipeline coordinator is an exempt position (Range 26M \$209.0). To assist the state coordinator, four additional positions would be needed: a Pipeline Engineer (Range 26D \$150.9), a Natural Resource Specialist IV with knowledge of state and federal environmental regulations and administrative procedure (Range 21C \$108.9), a Natural Resource Specialist III to assist with title work (Range 18C \$91.1), and an Administrative Clerk II (Range 8 \$52.3). It is anticipated that the state coordinator and clerk would begin in FY 08. There will be travel associated with the functions of at least two of these positions. All of the positions will sunset one year after commencement of the gas pipeline commercial operations.

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

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



# FISCAL NOTE

REPORTED OUT  
**MAY 10 2007**  
 SENATE FINANCE COMMITTEE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: CSSB104(JUD)-OOG-EO-4-24-07  
 Bill Version: CSSB 104 (JUD)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: OOG  
 Title "An Act relating to the Alaska Gasline RDU Executive Operations  
Inducement Act..." Component Executive Office  
 Sponsor Rules Committee  
 Requester Senate Finance Committee Component No. 6

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

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

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

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	132.8	465.0	474.6	482.3	493.0	501.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>132.8</b>	<b>465.0</b>	<b>474.6</b>	<b>482.3</b>	<b>493.0</b>	<b>501.0</b>

Estimate of any current year (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This fiscal note assumes the office will begin functioning at the onset of the last quarter of FY08.  
  
 Personal services consists of a state gas pipeline coordinator (R28A), an inter-governmental coordinator (R24), and an executive secretary (R14).

Prepared by: Gail Fenumiai, Asst. Administrative Director Phone 465-3885  
 Division: Division of Administrative Services Date/Time 4/24/2007, 12:35pm  
 Approved by: Linda J. Perez, Administrative Director Date 4/24/2007  
 Agency: Office of the Governor

**CS FOR SENATE BILL NO. 104(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

1 (2) promotes exploration and development of oil and gas resources on  
2 the North Slope 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 five-year period immediately following the date the license is awarded; the  
20 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 may not exceed 50  
26 percent of the qualified expenditures incurred before the close of the first  
27 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 may not exceed 80  
31 percent of the qualified expenditures incurred after the close of the first

1 binding open season;

2 (C) a qualified expenditure is a cost that is incurred after the  
3 license is issued under this chapter by the licensee or the licensee's designated  
4 affiliate, and is directly and reasonably related to pursuing firm 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, litigation costs, the cost of an asset or work product acquired or  
11 developed by the licensee before the license is issued, or civil or criminal  
12 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; the applicant shall file with the commissioners the number of  
31 copies of the application, and any amended application, required by the

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commissioners; at the same time the copies of the application or an amended application are filed with the commissioners, the applicant shall provide six copies of the application or amended application to the presiding officer of each chamber of the legislature;

(2) provide a thorough description of a proposed natural gas pipeline project for transporting natural gas from the North Slope to market, which description may include multiple design proposals, including different design proposals for pipe diameter, wall thickness, and transportation capacity, and which description shall include

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

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

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

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

(i) if the proposed project involves a pipeline into or through Canada, a thorough description of the applicant's plan to obtain necessary rights-of-way and authorizations in Canada, a description of the transportation services to be provided and a description of rate-making methodologies the applicant will propose to the regulatory

1 agencies, and an estimate of rates and charges for all services;

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

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

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

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

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

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

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

10 (B) apply for a certificate of public convenience and necessity  
11 to authorize the construction and operation of the proposed project by a date  
12 certain;

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

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

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

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

30 (7) commit that the applicant

31 (A) 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 as provided in (B) and (C) of this paragraph or through a  
3 combination of incremental and rolled-in rates as provided in (D) of this  
4 paragraph;

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

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

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

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



1 (C) will, if recovery of mainline capacity expansion costs,  
2 including fuel costs, through rolled-in rate treatment would increase the rates  
3 for capacity described in (B) of this paragraph, propose and support the partial  
4 roll-in of mainline expansion costs, including fuel costs, to the extent that rates  
5 acquired before commercial operations commence do not exceed the levels  
6 described in (B) of this paragraph;

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

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

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

30 (9) propose a percentage and total dollar amount for the state's  
31 matching contribution under AS 43.90.110(a)(1)(A) and (B) to be specified in the

1 license;

2 (10) commit to propose and support rates for the proposed project and  
3 for any North Slope gas treatment plant that the applicant may own, in whole or in  
4 part, that are based on a capital structure for rate-making that consists of not less than  
5 70 percent debt;

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

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

11 (13) commit to

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

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

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

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

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

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

26 (C) establish hiring facilities or use existing hiring facilities in  
27 the state; and

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

31 (16) waive the right to appeal the rejection of the application as

1 incomplete, the issuance of a license to another applicant, or the determination under  
2 AS 43.90.180(b) that no application merits the issuance of a license;

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

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

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

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

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

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

1 application.

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

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

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

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

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

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

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

1 that is satisfactory to the commissioners, and the commissioners shall make the  
2 summary of the information available to the public.

3 (c) After the commissioners determine that the applications are complete  
4 under AS 43.90.140, information provided by an applicant to the commissioners under  
5 this chapter, including information determined by the commissioners to be  
6 confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal  
7 analyst who serves as head of the legislative finance division, members of the  
8 legislature, and their respective agents and contractors, on request and after the  
9 individual making the request signs a confidentiality agreement prepared by the  
10 commissioners.

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

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

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

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

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

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

30 (5) the amount of the matching contribution by the state under  
31 AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9); and

1 (6) other factors found by the commissioners to be relevant to the  
2 evaluation of the net present value of the anticipated cash flow to the state.

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

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

10 (2) the financial resources of the applicant;

11 (3) the ability of the applicant to comply with the proposed  
12 performance schedule;

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

16 (5) the applicant's record of

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

18 (B) integrity and good business ethics; and

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

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

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

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

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

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

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

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

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

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

29 (d) If the legislature fails to approve the issuance of the license, the  
30 commissioners

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

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

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

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

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

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

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

18 (2) five years after the close of the first binding open season of the  
19 project.

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

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

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

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



1 are qualified expenditures for the purposes of AS 43.90.110.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (c) The commissioners may suspend disbursement of state matching

1 contributions to the licensee beginning on the date that the notice of violation issued  
2 under (b) of this section is sent to the licensee. The commissioners may resume  
3 disbursement on the date that the commissioners determine that the violation is cured.

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

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

- 12 (1) discontinuation of state matching contributions 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 (c) 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 the licensee do not agree that the project is  
27 uneconomic, the disagreement shall be settled by arbitration administered by the  
28 American Arbitration Association under the substantive and procedural laws of this  
29 state, and judgment on the award rendered by the arbitrators may be entered in  
30 superior court in the state. In the event of arbitration, each party shall select an  
31 arbitrator from the American Arbitration Association's National Roster, and the two

1 arbitrators shall appoint a third arbitrator from the American Arbitration Association's  
2 National Roster who shall serve as the chair of the three-member arbitration panel. If  
3 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 contribution**  
18 **fund; disbursements; audits.** (a) There is established in the general fund an Alaska  
19 Gasline Inducement Act matching contribution fund. The fund consists of money  
20 appropriated to it by the legislature for disbursement to pay the state's matching  
21 contributions under AS 43.90.110. Money appropriated to the fund may be spent for  
22 the purposes of the fund without further appropriation. Appropriations to the fund do  
23 not lapse under AS 37.25.010, but remain in the fund for future disbursements.  
24 Nothing in this subsection creates a dedicated fund.

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

29 (c) The commissioners shall adopt regulations that provide for application to  
30 receive matching contributions in the form of reimbursements for qualified  
31 expenditures as provided under AS 43.90.110, and that provide for periodic audits of

1 the use of money disbursed as matching contributions under this chapter.

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

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

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

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

19 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise  
20 provided in this chapter, the state grants a licensee assurances that the licensee has  
21 exclusive enjoyment of the inducements provided under this chapter before the  
22 commencement of commercial operations. If, before the commencement of  
23 commercial operations, the state extends to another person preferential royalty or tax  
24 treatment or grant of state money for the purpose of facilitating the construction of a  
25 competing natural gas pipeline project in this state, and if the licensee is in compliance  
26 with the requirements of the license and with the requirements of state and federal  
27 statutes and regulations relevant to the project, the licensee is entitled to payment from  
28 the state of an amount equal to three times the total amount of the expenditures  
29 incurred and paid by the licensee that are qualified expenditures for the purposes of  
30 AS 43.90.110 that the licensee incurred in developing the licensee's project before the  
31 date that the state first extended preferential treatment to another person. The payment

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

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

11 (c) In this section,

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

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

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

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

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

25 (1) the transfer is approved in writing in advance by the  
26 commissioners; and

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

30 (b) Notwithstanding the commissioners' approval of a transfer of all or part of  
31 a license under (a) of this section, the transferor of the license remains subject to the

1 requirements of AS 43.90.220 regarding all state money received by the licensee  
2 before the effective date of the transfer.

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

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

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

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

#### 21 **Article 5. General Provisions.**

22 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise  
23 requires,

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

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

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

31 (4) "certificate of public convenience and necessity" and "certificate"

1 mean a certificate of public convenience and necessity issued by the Federal Energy  
2 Regulatory Commission or the Regulatory Commission of Alaska, and a certificate of  
3 public convenience of necessity issued by the Federal Energy Regulatory Commission  
4 under 15 U.S.C. 719 et seq. (Alaska Natural Gas Transportation Act of 1976) that is  
5 amended to comply with the terms of the license;

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

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

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

14 (8) "equity holder" means the

15 (A) stockholders of a corporation;

16 (B) members of a limited liability company;

17 (C) partners of a partnership;

18 (D) joint venturers of a joint venture;

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

20 or

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

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

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

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

31 (12) "lessee" means a person that holds a working interest in an oil and

1 gas, or gas, lease issued by this state;

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

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

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

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

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

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

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

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

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

25 (22) "sanction" means to make financial commitments to go forward  
26 with the project as evidenced by entering into financial commitments of at least  
27 \$1,000,000,000 with third parties;

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

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

31 (25) "unit agreement" means an agreement executed by the working

1 interest owners and royalty owners creating the unit.

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

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

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

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

9 (b) The commissioner may

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

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

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

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

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

26 (6) classify tracts for agricultural uses;

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

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

31 (B) transportation, marketing, and development costs render



1 the required development uneconomic;

2 (8) reconvey or relinquish land or an interest in land to the federal  
3 government if

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

6 (B) the reconveyance or relinquishment is

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

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

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

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

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

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

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

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

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

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

23 (3) medical and related public health records;

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

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

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

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

1 proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

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circumvention of the law; or

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

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

(12) records that are

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

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

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

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

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

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

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

SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application of it to any person or circumstance, is held invalid, the remainder of this Act and the

1 application to other persons or circumstances are not affected.

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

**SB**

**104**

**(FILE 2)**

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**FILE**

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CS FOR SENATE BILL NO. 104(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE ~~FINANCE~~ COMMITTEE

Deleted: JUDICIARY

Offered: 4/20/07

Referred: Rules

Deleted: Finance

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

A BILL  
FOR AN ACT ENTITLED

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

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

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

Chapter 90. Alaska Gasline Inducement Act.

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

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

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

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

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

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

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Article 2. Alaska Gasline Inducement Act License.

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

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

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Sec. 43.90.110. Natural gas pipeline project construction inducement.

(a) Subject to the limitations of this chapter, a license issued under this chapter entitles the licensee or its designated affiliate to receive

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

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

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

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(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 obtaining a certificate or amended certificate of public convenience and necessity from the Federal

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Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, ~~or satisfying any other requirement of an agency with jurisdiction over the project; in this subparagraph, "qualified expenditures" does not include overhead costs, litigation costs, the cost of an asset or work product required or developed by the licensee before the license is issued, civil or criminal penalties or fines; and~~

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(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.

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

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

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

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

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

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

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(ii) if the proposed project involves marine transportation of liquefied natural gas, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all proposed access and tariff terms for liquefaction services or, if third parties would perform liquefaction services, identification of the third parties and the terms applicable to the liquefaction services; a complete description of the marine segment of the project, including the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export,

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destination, re-gasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export permits and licenses or a certificate or amended certificate of public convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

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

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

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(B) apply for Federal Energy Regulatory Commission approval to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain, and use those procedures before filing an application for a certificate or amended certificate of public convenience and necessity, except where the procedures are not required as a result of section 5 of the President's Decision issued pursuant to the Alaska Natural Gas Transportation Act of 1976; and

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

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

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

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

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

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

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

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

(7) commit that the applicant

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

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

(i) not described in (ii) of this subparagraph by not more than 15 percent above the initial maximum recourse rates for capacity acquired before commercial operations commence; in this subparagraph, "initial maximum recourse rates" means the highest cost

based rates for any specific transportation service set by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate, when the pipeline commences commercial operations;

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

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

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

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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 matching contribution under AS 43.90.110(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 of the proposed project, and the measures for minimizing the effects on tariffs from any overruns;

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

(13) commit to

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(a) offer firm transportation service to delivery points in this state as part of the tariff regardless of whether any shippers bid successfully in a binding open season for firm transportation service to delivery points in this state; and

(b) offer distance-sensitive rates to delivery points in this state consistent with 18 C.F.R. 157.34(c)(8);

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

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

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

(B) contract with businesses located in the state;

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

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

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

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

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

(19) provide a detailed description of the applicant, and all entities participating with the applicant in the application and the project proposed by the applicant, and persons the applicant intends to involve in the construction and operation of the proposed

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project; the description must include the nature of the affiliation for each person, the commitments by the person to the applicant, and other information relevant to the commissioners' evaluation of the readiness and ability of the applicant to complete the project presented in the application;

(20) demonstrate the readiness and financial and technical ability to perform the activities specified in the application, including the applicant's history in safety, health, and environmental compliance and in following a detailed work plan, timeline, and operation within an associated budget.

**Sec. 43.90.140. Initial application review; additional information requests; complete applications.** (a) Upon expiration of the deadline for the filing of applications under AS 43.90.130, the commissioners shall open all applications and review each application to determine whether it is consistent with the terms of the request for applications and meets the requirements of AS 43.90.130. The commissioners shall reject as incomplete an application that does not meet the requirements of AS 43.90.130.

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

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

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

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

**Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the request of the applicant, information submitted under this chapter that the applicant identifies and demonstrates is proprietary or is a trade secret is confidential and not subject to public disclosure under AS 40.25, unless the applicant is granted a license under this chapter. After a license is awarded, all information submitted by the

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licensee, retained under this chapter and not determined by the commissioners to be proprietary or a trade secret, shall be made public.

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

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Sec. 43.90.160. Notice, review, and comment. (a) The commissioners shall publish notice and provide a 60-day period for public review and comment on all applications determined complete under AS 43.90.140. Except as provided under AS 43.90.150, all applications filed under this chapter shall be made public, regardless of whether they are deemed complete.

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

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

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

(c) When the commissioners determine that the applications are complete under AS 43.90.140, information provided by an applicant to the commissioners under this chapter, including information determined by the commissioners to be confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal analyst who serves as head of the legislative finance division, and members of the legislature, and their respective agents and contractors, on request and after the individual making the request signs a confidentiality agreement prepared by the commissioners.

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Sec. 43.90.170. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.140, consider public comments received under AS 43.90.160(a), and rank each application according to the net present value of the anticipated cash flow to the state from the applicant's project proposal using the factors in (b) of this section and weighted by the

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project's likelihood of success based on the commissioners' assessment of the factors listed in (c) of this section.

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

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

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

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

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

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

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

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

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

(2) the financial resources of the applicant;

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

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

(5) the applicant's record of

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

(B) integrity and good business ethics; and

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

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

(1) issue a determination, with written findings addressing the basis for the determination; the determination becomes a final agency action on the effective date of the legislative approval under AS 43.90.190(b);

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

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

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

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

**Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the presiding officer of each house of the legislature receives a determination from the commissioners under AS 43.90.180, the rules committee of each house of the legislature shall introduce a bill in the committee's respective chamber that provides

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for the approval of the license proposed to be issued by the commissioners.

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

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

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

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

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

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

(a) A licensee that is awarded a certificate or amended certificate of public convenience and necessity from a regulatory agency with jurisdiction over the project, shall accept the certificate or amended certificate when the order granting the certificate is no longer subject to judicial review or earlier at the licensee's discretion.

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

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

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shall sanction the project by the later of;

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

(ii) five years after the conclusion of the first open season of the project.

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

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

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

(e) The transfer and assignments under (d) of this section as a result of failure to comply with (a) or (b) of this section is at no cost to the state or the state's designee. A transfer under (c) of this section is at the licensee's net cost.

(f) In this section, "effective date of the certificate or amended certificate" means the date the order granting the certificate is no longer subject to judicial review or earlier at the licensee's discretion.

**Sec. 43.90.210. Amendment of or modification to the project plan.** Subject to the approval of the commissioners, a licensee may amend or modify its project plan if the amendments or modifications improve the net present value of the project to the state, are necessary because of an order or requirement of a regulatory agency with jurisdiction over the project or an order issued by the Alaska Oil and Gas Conservation Commission, or are necessary as a result of changed circumstances outside the licensee's control and not reasonably foreseeable before the license was issued. An amendment or modification approved under this section must be consistent with the requirements of AS 43.90.130 and, except for an amendment or modification required because of an order or requirement of a regulatory agency with jurisdiction over the project or issued by the Alaska Oil and Gas Conservation

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Commission, may not ~~substantially diminish the value of the project to the state or the project's likelihood of success.~~

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

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

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

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

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

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

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

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

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All proprietary or privileged information or trade secrets received by the state under this subsection shall not be subject to public disclosure under AS 40.25.

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

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

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

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

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

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(4) ~~failed to accept a certificate as required by AS 43.90.200(a) or failed to sanction the project as required by AS 43.90.200(b); or~~

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

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

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

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

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

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

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

(3) license revocation;

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

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

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

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(b) If the commissioners and the licensee do not agree that the project is uneconomic, the disagreement shall be settled by arbitration administered by the American Arbitration Association under the substantive and procedural laws of this state, and judgment on the award rendered by the arbitrators may be entered in a superior court in the state. In the event of arbitration, each party shall select an arbitrator from the American Arbitration Association's National Roster, and the two arbitrators shall appoint a third arbitrator from the American Arbitration Association's National Roster who shall serve as the chair of the three-member arbitration panel. If the arbitration panel determines that the project is

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

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

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

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

(2) predicted costs of transportation at a 100 percent load factor, when deducted from predicted gas sales revenue using publicly available predictions of



future gas prices, would result in a producer rate of return that is below the rate typically accepted by a prudent oil and gas exploration and production company for incremental upstream investment that is required to produce and deliver gas to the project.

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

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

(2) requirements of AS 43.90.440.

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

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

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

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

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

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

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

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### Article 3. Resource Inducement.

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

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

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

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

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

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

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

(C) reasonable and actual costs for gas processing; for purposes of this subsection, "gas processing" means post-production treatment of gas to extract natural gas liquids; and

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

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

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

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

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

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

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(A) upon the request of the lessee, the commissioner of natural

resources shall contractually amend the existing lease to ~~effect the election~~  
under this paragraph and incorporate ~~as fixed contract terms the relevant regulatory~~  
~~provisions~~; and

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

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

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(c) To claim the inducement under (b) of this section, a lessee or other person ~~qualified under AS 43.90.300~~ shall agree, on an application form provided by the Department of Natural Resources, that the lessee or other person, and the lessee's or other person's affiliates, successors, assigns, and agents, will not protest or appeal a filing by the licensee to roll in expansion costs of the mainline up to a level that is required in AS 43.90.130(7). The agreement not to protest may not preclude the lessee or other person, or the lessee's or other person's affiliates, successors, assigns, and agents from protesting a filing to roll in mainline expansion costs that licensee is not required to propose and support under AS 43.90.130(7).

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

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