

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3333

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

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

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

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

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

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

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

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

16 Article 4. Miscellaneous Provisions.

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

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

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

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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 all 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.

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.

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

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

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

11 (c) In this section,

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **Article 5. General Provisions.**

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

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

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

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

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

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

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

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

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

14 (8) "equity holder" means the

15 (A) stockholders of a corporation;

16 (B) members of a limited liability company;

17 (C) partners of a partnership;

18 (D) joint venturers of a joint venture;

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

20 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 interest owners and royalty owners creating the unit.

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

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

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

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

9 (b) The commissioner may

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

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

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

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

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

26 (6) classify tracts for agricultural uses;

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

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

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

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the required development uneconomic;

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

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

(B) the reconveyance or relinquishment is

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

(ii) in the best interests of the state;

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

(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. 4. 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. 5. 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

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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

1 circumvention of the law; or

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

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

9 (12) records that are

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

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

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

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

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

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

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

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

1 application to other persons or circumstances are not affected.

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

CS SB 104 (FIN) "N"

25-GS1060N
Bullock
5/9/07

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;

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

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

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

1 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 obtaining a certificate or
5 amended certificate of public convenience and necessity from the Federal
6 Energy Regulatory Commission or the Regulatory Commission of Alaska, as
7 appropriate, or satisfying a requirement of an agency with jurisdiction over the
8 project; in this subparagraph, "qualified expenditures" does not include
9 overhead costs, litigation costs, the cost of an asset or work product acquired or
10 developed by the licensee before the license is issued, or civil or criminal
11 penalties or fines; and

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

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

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

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

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

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

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

30 (2) provide a thorough description of a proposed natural gas pipeline
31 project for transporting natural gas from the North Slope to market, which description

1 may include multiple design proposals, including different design proposals for pipe
2 diameter, wall thickness, and transportation capacity, and which description shall
3 include

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

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

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

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

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

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

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

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

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

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

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

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

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Commission of Alaska, commit to

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

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

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

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

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

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

(7) commit that the applicant

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

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

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

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

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

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

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

1 described in (B) of this paragraph;

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

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

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

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

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

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

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

6 (13) commit to

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

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

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

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

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

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

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

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

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

29 (17) commit to negotiate, before construction, a project labor
30 agreement; in this paragraph, "project labor agreement" means a comprehensive
31 collective bargaining agreement between the licensee or its agent and the appropriate

1 labor representatives to ensure expedited construction with labor stability for the
2 project by qualified residents of the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) After the commissioners determine that an application is complete under
30 AS 43.90.140, information provided by an applicant to the commissioners under this
31 chapter, including information determined by the commissioners to be confidential

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

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

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

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

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

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

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

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

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

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

29 (1) the reasonableness, specificity, and feasibility of the applicant's
30 work plan, timeline, and budget required to be submitted under AS 43.90.130,
31 including the applicant's plan to manage cost overruns, insulate shippers from the

1 effect of cost overruns, and encourage shippers to participate in the first binding open
2 season;

3 (2) the financial resources of the applicant;

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

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

9 (5) the applicant's record of

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

11 (B) integrity and good business ethics; and

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

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

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

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

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

29 (b) If, after evaluation of complete applications under AS 43.90.170, the
30 commissioners determine that no application sufficiently maximizes the benefits to the
31 people of this state and merits issuance of a license under this chapter, the

1 commissioners shall issue a written finding that addresses the basis for that
2 determination.

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

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

10 (b) If a bill approving the issuance of the license passes the legislature within
11 60 days after the last date a presiding officer receives a determination by the
12 commissioners under AS 43.90.180, the commissioners shall issue the license as soon
13 as practicable after the effective date of the Act approving the issuance of the license.

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

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

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

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

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

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

31 (b) If the licensee has credit support sufficient to finance construction of the

1 project through ownership of rights to produce and market gas resources, firm
2 transportation commitments, or government financing, the licensee shall sanction the
3 project within one year after the effective date of the certificate or amended certificate
4 of public convenience and necessity issued by the regulatory agency with jurisdiction
5 over the project.

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

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

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

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

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

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

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

26 (f) In this section, "effective date of the certificate or amended certificate of
27 public convenience and necessity" means the date the order granting the certificate is
28 no longer subject to judicial review, or earlier at the discretion of the licensee.

29 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
30 to the approval of the commissioners, a licensee may amend or modify its project plan
31 if the amendments or modifications improve the net present value of the project to the

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

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

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

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

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

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

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

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

31 (4) receive relevant reports or information from the licensee that the

1 commissioners reasonably request.

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

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

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

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

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

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

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

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

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

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

28 (d) If the commissioners and the licensee are unable to resolve the violation
29 within the period described in (b) of this section, the commissioners shall notify the
30 licensee that the violation has not been cured and provide the licensee with an
31 opportunity to be heard. If, after notice and hearing, the commissioners determine that

1 the violation has not been cured, the commissioners shall issue a written decision that
2 is a final administrative action for purposes of appeal to the superior court in the state.

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

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

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

9 (3) license revocation;

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

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

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

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

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

31 (2) not uneconomic, the obligations of the licensee and the state

1 continue as provided under this chapter and the license.

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

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

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

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

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

21 (2) requirements of AS 43.90.440.

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

29 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is
30 created in the Office of the Governor the position of Alaska Gasline Inducement Act
31 coordinator. Administrative support for the position shall be provided by the Office of

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the Governor. The position shall continue until one year after commencement of commercial operations of the project.

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

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

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

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

Article 3. Resource Inducement.

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

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

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

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

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

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

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

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

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

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

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

31 (B) interfere with the lessee's or other person's long-term

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marketing of its production.

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

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

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

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

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

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

1 required in AS 43.90.130(7). The agreement not to protest may not preclude the lessee
2 or other person, or the lessee's or other person's affiliates, successors, assigns, and
3 agents from protesting a filing to roll in mainline expansion costs that licensee is not
4 required to propose and support under AS 43.90.130(7).

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

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

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

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

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

1 required under this subsection may not preclude the person, or the person's affiliates,
2 successors, assigns, and agents, from protesting a filing to roll in mainline expansion
3 costs that the licensee is not required to propose and support under AS 43.90.130(7).

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

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

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

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

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

1 mainline expansion costs that the licensee is not required to propose and support under
2 AS 43.90.130(7).

3 **Article 4. Miscellaneous Provisions.**

4 **Sec. 43.90.400. Alaska Gasline Inducement Act matching contribution**
5 **fund; disbursements; audits.** (a) There is established in the general fund an Alaska
6 Gasline Inducement Act matching contribution fund. The fund consists of money
7 appropriated to it by the legislature for disbursement to pay the state's matching
8 contributions under AS 43.90.110. Money appropriated to the fund may be spent for
9 the purposes of the fund without further appropriation. Appropriations to the fund do
10 not lapse under AS 37.25.010, but remain in the fund for future disbursements.
11 Nothing in this subsection creates a dedicated fund.

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

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

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

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

30 **Sec. 43.90.420. Statute of limitations.** A person may not bring a judicial
31 action challenging the constitutionality of this chapter or the constitutionality of a

1 license issued under this chapter unless the action is commenced in a court of the state
2 of competent jurisdiction within 90 days after the date that a license is issued.

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

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

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

28 (c) In this section,

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

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

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

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

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

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

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

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

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

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

31 **Sec. 43.90.460. Conflicting laws.** Nothing in this chapter shall be construed to

1 repeal or abrogate the administrative, regulatory, or statutory procedures and functions
2 of state and federal law governing the development and oversight of a project.

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

7 **Article 5. General Provisions.**

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

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

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

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

19 (4) "applicant" means a person or group of persons that files an
20 application for a license;

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

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

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

29 (8) "equity holder" means the

30 (A) stockholders of a corporation;

31 (B) members of a limited liability company;

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

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

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

(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;

(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 the meaning given in AS 43.55.900;

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

(20) "proprietary," when used to describe information, means that the information is treated by an applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant or

1 materially diminish the commercial value of the information to the applicant;

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

7 (22) "sanction" means to make financial commitments to go forward
8 with the project as evidenced by entering into financial commitments of at least
9 \$1,000,000,000 with third parties;

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

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

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

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

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

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

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

22 (b) The commissioner may

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

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

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

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

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

8 (6) classify tracts for agricultural uses;

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

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

13 (B) transportation, marketing, and development costs render
14 the required development uneconomic;

15 (8) reconvey or relinquish land or an interest in land to the federal
16 government if

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

19 (B) the reconveyance or relinquishment is

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

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

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

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

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

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

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

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

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

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

5 (3) medical and related public health records;

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

8 (5) to the extent the records are required to be kept confidential under
9 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
10 or retain federal assistance;

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

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

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

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

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

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

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

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

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

31 (8) public records containing information that would disclose or might

1 lead to the disclosure of a component in the process used to execute or adopt an
2 electronic signature if the disclosure would or might cause the electronic signature to
3 cease being under the sole control of the person using it;

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

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

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

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

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

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

22 (12) records that are

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

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

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

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

1 of this Act.

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

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

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

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

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

CS SB 104 DRAFT

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

BY THE SENATE FINANCE COMMITTEE

Deleted: JUDICIARY

Offered: 4/20/07

Referred: Rules

Deleted: Finance

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

A BILL
FOR AN ACT ENTITLED

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

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

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

Chapter 90. Alaska Gasline Inducement Act.

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

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

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

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

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

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

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Article 2. Alaska Gasline Inducement Act License.

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

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

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Sec. 43.90.110. Natural gas pipeline project construction inducement.

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

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

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

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

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(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter by the licensee or the licensee's designated affiliate, and is directly and reasonably related to obtaining a certificate or amended certificate of public convenience and necessity from the Federal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) commit that the applicant

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

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

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

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

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

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

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

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

(E) will not enter into a negotiated rate agreement that would preclude the applicant from collecting from any shipper, including a

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shipper with a negotiated rate agreement, the rolled-in rates that are required to be proposed and supported by the applicant under (B) of this paragraph or the partial rolled-in rates that are required to be proposed and supported by the applicant under (C) of this paragraph;

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

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

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

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

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

(13) commit to

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

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

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

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

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

(B) contract with businesses located in the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the financial resources of the applicant;

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

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

(5) the applicant's record of

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

(B) integrity and good business ethics; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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shall sanction the project by the later of:

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) have a representative present at all meetings of the licensee's governing body or bodies and equity holders that relate to the project;
- (2) receive all relevant notices when and as issued and information sent to the governing body and equity holders;
- (3) enjoy the same access to information about the licensee as the governing body members and equity owners receive; and,
- (4) receive relevant reports or information from the licensee that the commissioners reasonably request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) license revocation;

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

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

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

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

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

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

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

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

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

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

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

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

(2) requirements of AS 43.90.440.

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

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

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

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

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

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

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

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Article 3. Resource Inducement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(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,

(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.

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.

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

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~~Deleted: Commissioner of revenue may change regulations adopted under existing authority in this title as necessary to implement the provisions of this chapter. The commissioner of natural resources may change regulations adopted under existing authority in AS 18 as necessary to implement the provisions of this chapter.~~

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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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Deleted: (C) the benefits of a large project permit coordinator authorized by a law in effect on the effective date of 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.~~

(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.

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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;

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(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;

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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

Deleted: (7) "gas processing" means post-production treatment of gas to extract natural gas liquids;

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).

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

(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

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(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).

FISCAL NOTES

FISCAL NOTE

REPORTED OUT
 MAY 11 2007
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note: 7
 Bill Version: CSSB 104(JUD)
 (S) Publish Date: 4/20/07

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Natural Gas Pipeline Project RDU: Office of the Commissioner
 Component: Commissioner's Office
 Sponsor: Rules Committee
 Requester: Senate JUD Component Number: 340

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts						
1003 GF Match						
1004 GF	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	6,500.0	18,750.0	11,500.0	11,500.0	11,500.0	11,500.0

Estimate of any current year (FY2007) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

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

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

 See Attached.

Prepared by: Guy Bell, Assistant Commissioner Phone: 465-2700
 Division: Commissioner's Office Date/Time: 4/12/07 4:03 PM
 Approved by: Click Bishop, Commissioner Date: 4/12/2007
 Agency: Department of Labor and Workforce Development

FISCAL NOTE # 7

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL VERSION: SSB 104(JUD)

ANALYSIS: (continued)

The Alaska Gasline offers Alaskans the opportunity for thousands of high paying jobs with tremendous legacy potential. To ensure Alaskans are considered first for these jobs, the state needs to invest up-front in determining the best way to deliver that workforce by placing Alaskans first, maximizing job opportunities for all Alaskans, including rural Alaskans and Alaska Natives, developing a training plan taking into account existing skills versus required skills, and developing training infrastructure, and implementing, and expanding training programs so employers hire Alaskans qualified for pipeline jobs.

This fiscal note outlines the Alaska Department of Labor and Workforce Development's (DOLWD) estimate of the cost of a comprehensive training program to deliver a prepared Alaska workforce for the Alaska Gas Pipeline. The investment is broken down over a six year period as follows:

FY 08 Gasline Project Budget Request: \$ 6,500.0 GF

1. Pipeline Training Center \$ 4,100.0 GF

This would fund a grant to the Alaska Works Partnership to build and equip a comprehensive pipeline trades training facility in Fairbanks. The facility would contain classroom and shop space for pipeline trades training classes. The center will also include a gas compressor training module. Trades to be trained would include but not be limited to pipefitters, heavy equipment operators, plumbers, carpenters, mechanics and electricians. It is estimated that up to 8,000 Alaskans will be trained at this facility through FY 13.

2. Strategic Planning and Research \$ 850.0 GF

This would fund three activities: (1) strategic planning to be overseen by the Commissioner of the Department of Labor and Workforce Development and the Alaska Workforce Investment Board; (2) Gas line Occupational Supply and Demand Analysis; and (3) Rural Alaskan and Alaska Native Skills Inventory and Gasline Employment Interest.

Commissioner's Office, Gasline Workforce Plan \$ 275.0 GF

Funding to retain experts to assist the Commissioner and the Workforce Investment Board in developing a comprehensive Gasline Workforce Development strategy. Areas of technical assistance include innovative training strategies, training technology upgrades, workforce health and safety issues and development of an outcome driven workforce analysis system. This support will allow the Commissioner's Office to incorporate the specialized knowledge associated with meeting the workforce development needs of a mega project with the resources already available through the various divisions of the department. The department will ensure that Alaska's workforce development concerns for the gas line are well described and articulated to potential producers or contractors.

ANALYSIS: (continued)

Research & Analysis Section \$ 250.0 GF

The department's Research & Analysis Section (R&A) will assess the supply and demand for labor resulting from both the construction and operation of the gas pipeline. In an effort to ensure that a qualified workforce exists at the time of gasline construction, DOLWD will conduct an occupational supply and demand analysis to identify potential workforce gaps.

R&A will assist with the development of strategies to close the projected skills gap. Strategies may include the identification of "training gaps" and the development of career information products that encourage Alaskans, of all ages, to consider potential shortage occupations when planning their careers.

Alaska Labor Exchange System Improvement \$ 325.0 GF

The Employment Security Division will improve the web-based, Alaska Labor Exchange System (ALEXsys) to allow the department to complete a state-wide inventory of workers' individual skill sets and better identify a qualified Alaskan workforce and potential training opportunities for Alaskans in preparation for the construction and maintenance phases of the Alaska gasline.

3. Direct Training \$ 500.0 GF

This investment will continue and expand the extremely successful pipeline trades training program in Fairbanks. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.

4. University of Alaska \$ 750.0 GF

Engineering and Construction Management programs.

5. Alaska Laborers Training School \$ 300.0 GF

To purchase a D3 Rock Drill to enhance training delivery.

FY 09 Gas Pipeline Project Budget Request: \$ 18,750.0 GF1. Other Training Infrastructure \$ 15,000.0 GF

Provide essential upgrades to various training facilities throughout the state to provide site-specific specialized training. Potential sites include AVTEC and Regional Training Centers located throughout rural Alaska.

3. Direct Training \$ 2,500.0 GF

This investment will continue and expand the extremely successful pipeline training in Fairbanks, and other targeted training as determined by the training priorities developed by the department and the Alaska Workforce Investment Board. The department will take steps to ensure that jobs are immediately available at the end of each training program by obtaining the commitment to apprentice agreements from employers.