

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3332

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

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

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

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

(d) For purposes of this section, "gas production tax" means the tax on gas in AS 43.55.

Sec. 43.90.330. Inducement vouchers. (a) A person that acquires firm transportation capacity in the first binding open season of the project, that does not hold an oil and gas lease on the North Slope, and that is not an affiliate of a person that

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holds an oil and gas lease on the North Slope, may apply to the commissioners for a voucher under this section. A voucher issued by the commissioners must describe the firm transportation capacity in the project to which the voucher is applicable.

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

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

(d) The person that receives a voucher under this section, and a gas producer that receives resource inducements under a voucher, shall agree that the person or gas producer, and their respective affiliates, successors, assigns or agents will not protest or appeal a filing by the licensee to roll in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.130(7). The agreement required under this subsection may not preclude the person or gas producer or their respective affiliates, successors, assigns or agents, from protesting a filing to roll in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.130(7).

Article 4. Miscellaneous Provisions.

Sec. 43.90.400. Alaska Gasline Inducement Act matching contribution fund; disbursements; audits. (a) There is established in the general fund an Alaska Gasline Inducement Act matching contribution fund. The fund consists of money appropriated to it by the legislature for disbursement to pay the state's matching

contributions under AS 43.90.110. Money appropriated to the fund may be spent for the purposes of the fund without further appropriation. Appropriations to the fund do not lapse under AS 37.25.010, but remain in the fund for future disbursements. Nothing in this subsection creates a dedicated fund.

(b) The Department of Revenue shall manage the fund, and may invest money in the fund so as to yield competitive market rates as provided in AS 37.10.071.

Income earned on the fund shall be accounted for separately and may be appropriated annually to the fund.

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

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

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

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

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

Sec. 43.90.440. Licensed project assurances. (a) Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has

exclusive enjoyment of the inducements provided under this chapter before the commencement of commercial operations. ~~If, before the commencement of commercial operations,~~ the state extends to another person preferential royalty or tax treatment or grant of state money for the purpose of facilitating the construction of a competing natural gas pipeline project in this state, and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total amount of the expenditures incurred and paid by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that the licensee incurred in developing the licensee's project before the date that the state first extended preferential treatment to another person. The payment under this subsection is subject to appropriation. Upon payment by the state of the amount owed under this section, the licensee shall, at no additional cost to the state, assign to the state or the state's designee all engineering designs, contracts, permits, and other data related to the project that were acquired by the licensee during the term of the license. The payment under this subsection is in full satisfaction of all claims the licensee may bring in contract, tort or other law, related to the events that gave rise to the payment.

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(b) In this section,

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

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

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

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

(3) the review, processing and facilitation of permits, rights of ways and authorizations by state agencies in connection with a competing natural gas pipeline project shall not create any obligation on the part of the state under this section.

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Sec. 43.90.450. Assignments. (a) A licensee may transfer all or part of the

license, including the rights and obligations arising under the license, if, after publishing notice of the proposed transfer, providing notice to the presiding officer of each house of the legislature, and providing a period of not less than 30 days for public review and comment,

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

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

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

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

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

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

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

Article 5. General Provisions.

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

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

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

(3) "amended certificate" means a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission under authority of the Alaska Natural Gas Transportation Act of 1976 that is amended to comply with the terms of the license.

(4) "applicant" means a person, or group of persons that files an application under this chapter;

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

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

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

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(8) "equity holder" means the

- (A) stockholders of a corporation;
- (B) members of a limited liability company;
- (C) partners of a partnership;
- (D) joint venturers of a joint venture;
- (E) members of a governmental authority and similar persons;

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or

(F) holders of any other entity or person;

(9) "gas treatment plant" means a facility downstream of the point of production that conditions gas and removes non-hydrocarbon substances from the gas for the

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purpose of rendering the gas acceptable for tender and acceptance into a gas pipeline system;

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

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

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

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

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

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

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

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(17) "open season" means the process that complies with 18 C.F.R.

Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects);

(18) "point of production" has meaning set forth in AS 43.55.900(20).

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

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(20) "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

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

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(22) "sanction" means financial commitments to go forward with the

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project as evidenced by entering into firm financial commitments of at least \$1,000,000,000 with third parties;

(23) "trade secret" has the meaning set forth in AS 45.50.940(3).

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

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

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

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

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

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

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

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

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

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

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

(3) medical and related public health records;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk 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 AS 43.90.220(d);

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

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

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

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

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

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

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

Sec. 8. AS 38.05.020(b) is amended by adding a new paragraph to read:

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

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

BP Testimony on AGIA (SB104)
Senate Finance Committee
April 28, 2007

- Mr. Chairman, members of the committee, for the record my name is Dave Van Tuyl. I am the Gas Commercialization Manager for BP Alaska. Thank you for the opportunity to testify before you this morning.

- My testimony will start with a reminder of the opportunity and challenge before us, and a brief discussion of the project economics and risk. Then I'll provide our specific concerns on AGIA, and end with a vision of a successful outcome which I think we are all trying to achieve.

An Opportunity...and a Challenge

- **BP wants and needs a gas pipeline.** And we need that pipeline to be built for a low capital cost and then operated cost efficiently. We believe that is what is required to make the project happen and be successful. Low costs are good for both BP and the State because it results in lower tariffs, higher netbacks and more revenues for the State and BP.

- Also, a low cost project will provide incentive to explore for more gas to keep the pipeline full into the future. That is also good for the State and for BP.

- The best way to ensure there is gas exploration in the future is to get a gas pipeline built in the first place, and to get it built for a low cost.

- **This is a hugely important project to BP, to Alaska and to the nation.** It represents the largest, known, undeveloped gas resource in the United States, and in BP's global portfolio. The gas project is important in its own right – but it also extends the economic life of Alaska's oil production for decades. Extending oil production is good for the State, the nation and for BP.

- We share the governor's and the legislature's desire to get a successful gas project moving.
- But the project remains commercially challenged. It requires massive capital investment. It requires even larger financial commitments to get the necessary financing to allow the project to advance.
- If it was easy, it would be advancing today. But it's not easy. It's incredibly challenging. The size of this project alone makes it incredibly challenging and risky.

BP Disagrees with the Administration's Economics

An important point I want to leave with you is that we fundamentally disagree with the characterization of the Alaska Gas project economics as recently presented by the Administration.

We have concerns over many different statements made by the Administration, but I'll limit my comments to addressing three key concerns.

1. Underlying economic methodology – Decoupling the Upstream from the Midstream
2. Nature of firm shipping commitments
3. The importance of long term cash flow in investment decision making

We are very concerned that the economic analysis presented by the Administration to the legislature is very misleading.

Economics

- Without the commitment of capital to the pipeline or the huge financial obligation required for Firm Transportation (FT) for the midstream facilities, there is no way to realize value from the sale of gas. Thus, any analysis of the project that excludes midstream capital and FT is incomplete.
- And because these commitments are just that, legally binding commitments, they need to be accounted for when evaluating project economics. These commitments were ignored in the Administration's analysis of the economics.
- Because that method ignores the FT obligation, the resulting assertion that our upstream economics are so robust is patently incorrect. In fact, the upstream pays for the midstream. It does this through firm transportation commitments. These commitments cannot be ignored.

The second point we want to emphasize is to ensure we have a common understanding of the nature of these firm transportation commitments we've just talked about.

Nature of Firm Transportation Commitments

- FT is a binding commitment made by a shipper to a pipeline company in an open season to secure capacity on the pipeline for a specified duration at a specified cost. We heard Fred Rich talk about this the other day.
- There are a few important facts to be clear on about FT
- FT is binding legal obligation. It becomes binding once the necessary conditions are met, including the pipeline coming into operation.
- The Administration has claimed that the Producers say that FT is "exactly like debt". I'm not aware of any of us having said that in testimony. Long

term commercial commitments like FT are often characterized as "debt-like", and must be reported to the SEC.

- The core issue is whether the FT commitments require the producers to absorb the substantial majority of the risk associated with the project.
- FT is a financial obligation, and it is certain that the lenders would have recourse to the financial security provided by the producers' FT, should the pipeline company fail to meet its obligations.
- Therefore, FT cannot be ignored if a project is to be evaluated properly.
- And generic statements about treatment of long term commercial commitments is dangerous. Commitments of the magnitude required to underpin this project are massive in both the dollar amount and the likely duration.
- These commitments will create their own weather in the financial markets – they must be considered.

The third and final point I wanted to emphasize is that confidence in future cash flows is very important in evaluating the commercial viability of any investment decision. That is particularly true for a commitment as large as the Alaska gas pipeline project.

Importance of Long Term Cash Flow

- The Administration suggested that cash flows beyond 10 years are relatively unimportant in financial decision making on this project
- That's not true.

- Cash flows further out in time tend to have less effect on NPV – this is true
 - But cash impact years into the future will indeed be real
 - In evaluating the economics of projects, we look at many different measures. NPV, IRR and PI are just some of the measures which are considered.
 - The ability of a project to generate long-term cash flow is also an important consideration to investors.
 - It's important to bear in mind that we expect the FT commitments we just talked about will be in effect well beyond 10 years.
 - So those making long terms commitments want to know that they'll be able to make good on them. Lenders will want to know this, too.

Getting this project right has enough challenges of its own, let alone when we have such fundamental disagreement with how the project is characterized.

What Is So Important about FT?

- FT commitments, typically obligations to "ship or pay" made by the resource owners or "shippers", are needed by the pipeline company to get financing
 - validating just how important they are, we've heard some very simple and straightforward comments from pipeline companies who have testified in the past couple of weeks
 - TransCanada has said "No customers, no credit, no pipeline" (and in this context customers means shippers)
 - Enbridge put it even more simply by saying "No producers, no pipeline"
- Those aren't "political" statements. They are statements about the simple financial truths of gas pipeline projects
- FT is a binding FINANCIAL obligation. I've sometimes heard FT described as "committing gas to a pipeline". I've heard that quote from industry as well as

- others, so I'm not pointing any fingers here. But I just wanted to make it clear that FT is an actual financial obligation
- Typically, FT is known as a "ship or pay" obligation
 - That means that a shipper commits to pay the pipeline company for use of its service whether or not the shipper actually delivers gas to the line
 - And it's also important to note that a company does not need to have ANY gas resources to enter into a firm transportation commitment. Any company who meets the creditworthiness standards set by the pipeline company is free to bid for capacity. Gas pipelines are "open access". Anyone is free to obtain capacity if they make the requisite commitments.
- The scale of these commitments is often oversimplified. It's not "just" the capital cost of the project, if that weren't in itself a large enough commitment.
 - the commitment is for what is known as the "demand charge" which is the cost of service the pipeline will charge through time
 - Capital is one major component
 - But for illustration, I've provided some broad assumptions to put the scale of these commitments in perspective.
 - assuming a 4.5 bcf/d project, at a unit cost of \$3.50/mcf for 25 years results in a total FT commitment of \$144 billion
 - That's a huge sum, even for a company the size of BP
 - These long term commitments are just that – commitments. Therefore, they represent real risk. The risk can manifest itself in two key ways:
 - the PRICE can drop such that the costs of these commitments isn't covered; and
 - the GAS SUPPLY may be insufficient to use the capacity that has been committed over time.

- And the size of these commitments magnifies the risk. And that risk is borne by those making the commitments,

Project Risk Resides with the Resource Owners

- This next slide attempts to show how risk is ultimately allocated in a major resource development project like the Alaska Gas Pipeline Project
- I'm going to step through it one bit at a time.
- First, we start with the **Resource Owners** – that's of course the State of Alaska, and it includes the lessees, like BP, CP, EM, Chevron and others.
- There are certain risks that are inherent to the resource itself.
 - There is always price risk associated with selling a commodity like gas
 - that's the risk that the price of gas will fall in the future, possibly below the tariff
 - There's also production risk
 - Keeping the pipeline full for project life
 - Being able to deliver the full volume every day
 - These risks are important considerations when a resource owner has to make the firm transportation commitments necessary to underpin the project
- Next, there's fiscal risk for a lessee; that's the risk that the fiscal terms on the upstream business might change. On major infrastructure projects like this around the world, it's not uncommon for host governments to address fiscal risk with a mutually agreed framework.
- There are also a whole host of risks associated with constructing the pipeline itself
 - Regulatory process could change → schedule risk

- Material, labor and equipment costs → cost risk, which includes project management and execution
- Need for finances from the capital markets → finance risk (Again, Fred Rich talked at some length about this risk at his project finance workshop earlier this week)
- **What is critical to appreciate** is that all these project-related risks that are taken by the pipeline company are ultimately passed through to the resource owners through the toll
 - The Pipeline company receives a regulated rate of return
 - Gets a reasonable return on investment commensurate with the risks
 - That's the pipeline's reward
 - In exchange for this regulated rate of return, the regulators ensure that the pipeline does not take on certain risks
 - These instead are passed through to the resource owners, provided that the pipeline owner delivers the project on time and operated efficiently
 - That's how the risk / reward balance is struck by the pipeline regulators
- So ultimately, virtually **ALL RISKS** are either borne directly by the resource owners, or are passed through to the resource owners through the toll
- To ensure a low cost project, it's important that those that are bearing a risk are able to manage that risk
 - They are commercially motivated to manage that risk downwards

BP Messages on AGIA

- I'd like to turn to our specific comments on the current version of SB-104.

- To put it clearly and succinctly, AGIA needs substantial modification to result in a successful project. And I'll go into some detail as to the modifications we see as necessary.
- As we've said in previous testimony, we agree with the Governor's intent on using AGIA to advance a successful project. But the current version of AGIA won't get us there. I'll explain why in a moment.
- I want to be very clear with BP's evaluation of AGIA as it's currently drafted. Simply put, BP won't be able to submit a bid that conforms to the requirements of AGIA.
- It's not easy for me to say that. BP really does want to be able to compete in the AGIA process. BP wants to help deliver a successful Alaska gas pipeline project. We think we can add significantly to the success of the project.
- If AGIA is fixed, we intend to bid. We're happy to have our bid openly evaluated along with others. But the current terms of AGIA won't allow that to happen.
- I also want to be very clear about the implications the current version of AGIA holds for BP participating in an open season. As currently drafted, it's difficult to envision the circumstances that would allow BP to make a firm transportation commitment to the licensed project under AGIA in an initial open season.
- And that's true even if a BP affiliate was the licensee.
- That's because BP believes the terms of AGIA put unreasonable commercial risk on initial shippers.

- AGIA removes negotiated rate protection (protections from potential cost overruns, protections from subsidization of expansion shippers, and the ability to gain long term certainty of future rates).
 - There is language in the bill that now references negotiated rates, but it doesn't actually provide rate protection for initial shippers
- AGIA doesn't provide the fiscal certainty needed to justify the massive, long term firm transportation commitments necessary for a successful project.
- I'm not trying to be dramatic, or issue any sort of a "threat". I'm trying to be very open, and transparent. We owe that to you because there is so much at stake.
- Next I'll explain what provisions prevent us from making a bid under AGIA as it's currently drafted.

Key Concerns Preventing BP Bid Under AGIA

- While we have several concerns with AGIA as drafted, we've tried to hone this list only to the most significant concerns we have that would prevent us from submitting a conforming bid.
- I'm not planning to walk through each of these in detail, but I'll explain a few of them to give you a sense of our concern. They are arranged in the order they appear in the bill and not in any sort of ranking.
- 130(2)(B) / 210 – currently requires a "detailed" description of size and offtake, and the way we understand section .210, we wouldn't be able to change our plan as better information becomes available

- 130(2)(C-D) – We think it's impossible to "demonstrate" economic viability of the project within the AGIA timeframe.
- 130(7) – We've already testified in some detail regarding our concerns with this section.
 - these provisions are in conflict with FERC policy and the ANGPA
 - it ignores one key objective of FERC Order 2005 – rate predictability for initial shippers!
- 130(13) – Implies a commitment to reserve capacity for in-state delivery points, whether or not that service is committed in an open season
- 150(a) – requires release of the successful licensee's proprietary information.

Key Concerns Preventing BP Bid Under AGIA (cont.)

- 200(a) – requires the licensee to accept a FERC certificate despite of potential conditions FERC may impose.
- 200(b) – the licensee effectively turns over sanction authority to the State
- 230(a)(2) – This provision says that the licensee is in breach if there is a substantial deviation from the terms set out in the application
- 240(c) – The way we understand this section, there is effectively no way to prove the project uneconomic, therefore there is no "off-ramp"
- 310 – 320 – Finally, as we've consistently testified, the resource terms under AGIA are inadequate.

How Can AGIA Help to Deliver a Successful Project?

- For BP to be able to submit a bid under AGIA, a number of modifications need to be made
- The 10 areas of concern I just walked through need to be fixed
- As we've discussed in every testimony on AGIA we've offered, there are three other key areas that need to be fixed
- First, the State should provide its list of objectives that prospective applicants must address
 - BP, and other applicants, should be allowed to tell the State how we would address the State's objectives
 - that's how the best solutions are developed – through creative thought, not by presupposed outcomes
- Second, AGIA should remove elements of exclusivity.
 - An amendment was made in a prior committee to try and address this concern [in .100(b)], but even with this amendment, AGIA creates exclusivity
 - Exclusivity prevents competition in the marketplace.
 - The Federal model works well, and encourages open competition in the marketplace. It works everywhere else in America. It will work for Alaska as well.
- Third, fiscal terms have to get solved in a way that will encourage firm transportation commitments from shippers
 - we would like the opportunity to include fiscal terms in an bid under AGIA that the State can consider (and reject if it likes)
 - BP wants to be able to submit a bid under AGIA

- Finally, there are other edits, less fundamental than the ones I just mentioned that we think also should be addressed.

BP's Vision for Alaska

- To close, I'd like to spend a moment to look into the future and consider again the opportunities we have before us.
- BP has a **long history in Alaska**. BP has been actively involved in the exploration, development and production of Alaska's North Slope energy resources for decades.
- And we see the opportunity for a bright future ahead. In fact, we envision our **50-year future in Alaska**. It's not just a slogan.
- I'd like to turn your attention to the graph at the bottom the slide, which shows the **possibility of the future that BP sees in Alaska**, depicting BP's share of production through time.
- There are a few key points to draw from the graph.
- The days of **high plateau production** are behind us.
- We still have a significant level of production today, but that **production will continue to decline with time**. That's what the dotted red line depicts.
- That shows production declining at historic levels, which already would require **significant investment**.
- We can make up that decline in production with new investment that would result in new production from **heavy oil resources and from gas**.

- But it's not a given. It's a view of what's **POSSIBLE**.
- That future is only made possible with an Alaska gas pipeline project.

What A Successful Gasline Means

- Finally, it's worth a reminder of the importance of a successful project. And I'd like to emphasize that what we need is a **SUCCESSFUL** gas pipeline, not just ANY gasline.
- As we've said, this is a project of tremendous scope and scale and that's what the picture reminds us of. Because of this it presents tremendous risk. But if it's done right, it presents a wonderful opportunity for the State, Industry and the people of Alaska.
- Because there is much at stake, we need to get it right.
- The project creates the opportunity for jobs for Alaskans, and if we deliver a successful, low cost project, for revenues to the State and to Industry well into the future.
- We can create a whole new industry of gas exploration with a successful, low cost project. Gas exploration and expansion are only possible if the pipeline gets built in the first place, and if it's built for a low capital and operating cost. That will make it attractive for bringing new volumes into the project, which benefits the State, gas explorers, and initial shippers as well.
- A successful gas pipeline project will provide the opportunity to bring a long term gas supply source for use by Alaskans.

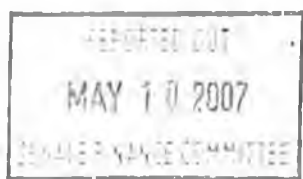
- And finally, gas sales will diversify Alaska's economy for decades into the future.
- As I said, there's a lot at stake, so we need to get it right.
- BP wants to get it right. That's why we've tried to be very forthright and specific with our comments. We owe that to you as you finish your deliberations on AGIA.
- Thank you for the opportunity to testify today. I'd be happy to answer any questions you might have.

**NEW BILL IN
COMMITTEE 4/20/07**

Gov.

- 1) 4/23/07 Tom Irwin } DNR
Anthony Scott }
Pat Galvin, DOR
HELD
- 2) 4/24/07 Marcia Davis, DOR
am Anthony Scott, DNR
HELD
- 3) 4/24/07 Marcia Davis } DOR
pm Pat Galvin }
Anthony Scott, DNR
HELD
- 4) 4/25/07 Marcia Davis } DOR
am Pat Galvin }
HELD
- 5) 4/25/07 Marcia Davis } DOR
pm Pat Galvin }
Kevin Banks, DNR
HELD
- 6) 4/26/07 Frederick Rich,
am Sullivan & Cromwell LLP
Robert Swenson } DNR
Kevin Banks }
HELD
- 7) 4/26/07 Michael Williams } DOR
pm Patrick Galvin }
HELD
- 8) 4/27/07 Mark Hanley, Anadarko
am Cam Tooley, Shell
HELD
- 9) 4/27/07 pm John Norman, AOGCC
Cathy Foerster, AOGCC
HELD
- 10) 4/28/07 David Van Tuij, BP
am
HELD
- 11) 4/28/07 pm Tony Palmer, TransCanada
Bill Walker, AGPA
Paul Fuhs, AGPA
HELD
- 12) 4/30/07 pm Ron Brintnell, Enbridge
Brian Wenzel }
HELD Wendy King }
ConocoPhillips
- 13) 4/30/07 pm Public Testimony
HELD
- 14) 5/1/07 am Gov. Walter Hickel
David GoHetein, Backbone II
HELD

- 15) 5/1/07 David Hill } US Dept.
pm James Slutz } Energy
Martin Massey, Exxon
HELD
- 5/2/07 Scheduled but not heard
- 16) 5/3/07 David Keane, BG North America
am Dan Dickinson,
HELD
- 17) 5/3/07 Dan Dickinson
pm
HELD
- 18) 5/8/07 William Moell, Saul Ewing
pm Pat Galvin } Revenue
Marcia Davis }
HELD
- 19) 5/9/07 US "N" Adopted
HELD
- 20) 5/10/07 CS "T" Adopted
Marcia Davis, Revenue
Steve Porter (Sen. Stedman)
Pat Galvin, Revenue
Amendments



7:45 pm Faxed to Legal

Steve - Will the fiscal notes change as a result of the C.S. & amendments?
Mundy

They should but probably won't

SB 104 - AGIA
Senate Finance Committee

Index

CS SB 104(FIN) Final
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CS SB 104(FIN) Version "N"
CS SB 104-Draft CS
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4/23/07
- Oil & Gas Incentives
4/25/07

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- Current Gas Reserves & Resource Estimates
4/26/07

Department of Revenue

- Alaska's Long Run Fiscal Outlook
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- Natural Gas Prices
4/27/07
- Rolled-in Rates - from the FERC Perspective
5/1/07 (presentation not heard)

AGOCC

- John Norman, Chair
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- Dan Dickinson
5/3/07
- William A. Mogel & Saul Ewing
5/8/07

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4/25/07

Anadarko

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4/27/07

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- July 2006 Letter
4/27/07

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- AK Nat Gas Pipeline
4/28/07

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- Tony Palmer
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- Ron Brintnell
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- Timelines
- AK Stranded Gas Development Act
- 15 USCS 720d
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- DOR Spring 2007, Executive Summary
- 110 FERC 61,095
- 111 FERC 61,332
- Contractual Commitments
- Memorandum from Division of Legal and Research Services
5/10/07

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Miscellaneous

SB 104

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

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 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	3/1/07			✓	#2
Revenue	2/28/07	22260			#3
DCCED	2/28/07			✓	#4
Admin	3/2/07			✓	#5
DNR-AGIA	4/10/07	302.1			#6
Labor	4/2/07			✓	✓ #7

 APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Elton	✓			
	Thomas	✓			
	Dyson	✓			
	Huggins	✓			
	Olson	✓		1	
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman	✓			

AMENDMENTS

Senate Finance Committee
SB 104 AGIA
AMENDMENTS

AMEND #	SPONSOR	TOPIC	MOVED	OBJECT	AMEND	VOTE	ADOPT
#1	Stedman	Pg 3 ln 10 lobbying costs	Stedman	Stedman/removed			✓
#2	↓	Pg 2 ln 19 7 year period				6-1 (Stedman)	✓
#3		Pg 2 ln 30 insert "90"					✓
#4		Pg 12 ln 31 48,90.17(b) econ. value					✓
#5		Pg 9 ln 21 maximum					✓
#6		Pg 3 ln 31 stated envelope			Withdrawn		
#7		Pg 29 ln 2 amendment					✓
#8		Pg 3 ln 30 - pg 4 ln 4 applications					✓

SENATE FINANCE COMMITTEE
5/10 / 2007 COMMITTEE ACTION

Bill Number	# SB 104		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Elton			
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	adopted		

SENATE FINANCE
COMMITTEE
Amendment # #1
To Bill Number: SB 104
Sponsor: Stedman
Date 5/10/07 Logged by Mindy

SENATE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for Senate Bill No. 104 (FIN)

AS 43.90.110(a)(1)(C)

Page 3

Line 40: Insert between "costs," and "litigation" in last sentence the word "lobbying costs;"

SENATE FINANCE COMMITTEE
5/10/2007 COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#2		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Huggins	✓		
Senator Olson	✓		
Senator Thomas	✓		
Senator Dyson	✓		
Senator Elton	✓		
Co-Chair Hoffman	✓		
Co-Chair Stedman			✓
<u>Tally</u>			
Yea		6	
Nay		1	
Absent			
<u>MOTION</u>	PASS		

SENATE FINANCE
COMMITTEE
Amendment # #2
To Bill Number: SB 104
Sponsor: Stedman
Date: 5/10/07 Logged by Mindy

~~HOUSE~~ ^{SENATE} FINANCE COMMITTEE AMENDMENT NO. _____
To CS for ~~House~~ ^{Senate} Bill No. ~~177~~ ¹⁰⁴ (FIN)

AS 43.90.110(a)(1)

Page 2, Line ~~18~~ 19

Delete "five" and insert "seven" to read:

"paid to the licensee during the seven-year period immediately following..."

SENATE FINANCE COMMITTEE
5/10/2007 COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#3		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson	✓		
Senator Thomas	✓		
Senator Dyson	✓		
Senator Elton	✓		
Senator Huggins			✓
Co-Chair Hoffman	✓		
Co-Chair Stedman			✓
<u>Tally</u>			
Yea		5	
Nay		2	
Absent			
MOTION	Pass		

SENATE FINANCE
COMMITTEE
Amendment # #3
To Bill Number: SB 104
Sponsor: Stedman
Date 2/10/07 Logged by Mindy

SENATE
HOUSE FINANCE COMMITTEE AMENDMENT NO. _____
To CS for ~~House~~ Bill No. ~~177~~(FIN)
Senate *104*

AS 43.90.110(a)(1)(B)

Page 2, Line 30

Delete "80" and insert "90"

SENATE FINANCE COMMITTEE

5/10/2007

COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#4		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Thomas			
Senator Dyson			
Senator Elton			
Senator Huggins			
Senator Olson			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	Pass		

SENATE FINANCE
COMMITTEE
Amendment # #4
To Bill Number: SB 104
Sponsor: Stedman
Date 5/10/07 Logged by Mindy

~~HOUSE~~ ^{SENATE} FINANCE COMMITTEE AMENDMENT NO. _____
To CS for ~~House~~ ^{SENATE} Bill No. 177 (FIN) 104

43.90.170(b)(5)

Page 12, Line ~~28~~ 31

Delete "and" at the end of the sentence.

Insert a new section 43.90.170(b)(6) that reads:

"economic value resulting from payments required to be made to the state under the terms of the proposal;

Renumber the existing section (6) as (7).

SENATE FINANCE COMMITTEE
5/10 / 2007 COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#5		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Elton			
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

adopted

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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

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

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

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

(15) to the ^{maximum} 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 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

SENATE FINANCE COMMITTEE
5/10/2007 COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#6		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Senator Elton			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Withdrawn		

SENATE FINANCE
COMMITTEE # 6
Amendment #
To Bill Number: SB 104
Sponsor: Stedman
Date: 5/10/07 Logged by: Mindy

Amendment to Senate CS (FIN) version T

AS 43.90.130(1)

Page 4, Line 4

Following: "legislature" insert:
~~insert prior to semi colon the following:~~

"in a sealed envelope and such envelope shall not be opened and the contents distributed until the receipt by the presiding officers of each chamber of notice that the commissioners have determined the applications are complete under AS43.90.140 and the presiding officer may open the envelop after signing a confidentiality agreement under AS 43.90.160(c).

SENATE FINANCE COMMITTEE
5/10/2007 COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#7		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Thomas			
Senator Dyson			
Senator Elton			
Senator Huggins			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	PASS		

SENATE FINANCE
COMMITTEE # 7
Amendment #
To Bill Number: SB 104
Sponsor: Stedman
Date: 5/10/07 Logged by Lindy

→ SENATE FINANCE COMMITTEE
TO CSSB 104 (FIN) DRAFT T

On page 29, line 2, insert after "and"
"an amendment to"

On page 29, line 4, delete "that is
amended to comply with the terms of
the license"

SENATE FINANCE COMMITTEE

5 / 10 / 2007

COMMITTEE ACTION

Bill Number	SB 104		
Amendment	#8		
Motion	adopt		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	Stedman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Thomas			
Senator Dyson			
Senator Elton			
Senator Huggins			
Senator Olson			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

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binding open season;

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

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

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

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

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

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

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

(1) be filed by the deadline established by the commissioners in the request for applications; ~~the applicant shall file with the commissioners the number of copies of the application, and any amended application, required by the~~

delete

→ cont.

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

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

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

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

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

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

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

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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;~~

delete ↑

(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 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

Technical correction
for Steve Porter, Staff to
Sen. Stedman 25-GS1060VT

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

should
be
"and"

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

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

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

(8) "equity holder" means the

- (A) stockholders of a corporation;
- (B) members of a limited liability company;
- (C) partners of a partnership;
- (D) joint venturers of a joint venture;
- (E) members of a governmental authority and similar persons;

or

(F) holders of any other entity or person;

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

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

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

(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

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(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

(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.

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.

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 the form of reimbursements in a total amount not to exceed \$500,000,000, paid to the licensee during the seven-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:

Amendment #2

(A) on or before the close of the first binding open season, the state shall reimburse 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;

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

Amendment #3

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, lobbying costs, litigation costs, the cost of an asset or work
11 product acquired or developed by the licensee before the license is issued, or
12 civil or criminal penalties or fines; and

Amendment #1

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

Amendment #8

29 (1) be filed by the deadline established by the commissioners in the
30 request for applications; ~~deleted "the applicant shall file..."~~

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

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(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

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

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

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

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

Amendment #5

(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 the 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;

(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

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

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

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

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

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

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

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

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

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

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

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

Amendment #4

1 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in
2 connection with a sale or merger that results in transfer of all the person's assets in the
3 North Slope along with the person's firm transportation capacity contracts in the
4 project.

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

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

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

18 **Article 5. General Provisions.**

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

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

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

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

28 (4) "certificate of public convenience and necessity" and "certificate"
29 mean a certificate of public convenience and necessity issued by the Federal Energy
30 Regulatory Commission or the Regulatory Commission of Alaska, and an amendment
31 to a certificate of public convenience and necessity issued by the Federal Energy

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1 Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas
2 Transportation Act of 1976); ~~deleted "that is amended to comply~~
3 ~~with the terms of the license"~~ U

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

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

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

12 (8) "equity holder" means the

13 (A) stockholders of a corporation;

14 (B) members of a limited liability company;

15 (C) partners of a partnership;

16 (D) joint venturers of a joint venture;

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

18 or

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

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

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

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

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

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

(14) "licensee" means the holder of a license issued under this chapter

CS SB 104 (FIN) "T"

Adopted 5/10/07

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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

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

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

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

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

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

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

27 (i) if the proposed project involves a pipeline into or
28 through Canada, a thorough description of the applicant's plan to obtain
29 necessary rights-of-way and authorizations in Canada, a description of
30 the transportation services to be provided and a description of rate-
31 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 purpose 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 commi sers 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

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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.

(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, and 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 a bill approving the issuance of the license under AS 43.90.190;

(2) publish notice of intent to issue a license under this chapter with 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 : 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 (e) of this section and AS 43.90.220, the state and the
25 licensee no longer have an obligation under this chapter with respect to the license.

26 (b) If the commissioners and 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