

SCOMM

1 48:6

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Date Referred to Committee: March 5, 2007

Finance

April 3, 2007

HB 177

NATURAL GAS PIPELINE PROJECT

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

Recommends it be replaced with ☐ HCS or ☒ CS for AB 177 (0+6)
For Senate Bills with new title: ☐ Technical Title ☐ New Title: HCR ☐ Same Title ☒ New Title

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

Depts.:

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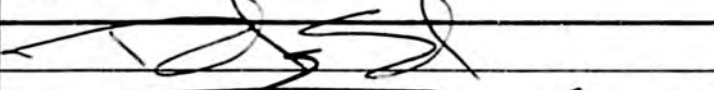
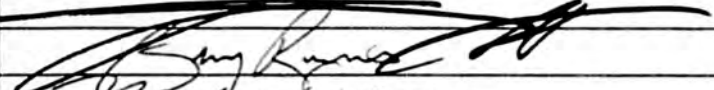
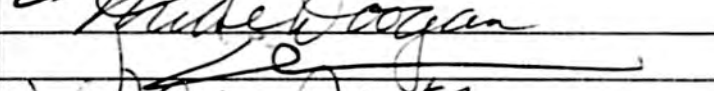
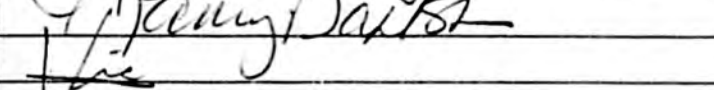
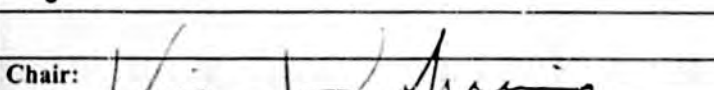
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Signing <u>with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SAMUEL S. RAMRAS			X	
	DOOGAN	X			
	O. Son	X			
	Dahlstrom				X
Chair: 	Kohring				X

25-GH1060E
Bullock
3/30/07

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

BY

Offered:
Referred:

ADOPTED 04/02/2007

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

A BILL

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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 I. 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 of the
13 state;

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

(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 in the state to commit 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. The commissioner of revenue and the commissioner of natural resources, acting jointly, 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.

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; 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 contribute the amount of the licensee's qualified expenditures at a level specified in the license; however, the state's contribution may not exceed 50 percent of the qualified expenditures incurred before the end of the first binding open season;

(B) after the close of the first binding open season, the state may contribute an amount for the licensee's qualified expenditures at the level specified in the license; however, the state's contribution may not be greater than 80 percent of the qualified expenditures incurred after the close of the first binding open season;

(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter, is incurred by the licensee or the licensee's

DRAFT

1 designated affiliate, and is directly and reasonably related to obtaining a
2 certificate of public convenience and necessity from the Federal Energy
3 Regulatory Commission or the Regulatory Commission of Alaska, as
4 appropriate, for development of the project, but does not include overhead
5 costs, litigation costs, the cost of an asset or work product acquired by the
6 licensee before the license is issued, civil penalties, criminal penalties, or fines;

7 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
8 has the authority prescribed in AS 43.90.250; and

9 (3) the benefits of coordination with qualified training organizations
10 that prepare individuals for employment in gas pipeline project management,
11 construction, operation, maintenance, and other gas pipeline-related positions.

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

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

18 (b) The commissioners may use independent contractors, including technical
19 advisors, to assist them in developing the application and in evaluating the
20 applications received.

21 (c) The provisions of AS 36.30 do not apply to requests for applications under
22 this chapter, but the commissioners shall adopt regulations that provide protest and
23 appeal procedures relating to the solicitation of the applications and award of a license
24 that are substantially similar to the provisions of AS 36.30.550 - 36.30.699.

25 Sec. 43.90.130. Application requirements. In order to be considered for the
26 license, an applicant shall file an application that is consistent with the terms of the
27 request for applications under AS 43.90.120 and shall

28 (1) file the application by the deadline established by the
29 commissioners in the request for applications;

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

DRAFT

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

3 (B) the location of receipt and delivery points and the size and
4 design capacity of the proposed natural gas pipeline at the proposed receipt and
5 delivery points, except that this information is not required for in-state delivery
6 points;

7 (C) an analysis demonstrating the economic and technical
8 viability of the project;

9 (D) an economically and technically viable work plan, timeline,
10 and associated budget for developing the proposed project and work associated
11 with the project that includes field work, environmental studies, design and
12 engineering, and complying with all applicable state, federal, and international
13 regulatory requirements that affect the proposed project; the applicant shall
14 provide the following:

15 (i) if the proposed project involves a pipeline into or
16 through Canada, a detailed description of the applicant's plan to obtain
17 necessary rights-of-way and authorizations in Canada, a description of
18 the transportation services to be provided and a description of rate-
19 making methodologies the applicant will propose to the regulatory
20 agencies, an estimate of rates and charges for all services, and a
21 detailed description of all access and tariff terms that the applicant
22 would propose to offer;

23 (ii) if the proposed project involves marine
24 transportation of liquefied natural gas, a description of the pipeline
25 route, system, and capacity proposed to bring North Slope gas to
26 tidewater, including a description of transportation services to be
27 provided and a description of proposed rate-making methodologies; an
28 estimate of rates and charges for all services; and a detailed description
29 of all access and tariff terms that the applicant would offer including
30 any services by third parties; a detailed description of all proposed
31 access and tariff terms for liquefaction services or, if a third party

DRAFT

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

12 (3) if the proposed project is within the jurisdiction of the Federal
13 Energy Regulatory Commission, commit to

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

18 (B) apply for Federal Energy Regulatory Commission approval
19 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,
20 and use those procedures before filing an application for a certificate of public
21 convenience and necessity; and

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

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

28 (A) conclude, by a date certain that is not later than 24 months
29 after the date the license is issued, a binding open season that is consistent with
30 the requirements of AS 42.06; and

31 (B) apply for a certificate of public convenience and necessity

DRAFT

1 to authorize the construction and operation of the proposed project by a date
2 certain;

3 (5) after the first binding open season, commit to assess the market
4 demand for additional pipeline capacity at least every two years through public non-
5 binding solicitations or similar means;

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

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

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

20 (7) commit to

21 (A) propose and support recovery of mainline capacity
22 expansion costs from all mainline system users through rolled-in rates if the
23 recovery of all expansion costs through rolled-in rates would increase existing
24 shippers' rates by not more than 15 percent of the initial maximum recourse
25 rates from the North Slope to the proposed project's downstream terminus; if
26 rolled-in expansion costs would increase existing shippers' rates from the
27 North Slope to the project's downstream terminus by more than 15 percent,
28 propose and support the partial roll-in of mainline expansion costs from all
29 mainline system users to the extent that existing shippers' rates would not be
30 increased by more than 15 percent of the initial maximum recourse rates from
31 the North Slope to the proposed project's downstream terminus; in this

DRAFT

1 subparagraph, "initial maximum recourse rates" means the highest cost-based
2 rates for any specific transportation service set by the Federal Energy
3 Regulatory Commission, the Regulatory Commission of Alaska, or the
4 National Energy Board of Canada, as appropriate, at the time of the initial
5 regulatory approval of the proposed project;

6 (B) consider proposing any combination of incremental or
7 rolled-in rates for recovery of costs of mainline capacity expansion that
8 exceeds the 15 percent level described in (A) of this paragraph;

9 (C) agree not to enter into a negotiated rate agreement that
10 would preclude collecting from any shipper, including a shipper with
11 negotiated rate agreements, the rolled-in rates that are required to be proposed
12 and supported under (A) of this paragraph; in this subparagraph, "negotiated
13 rate agreement" means a transportation service agreement that is subject to
14 rates that vary from the otherwise applicable cost-based rates, or recourse rates,
15 set out in a gas pipeline's tariff approved by the Federal Energy Regulatory
16 Commission, the Regulatory Commission of Alaska, or the National Energy
17 Board of Canada, as appropriate;

18 (8) state how the applicant proposes to deal with a North Slope gas
19 treatment plant regardless of whether such a plant is part of the applicant's proposal,
20 and, to the extent that such a plant will be owned entirely or in part by the applicant,
21 commit to seek certificate authority from the Federal Energy Regulatory
22 Commission or from the Regulatory Commission of Alaska, as applicable, for any
23 North Slope gas treatment plant that will be owned entirely or in part by the applicant
24 and, for rate-making purposes, commit to value existing assets that are part of the gas
25 treatment plant at net book value;

26 (9) propose a percentage and total dollar amount, to be specified in the
27 license, that will define the level of the state's contribution under AS 43.90.110(1) and
28 (2);

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

DRAFT

1 70 percent debt;

2 (11) describe the means for preventing or managing cost overruns for
3 the proposed project, and the measures for minimizing the effect from any overruns;

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

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

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

13 (15) commit to hire qualified state residents for management,
14 engineering, construction, operation, maintenance, and other positions on the proposed
15 project and to contract with businesses located in the state to the extent permitted by
16 law;

17 (16) waive the right to appeal the award to another applicant or the
18 determination under AS 43.90.180(b) that no application merits the issuance of a
19 license;

20 (17) commit to negotiate, prior to construction, a project labor
21 agreement, to assure expedited construction and labor stability for the project by
22 qualified residents of the state;

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

26 (19) otherwise demonstrate the readiness and ability to perform the
27 activities specified in the application, including following the detailed work plan,
28 timeline, and operation within the associated budget.

29 **Sec. 43.90.140. Initial application review; additional information requests;**
30 **complete applications. (a) The commissioners and the coordinator shall review each**
31 **application to determine whether it meets the requirements in the request for**

DRAFT

1 applications and the requirements in AS 43.90.130. The commissioners shall reject an
2 application that does not meet the requirements.

3 (b) The commissioners may request additional information relating to the
4 application from an applicant for the purpose of evaluating an application that is not
5 rejected under (a) of this section.

6 (c) An application shall be rejected if the applicant fails to timely provide the
7 information requested under (b) of this section, or submits additional information in
8 answer to a request under (b) of this section that is not responsive.

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

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

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

21 (c) An applicant that protests or appeals the award of a license or the process
22 by which the award of a license is made shall be considered to have consented to the
23 disclosure of all of the information submitted under this chapter by the applicant
24 making the protest or appeal, including information that is confidential under (a) of
25 this section.

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

30 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall
31 publish notice and provide a 60-day period for public review and comment on all

DRAFT

1 applications determined complete under AS 43.90.140.

2 (b) Applications received under this chapter are not public records and are not
3 subject to public disclosure under AS 40.25 until the commissioners publish notice
4 under this section. However, information that the commissioners have determined is
5 confidential under AS 43.90.150 may not be made public even after the notice is
6 published under (a) of this section, except as provided in AS 43.90.150. If information
7 is held confidential under this subsection, the applicant shall provide a summary of the
8 information satisfactory to the commissioners and the commissioners shall make the
9 summary available to the public.

10 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners
11 shall evaluate all applications determined to be complete under AS 43.90.150 and rank
12 each application according to the net present value of the anticipated cash flow to the
13 state from the applicant's project proposal using the factors in (b) of this section and
14 weighted by the project's likelihood of success based on the commissioners'
15 assessment of the factors listed in (c) of this section.

16 (b) When evaluating the net present value of anticipated cash flow to the state
17 from the applicant's project proposal, the commissioners shall consider

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

20 (2) the wellhead value of the gas determined by the destination market
21 value of the gas and estimated transportation costs;

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

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

26 (5) the amount of the contribution by the state under
27 AS 43.90.110(1)(B) proposed by the applicant under AS 43.90.140(9); and

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

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

DRAFT

(1) the reasonableness, specificity, and feasibility of the applicant's work plan, timeline, and budget required to be submitted under AS 43.90.140, including the applicant's plan to manage cost overruns and the degree to which the applicant intends to insulate shippers from the effect of cost overruns;

(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.

(d) In this section, "net present value" means the discounted value of a future stream of cash flow.

Sec. 43.90.180. Notice to the legislature of intent to issue license; denial of license. (a) If, after evaluation of complete applications under AS 43.90.170 and consideration of public comments received under AS 43.90.160, the commissioners and the coordinator 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, the commissioners shall

(1) issue a determination, with written findings addressing the basis for the determination; the determination becomes a final agency action in accordance with AS 43.90.190;

(2) publish a notice of intent to issue a license that includes findings addressing the basis for the determination; and

(3) submit the determination along with the findings, supporting documentation, and a copy of the notice published under (2) of this subsection to the chairs of the legislative standing committees having jurisdiction over natural resources

DRAFT

1 for action as provided in AS 43.90.190.

2 (b) If the commissioners determine that no application proposes a project that
3 sufficiently maximizes the benefits to the people of this state and merits issuance of a
4 license, the commissioners shall issue a written notice of that determination and the
5 findings on which the determination is based.

6 (c) The commissioners' determination under this (b) of this section is a final
7 agency action for purposes of appeal to the superior court.

8 (d) Within 90 days after a determination under (b) of this section, the
9 commissioners may issue a new request for applications for a license under
10 AS 43.90.120.

11 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After receiving
12 a determination from the commissioners under AS 43.90.180, the House standing
13 committee and the Senate standing committee having jurisdiction over natural
14 resources shall introduce a bill in their respective chambers that provides for the
15 approval of the license proposed to be issued by the commissioners.

16 (b) If a bill approving the issuance of the license becomes law, the
17 commissioners shall issue the license as soon as practicable after the effective date of
18 the Act approving the issuance of the license. The issuance of the license approved by
19 the legislature is a final administrative action on the date the license is issued for
20 purposes of appeal to the superior court.

21 (c) If the legislature fails to approve the issuance of the license, the
22 commissioners may request new applications for a license under AS 43.90.120.

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

24 (a) A licensee that is awarded a certificate of public convenience and necessity from a
25 regulatory agency with jurisdiction over the project shall accept the certificate after all
26 rights of appeal relating to the certificate have expired.

27 (b) If the licensee has the ability at the time the certificate is awarded to
28 finance construction of the project through ownership of rights to produce and market
29 gas resources, firm transportation commitments, or government financing, the licensee
30 shall sanction the project within one year after the effective date of the certificate of
31 public convenience and necessity issued by the regulatory agency with jurisdiction

DRAFT

1 over the project.

2 (c) If the licensee does not have the ability at the time the certificate is
3 awarded to finance construction of the project through ownership of rights to produce
4 and market gas resources, firm transportation commitments, or government financing,
5 the licensee shall sanction the project within five years after the effective date of the
6 certificate of public convenience and necessity issued by the regulatory agency with
7 jurisdiction over the project.

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

10 (1) seek approval to abandon the project and transfer the certificate of
11 public convenience and necessity to the state or the state's designee; and

12 (2) assign to the state or the state's designee all project data,
13 engineering designs, contracts, and permits owned or acquired by the licensee during
14 the term of the license as of the date of the abandonment or transfer.

15 (e) The transfer of any certificate of public convenience and necessity or
16 transfer under (d) of this section as a result of failure to comply with (a) or (b) of this
17 section is at no cost to the state or the state's designee. A transfer under (c) of this
18 section is at the licensee's net cost.

19 (f) In this section, "time the certificate is awarded" means the date after which
20 all rights of appeal relating to the certificate have expired.

21 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
22 to the approval of the commissioners and the coordinator, a licensee may amend or
23 modify its project plan if the amendments or modifications are necessary as a result of
24 changed circumstances outside the licensee's control and not reasonably foreseeable
25 before the license was issued. An amendment or modification approved under this
26 section must be consistent with the requirements in AS 43.90.130 and may not
27 diminish the value to the state of the project or the like likelihood of success for the
28 project.

29 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A
30 licensee shall maintain complete and accurate records of all expenditures and
31 commitments of state contributions received under this chapter, including receipts and

DRAFT

1 records showing the payment or cost of purchased items and services, the names and
2 addresses of the sellers and service providers, and the dates of service or delivery.

3 (b) Upon reasonable notice, the commissioners may audit the records of the
4 entity receiving a contribution from the state under this chapter relating to
5 expenditures, commitments, or contributions under this chapter and may

6 (1) examine all books, records, and files of the entity;

7 (2) conduct hearings or other investigative inquiries, and compel the
8 attendance of witnesses and production of documents; and

9 (3) require the entity to furnish information and documents relating to
10 the project in hard copy or electronic format.

11 (c) After a license has been issued and before commencement of commercial
12 operations the licensee shall allow the commissioners to

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

15 (2) receive all relevant notices and information sent to the governing
16 body and equity holders;

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

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

21 (d) A licensee shall maintain the records and reports required under this
22 section for seven years from the date the licensee receives a contribution from the state
23 under this chapter.

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

26 (1) committed a contribution received from the state under this chapter
27 for an expenditure that is not a qualified expenditure under AS 43.90.110;

28 (2) substantially departed from the specifications in the application
29 without state approval of an amendment or modification as required under
30 AS 43.90.210;

31 (3) violated any provision of this chapter or any other provision of

DRAFT

1 state or federal law material to the license; or

2 (4) otherwise violated a material term of the license.

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

6 (c) The commissioners may suspend disbursement of state contributions on
7 the date the notice in (b) of this section is sent to the licensee.

8 (d) If the commissioners and the licensee are unable under (b) of this section
9 to resolve the issue of whether a violation has occurred, the commissioners shall
10 provide the licensee with notice that the violation has not been cured and provide the
11 opportunity for the licensee to be heard. If after notice and hearing the commissioners
12 determine that the violation has not been cured, the commissioners shall issue a
13 written decision that is a final administrative action for purposes of appeal to the
14 superior court.

15 (e) If the determination issued under (d) of this section finds that a violation
16 has not been cured, the commissioners may impose one or more of the following
17 remedies:

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

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

22 (3) license revocation;

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

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

27 (f) If the license is revoked under (e) of this section, the licensee may not
28 submit an application for the license in the event a request for applications is issued
29 under AS 43.90.120 after the date of revocation.

30 Sec. 43.90.240. Abandonment of project. (a) If the commissioners and the
31 licensee agree that the project is uneconomic, the project shall be abandoned, the

DRAFT

entitlement provided for in AS 43.90.110 terminated and the state and the licensee no longer have an obligation under this chapter with respect to the license, except for requirements imposed on the licensee under (d) of this section and AS 43.90.220.

(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 its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court of competent jurisdiction. In the event of arbitration, each party shall select an arbitrator 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 project shall be abandoned and the state and the licensee no longer have an obligation under this chapter with respect to the license, except for requirements imposed on the licensee under (d) of this section and AS 43.90.220; or

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

(c) 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.

(d) 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 deliver to the state or the state's designee all project data, engineering designs, contracts, and permits related to the licensed project on reimbursement by the state of the licensee's net costs.

Sec. 43.90.250. Alaska Gasline Inducement Act coordinator. (a) There is

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1 created in the office of the governor the position of Alaska Gasline Inducement Act
2 coordinator. Administrative support for the position shall be provided by the office of
3 the governor. The position shall continue until one year after commencement of
4 commercial operations of the project.

5 (b) The governor shall appoint a person to the position of Alaska Gasline
6 Inducement Act coordinator. The initial appointment is subject to confirmation by the
7 legislature and an appointment is subject to reconfirmation by the legislature during
8 the first regular legislative session after a general election at which a governor is
9 elected. The person may be removed from the position at the discretion of the
10 governor.

11 (c) The Alaska Gasline Inducement Act coordinator is entitled to receive an
12 annual salary equal to Step A, Range 28, of the salary schedule set out in
13 AS 39.27.011(a) for Juneau.

14 (d) The Alaska Gasline Inducement Act coordinator shall, in conjunction with
15 the commissioners,

16 (1) coordinate expeditious performance of all activities by state
17 agencies for the project;

18 (2) ensure compliance by state agencies with the provisions of this
19 chapter; and

20 (3) coordinate with the Office of the Federal Coordinator for Alaska
21 Natural Gas Transportation Projects (29 U.S.C. 720d) for natural gas transportation
22 projects in the state.

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

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

DRAFT

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

5 **Article 3. Resource Inducement.**

6 **Sec. 43.90.300. Qualification for resource inducement.** Notwithstanding any
7 contrary provision of law, a lessee or other person that demonstrates to the satisfaction
8 of the commissioners and the coordinator that the person has committed to acquire
9 firm transportation capacity in the first binding open season of the project is qualified
10 to receive the resource inducement set out in AS 43.90.310 and 43.90.320 for gas
11 produced on the North Slope and shipped in firm transportation capacity acquired in
12 the first binding open season of the project. The inducement in AS 43.90.310 and
13 43.90.320 are contractual.

14 **Sec. 43.90.310. Royalty inducement.** (a) Before the start of the first binding
15 open season to be conducted by the licensee, the commissioner of natural resources
16 shall adopt regulations that provide a method to determine the monthly value of the
17 state's royalty share of gas production and provide terms under which the state will
18 exercise its right to switch between taking its royalty in value or in kind for gas
19 committed for firm transportation in the first binding open season of the project.

20 (b) The regulations must

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

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

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

31 (B) location differentials between the destination markets

DRAFT

1 where North Slope gas could be sold;

2 (C) reasonable and actual costs for gas processing; and

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

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

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

10 (B) interfere with the long-term marketing by a lessee or
11 another person of its production.

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

15 (1) to calculate its gas royalty obligation under the regulations adopted
16 under (a) of this section for natural gas transported on a firm contract negotiated
17 during the project's first binding open season or under the methodology set out in the
18 existing leases from which the gas is produced; with the consent of the lessee, the
19 commissioner of natural resources shall contractually amend the existing lease to
20 reflect the election under this paragraph and incorporate into the lease, the terms of the
21 relevant regulations as fixed contract terms; the election under this paragraph remains
22 in effect until new regulations are adopted as a result of the review under (e) of this
23 section, when a lessee or other person qualified under AS 43.90.300 may change its
24 election under this paragraph; on the request of the lessee, the commissioner of natural
25 resources shall contractually amend the lease to incorporate as fixed contract terms,
26 the relevant revised regulatory provisions; or

27 (2) to enter into a contract with the state that amends the existing lease
28 terms by extending the required period of notice that the state must provide before
29 exercising the state's right to switch between taking its royalty in value or in kind for
30 gas committed for firm transportation in the first binding open season of the project.

31 (d) To claim the inducement under (c) of this section, a lessee or other

DRAFT

1 qualified person shall agree, on an application form provided by the Department of
2 Natural Resources, that the lessee or qualified person, and the affiliates, successors,
3 assigns, and agents of the lessee or qualified person, will not protest or appeal a filing
4 by the licensee to roll in expansion costs of the mainline up to a level that is required
5 in AS 43.90.130(7); the agreement not to protest may not preclude the lessee or other
6 qualified person, or the affiliates, successors, assigns, and agents of the lessee or other
7 qualified person, from protesting a filing to roll in mainline expansion costs that
8 licensee is not required to propose and support under AS 43.90.130(7).

9 (e) The commissioner of natural resources shall provide for review of the
10 regulations adopted under (a) of this section at least every two years after the
11 commencement of commercial operations to determine whether the regulations
12 continue to minimize retroactive adjustments to the monthly value of the state's
13 royalty share of gas production under current conditions; the commissioner shall
14 amend the regulations when the requirement is not being met.

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

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

27 (b) The exemption under this section shall be issued by the commissioner of
28 revenue in a certificate signed by the person and the commissioner, and the certificate
29 shall constitute a contract between the person and the state; the certificated exemption
30 may be applied within 10 years immediately following commencement of commercial
31 operations of the project only to production taxes that are levied on North Slope gas

DRAFT

1 shipped through firm transportation capacity the person acquired during the first
2 binding open season.

3 (c) The exemption issued under (b) of this section must contain a contractual
4 commitment that the person and the person's affiliates, successors, assigns, or agents
5 will not protest or appeal a filing by the licensee to roll in mainline expansion costs up
6 to the level that the licensee is required to propose and support under AS 43.90.130(7);
7 the contractual commitment required under this subsection may not preclude the
8 person or the person's affiliates, successors, assigns, and agents, from protesting a
9 filing to roll in mainline expansion costs that the licensee is not required to propose
10 and support under AS 43.90.130(7).

11 Article 4. Miscellaneous Provisions.

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

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

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

28 (d) Within 10 days after the convening of each regular session of the
29 legislature, the commissioners shall submit to the legislature a report that lists the
30 disbursements from the fund during the preceding fiscal year with a written
31 justification for each disbursement and the projected amount of money that will be

DRAFT

1 required for contributions in each of the next three fiscal years.

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

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

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

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

30 (b) In this section, "competing natural gas project" means a project designed
31 to accommodate throughput of more than 500,000,000 cubic feet of North Slope gas a

DRAFT

1 day.

2 Sec. 43.90.450. Assignments. (a) A licensee may transfer all or part of the
3 license, including the rights and obligations arising under the license, if

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

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

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

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

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

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

25 Article 5. General Provisions.

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

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

31 (2) "Alaska Gasline Inducement Act coordinator" and "coordinator"

DRAFT

means the person appointed under AS 43.90.250;

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

(4) "commissioners" means the commissioner of revenue and the commissioner of natural resources;

(5) "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;

(6) "equity holder" means the

(A) stockholders of a corporation;

(B) members of a limited liability company;

(C) partners of a partnership;

(D) joint venturers of a joint venture;

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

or

(F) holders of any other entity or person;

(7) "gas processing" means the treatment of gas downstream of the point of production to extract natural gas liquids;

(8) "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;

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

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

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

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

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

(14) "North Slope gas" means natural gas produced on the North Slope;

(15) "open season" means the period during which a shipper may commit to use a portion of the capacity of the project for the transportation of natural gas;

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

(17) "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;

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

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

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

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 abandonment of a project 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

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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

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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 or a trade secret in accordance with
24 AS 43.90.150;

25 (B) applications that are received under AS 43.90.120 -
26 43.90.140 until notice is published under AS 43.90.160.

27 * Sec. 5. 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. 6. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

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

7 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

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AMENDMENT ^{#1}

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

1 Page 7, lines 27 - 28:

2 Delete "AS 43.90.110(1) and (2)"

3 Insert "AS 43.90.110(a)(1)(A) and (B)"

4

5 Page 9, line 19, following "or is":

6 Insert "not"

7

8 Page 10, line 27:

9 Delete "AS 43.90.110(1)(B)"

10 Insert "AS 43.90.110(a)(1)(A) and (B)"

11 Delete "AS 43.90.140(9)"

12 Insert "AS 43.90.130(9)"

13

14 Page 13, line 27:

15 Delete "like"

16

17 Page 15, line 3:

18 Delete "written a"

19 Insert "a written"

20

21 Page 15, line 24:

22 Delete "required"

23 Insert "acquired"

Uman

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

1 Page 13, line 18:

2 Delete "licensee's net cost"

3 Insert "net amount of expenditures incurred and paid by the licensee that are qualified
4 expenditures for the purposes of AS 43.90.110"

5

6 Page 16, line 30:

7 Delete "licensee's net costs"

8 Insert "net amount of expenditures incurred and paid by the licensee that are qualified
9 expenditures for the purposes of AS 43.90.110"

10

11 Page 22, line 23:

12 Delete "reasonable costs"

13 Insert "expenditures incurred and paid by the licensee that are qualified expenditures
14 for the purposes of AS 43.90.110"

15

16 Page 22, line 26, following "no":

17 Insert "additional"

Uwan

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

Unan

- 1 Page 15, line 7, following "licensee.":
- 2 Insert "The commissioners may resume disbursement on the date that the
- 3 commissioners determine that the license violation is cured."

AMENDMENT #4

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

Uwan

- 1 Page 20, line 25:
- 2 Delete "conclusion"
- 3 Insert "start"

1 Doogan

2 Amendment- Access to Records and Reports

3 On HB177E

conc
Amend # 5
amended

4
5 Sec 43.90.220(c)

6 After page 14, line 11

7 (c) After a license has been issued and before conclusion of operations
8 permitted by the license [COMMENCEMENT OF COMMERCIAL OPERATIONS] the
9 licensee shall allow the commissioners to

and so long as the terms of
the license ^{continue to} apply,

10
11 [continue remainder of section as in bill]
12
13

1 Doogan

2 Amendment- Transfer upon Failure to Sanction

3 On HB177E

Conc
Amend # 6

Unan

4
5 Sec 43.90.200(e)

6 After page ¹³13, line ¹⁴20

7 (e) The transfer of any certificate of public convenience and necessity or
8 transfer under (d) of this section as the result of failure to comply with (a), [OR] (b), or (c) of
9 this section is at no cost to the state or the state's designee. [A TRANSFER UNDER (C) OF
10 THIS SECTION IS AT THE LICENSEE'S NET COST.]
11
12
13
14

1 Doogan

2 Amendment- Ensure changes don't reduce value of project

3 On HB177E

Conc.
Amend #7

4 13, 27

5 Sec 43.90.210 Amendment of or modification to the project plan. Subject
6 to the approval of the commissioners and the coordinator, a licensee may amend or modify its
7 project plan if the amendments or modifications are necessary as a result of changed
8 circumstances outside the licensee's control and not reasonably foreseeable before the license
9 was issued. An amendment or modification approved under this section must be consistent
10 with the requirements of AS 43.90.140 and may not diminish the net present value to the
11 state of the project.

12 23, 7

13 Sec. 43.90.450. Assignments. (a) A licensee may transfer all or part of the
14 license, including the rights and obligations arising under the license, if

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

16 (2) the transfer does not increase or diminish the obligations created by the
17 license or diminish the net present value of the license to the state

18
19 [continue rest of Sec. 43.90.450 as in bill]
20

Sam ✓

Doos ✓

Ram w

Kaw w

Oiso ✓

Dahl ✓

Kohr ✓

1 Doogan

2 Amendment- Clarify rolled-in tariff limit

3 On HB177E

Conc
Amend # 8

4

5 Sec 43.90.130(7)

6 page 6, line 24

Unan

7 Delete "15 percent of"

8 Replace with "15 percent above"

9

10 page 6, line 30

11 Delete "15 percent of"

12 Replace with "15 percent above"

13

14

Samuels	Y	10A
Kohring	N	
Doogan	Y	
Ramras	N	
Olsen	Y	
Dahlstrom	N	
Kawasaki	Y	

10B

25-GH1060E.2
Bullock
3/31/07

AMENDMENT # 10A

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

1 Page 15, line 27, following "licensee":

2 Insert "(1)"

3

4 Page 15, line 29, following "revocation":

5 Insert "; and

6 (2) shall deliver to the state all project data, engineering designs,
7 contracts, rights-of-way, and other work product of the licensee that is related to the
8 licensed project."

9

10 Page 16, following line 30:

Amend # 10B (withdrawn)

11 Insert a new subsection to read:

12 "(e) Notwithstanding (b)(2) of this section, if the arbitration panel makes a
13 final determination under (b) of this section that the project is not uneconomic and the

14 (1) commissioners disagree with that determination, the state may
15 terminate the license and compensate the licensee in the amount equal to three times
16 the total of the reasonable costs that the licensee has incurred in developing the
17 licensee's project through the date the commissioners notify the licensee of the
18 termination; or

19 (2) licensee disagrees with that determination, the state may terminate
20 the license at the request of the licensee and, if the license is terminated, the state shall
21 pay the licensee the actual amount of qualified expenditures incurred and paid by the
22 licensee through the date the license is terminated and the licensee shall transfer to the
23 state all project data, engineering designs, contracts, rights-of-way, and other work

1 product of the licensee that is related to the licensed project."

1 Doogan

Comp.
Amend #11

2 Amendment- Definition of Project Labor Agreement

3 On HB177E

4
5 Sec 43.90.900

6 Add after page 23, line 7

7 (17) "project labor agreement" means a completed collective bargaining
8 agreement between the licensee and an appropriate Alaskan entity setting out the terms and
9 conditions of employment on the project, including wages and benefits, no strike / no lockout
10 provisions, safety rules, dispute resolution procedures, and use of hiring facilities in Alaska.

11
12 (renumber accordingly)

13
14 Doogan Y
Ramras N
Samuels N
Kahrins Y
Olson N
Dahlstrom N
Kawasaki N

Failed

Doogan
Ramras
Samuels
Kohring
Olson
Dahlstrom
Kawasaki

25-GH1060E.3
Bullock
4/1/07

AMENDMENT #12 (withdrawn)

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

1 Page 1, line 4, following "coordinator;":

2 Insert "repealing the Alaska Stranded Gas Development Act;"

3

4 Page 27, following line 26:

5 Insert new bill sections to read:

6 "* Sec. 5. AS 44.37.011(a) is amended to read:

7 (a) This section applies to administrative appeals or petitions for
8 reconsideration of a decision in an administrative appeal to the commissioner of
9 natural resources, except for those administrative appeals or petitions done under
10 AS 38.35 [OR AS 43.82]. If a conflict occurs between this section and other state law
11 existing at the time of enactment of this section, the provisions of this section control.

12 * Sec. 6. AS 29.10.200(54), 29.10.200(55); AS 29.45.810; AS 29.46.010(b);
13 AS 36.30.850(b)(38); AS 43.20.072(g), 43.20.073(g); AS 43.82.010, 43.82.020, 43.82.100,
14 43.82.110, 43.82.120, 43.82.130, 43.82.140, 43.82.150, 43.82.160, 43.82.170, 43.82.180,
15 43.82.200, 43.82.210, 43.82.220, 43.82.230, 43.82.240, 43.82.250, 43.82.260, 43.82.270,
16 43.82.300, 43.82.310, 43.82.400, 43.82.410, 43.82.420, 43.82.430, 43.82.435, 43.82.440,
17 43.82.445, 43.82.500, 43.82.505, 43.82.510, 43.82.520, 43.82.600, 43.82.610, 43.82.620,
18 43.82.630, 43.82.640, 43.82.900, 43.82.990; secs. 1, 2, and 10, ch. 104, SLA 1998; and sec. 1,
19 ch. 4, SLA 2003 are repealed."

20

21 Renumber the following bill sections accordingly.

Doogan
Ramras
Samuels
Kohring
Olson
Dahlstrom
Kawaski

25-GH1060\E.4
Bullock
4/1/07

AMENDMENT #13 (Withdrawn)

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

1 Page 9, lines 12 - 29:

2 Delete all material and insert:

3 "Sec. 43.90.150. Disclosure of submitted information. Notwithstanding
4 AS 40.25, all information submitted to the commissioners under this chapter is public
5 information; however, the information is not subject to disclosure before the
6 commissioners publish the notice required under AS 43.90.160(a)."

7

8 Page 9, line 30:

9 Delete "(a)"

10

11 Page 10, line 1, following "AS 43.90.140":

12 Insert "and all applications rejected by the commissioners under AS 43.90.140(a) and
13 (c)"

14

15 Page 10, lines 2 - 9:

16 Delete all material.

17

18 Page 27, lines 23 - 25:

19 Delete

20

"(A) proprietary or a trade secret in accordance with

21

AS 43.90.150;

22

(B)"

23

Insert "submitted to the commissioners under AS 43.90 and"

Doogan
Ramras
Samuels
Kohring
Olson
Dahlstrom
Kawasaki

25-GH1060\E.1
Bullock
3/31/07

AMENDMENT # 14 (withdrawn)

OFFERED IN THE HOUSE

BY REPRESENTATIVE DOOGAN

TO: CSHB 177(), Draft Version "E"

1 Page 18, line 10:

2 Delete "and 43.90.320"

3

4 Page 18, lines 12 - 13:

5 Delete "and 43.90.320 are"

6 Insert "is"

7

8 Page 18, line 14:

9 Delete "**inducement.**"

10 Insert "**inducement; royalty credit.** (a) A person qualified for resource inducement
11 under AS 43.90.300 is entitled to a credit of 10 percent against the person's royalty obligation
12 to the state for North Slope gas shipped through firm transportation capacity the person
13 acquired during the first binding open season."

14

15 Reletter the following subsections accordingly.

16

17 Page 19, line 11, following "production":

18 Insert "; and

19 (4) the procedure for a person to take the credit provided in (a) of this
20 section"

21

22 Page 19, line 13:

23 Delete "(d)"

1 Insert "(e)"
2
3 Page 19, line 16:
4 Delete "(a)"
5 Insert "(b)"
6
7 Page 19, line 22:
8 Delete "(e)"
9 Insert "(f)"
10
11 Page 19, line 31:
12 Delete "(c)"
13 Insert "(d)"
14
15 Page 20, line 10:
16 Delete "(a)"
17 Insert "(b)"
18
19 Page 20, line 15:
20 Delete "(c)"
21 Insert "(d)"
22
23 Page 20, line 17:
24 Delete "(c)"
25 Insert "(d)"
26
27 Page 20, line 19, through page 21, line 10:
28 Delete all material.
29
30 Page 23, line 14:
31 Delete "and the gas production tax exemptions under AS 43.90.320"

Doogan
Samuels

25-GH1060\E.8
Bullock
4/1/07

Unan

AMENDMENT #15 amended

OFFERED IN THE HOUSE

BY REPRESENTATIVES SAMUELS,

TO: CSHB 177(), Draft Version "E"

DOOGAN, AND KOHRING

1 Page 11, line 31:

2 Delete "chairs of the legislative standing committees having jurisdiction over natural
3 resources"

4 Insert "presiding officer of each house of the legislature"

5

6 Page 12, lines 11 - 14:

7 Delete "receiving a determination from the commissioners under AS 43.90.180, the
8 House standing committee and the Senate standing committee having jurisdiction over natural
9 resources"

10 Insert "the presiding officer of each house of the legislature receives a determination
11 from the commissioners under AS 43.90.180, the rules committee of each house of the
12 legislature"

13

14 Page 12, line 14:

15 Delete "bill in their respective chambers"

16 Insert "resolution"

17

18 Page 12, line 16:

19 Delete "bill"

20 Insert "resolution"

21 Delete "becomes law"

22 Insert "is approved by both houses of the legislature within 90 calendar days after the
23 last date a presiding officer of a house of the legislature receives a determination from the

Delete

1 commissioners under AS 43.90.180"

2

3 Page 12, lines 17 - 18:

4 Delete "effective date of the Act"

5 Insert "date a resolution passes"

Doogan
Samuels
Ramras
Kehring
Olson
Dahlstrom
Kawasaki

4/02/07

AMENDMENT #16 (as amended)

OFFERED IN THE HOUSE

BY REPRESENTATIVE RALPH SAMUELS

TO: CSHB 177() Work Draft Version "E"

UNAN

- 1 Page 10, line 17, following "shall"
- 2 Insert "use an undiscounted value and, at a minimum, discount rates of
- 3 two, ^{five}~~six~~, and eight percent, and"

Doogan
Rammes
Samuels
Kehring
Olson
Dahlstrom
Kawasaki

UNAN

3/31/07

AMENDMENT #17

OFFERED IN THE HOUSE

BY REPRESENTATIVE RALPH SAMUELS

TO: CSHB 177() Work Draft Version "E"

- 1 Page 7, line 22, following "Commission"
- 2 Insert "if the proposed project is engaged in interstate commerce,"
- 3 Page 7, line 22, following "Alaska"
- 4 Delete, ",as applicable"
- 5 Insert, "if the project is not engaged in interstate commerce"
- 6 Page 7, line 22, following "for"
- 7 Delete, "any"
- 8 Insert, "a"
- 9 Page 7, line 24, following "value"
- 10 Delete, "existing"
- 11 Insert, "previously owned"
- 12 Page 7, line 25, following "value;"
- 13 Insert, "describe the gas treatment plant, including its design, engineering,
- 14 construction, ownership, and plan of operation; the identify of any third party that
- 15 will participate in the ownership or operation of the gas treatment plant; and the
- 16 means by which the applicant will work to minimize the effect of the costs of the
- 17 facility on the tariff;"

3/31/07

AMENDMENT #18

OFFERED IN THE HOUSE

BY REPRESENTATIVE RALPH SAMUELS

TO: CSHB 177() Work Draft Version "E"

Unan

- 1 Page 11, line 4, following "cost overruns"
- 2 Insert ", and encourage shippers to participate in the first binding open
- 3 season"

Doogan Y
Ramras Y
Samuels Y
Kohring Y
Olson Y
Dahlstrom N
Kawasaki N

25-GH1060/B.21
Bullock
3/29/07

Concept
AMENDMENT # 19

OFFERED IN THE HOUSE

BY REPRESENTATIVE SAMUELS

TO: HB 177

20 5

1 Page 15, line 14, following "43.90.140(7)":

2 Insert "if the Federal Energy Regulatory Commission does not have a policy in effect
3 that presumes that rolled-in rates apply to the recovery of expansion costs for the project"

4

21 6

5 Page 16, line 17, following "43.90.140(7)":

6 Insert "if the Federal Energy Regulatory Commission does not have a policy in effect
7 that presumes that rolled-in rates apply to the recovery of expansion costs for the project"

1 Doogan
2 Amendment- Role of Coordinator
3 On HB177E
4
5 page 7, line30
6 Delete "and the coordinator"
7
8 page 11, line 21
9 Delete "and the coordinator"
10
11

Amend # 9

unam

Rep Doogan

Conc
Amend # 20

Sec. 43.90.180. 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.

(b) Applications received under this chapter are not public records and 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 confidential 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 confidential under this subsection, the applicant shall provide a summary of the withheld information satisfactory to the commissioners and the commissioners shall make such summary available to the public.

Pa 10 - Line 10

(c) All information provided by applicants to the commissioners under this chapter, including information determined to be confidential under AS 43.90.150, will be disclosed by the commissioners to the legislative auditor, the director of legislative finance and their agents and contractors, and legislators, provided the person requesting disclosure signs an appropriate confidentiality agreement provided by the commissioners.

Doogan
Ramras
Samuels
Kohring
Olson
Dahlstrom
Kawasaki

UNAN

CONCEPTUAL AMENDMENT # 21

OFFERED IN THE HOUSE

BY REPRESENTATIVE RAMRAS

April 3, 2007

TO: HB 177 Work Draft Version E

Page 3, Line 30:

(2) provide a detailed description of:

- a. the applicant;
- b. all affiliates of the applicant;
- c. all partners or joint venturers or other similar entities participating with the applicant in the project or upon whom the applicant intends to rely for completion of the proposed project;
- d. the information provided under this subsection shall include the nature of any affiliation as well as the nature and extent of commitments by partners and joint venturers to the proposed project that will allow the commissioners to evaluate the applicant's readiness and ability to perform the activities specified in the application.

Renumber accordingly

Doogan
Ramras
Samuels
Kehring
Olson
Dahlstrom
Kawasaki

UNAN

Doogan
Ramras
Samuels
Kohring
Olson
Dahlstrom
Kawasaki

UNAN

25-GH1060\E.10
Bullock
4/3/07

AMENDMENT #22

OFFERED IN THE HOUSE

BY REPRESENTATIVE RAMRAS

TO: CSHB 177(), Draft Version "E"

1 Page 1, line 4, following "coordinator;":

2 Insert "establishing the gas utility revolving loan fund;"

3

4 Page 27, following line 26:

5 Insert a new bill section to read:

6 "** Sec. 5. AS 42.45 is amended by adding a new section to read:

7 **Sec. 42.45.025. Gas utility revolving loan fund.** (a) The gas utility revolving
8 loan fund is established in the authority. The fund consists of

9 (1) appropriations made to the fund; and

10 (2) repayments of principal and interest on loans made under this
11 section.

12 (b) The authority may make loans from the gas utility revolving loan fund to
13 gas utilities certificated under AS 42.05. A loan from the fund may be made only for
14 the purpose of constructing or extending new gas service into an area of the state that a
15 gas utility may serve under a certificate of public convenience and necessity issued
16 under AS 42.05. A loan may be made from the fund to a gas utility if the utility invests
17 the money necessary to provide service for each consumer for whom service would be
18 provided by the construction or extension of gas service.

19 (c) A loan from the gas utility revolving loan fund shall bear an annual rate of
20 interest of two percent of the unpaid balance of the loan.

21 (d) When the authority makes a loan under this section, the gas utility
22 receiving the loan shall

23 (1) in addition to the rates that it is authorized to charge, charge the

1 consumers served by the gas service constructed or extended with the loan proceeds an
2 amount sufficient to pay the interest costs of the loan;

3 (2) pay to the authority annually an amount equal to

4 (A) interest of two percent on the unpaid balance of the loan;

5 and

6 (B) payments on the unpaid balance of the principal of the loan
7 for each new consumer served by the gas service constructed or extended with
8 the loan proceeds; payments on the unpaid balance of the principal of the loan
9 shall be made at a rate equal to the difference between the actual cost of
10 making the service connection to the consumers and the minimum investment
11 for each consumer required of the utility before a loan is made under (b) of this
12 section.

13 (e) The authority shall

14 (1) adopt regulations necessary to carry out the provisions of this
15 section; and

16 (2) administer the gas utility revolving loan fund.

17 (f) Money in the gas utility revolving loan fund may be used by the legislature
18 to make appropriations for costs of administering the fund.

19 (g) On June 30 of each fiscal year, the unexpended and unobligated cash
20 balance of the fund that is attributable to loans owned by the fund lapses into the
21 general fund.

22 (h) In this section,

23 (1) "consumer" means a person or a governmental agency, if the
24 person or governmental agency requests and offers to pay for gas service to a facility
25 or part of a facility;

26 (2) "facility" means a structure capable of receiving and using natural
27 gas energy; and

28 (3) "governmental agency" includes, with respect to the state or federal
29 government or a municipal government, a legislative body, board of regents,
30 administrative body, board, commission, committee, subcommittee, authority, council,
31 agency, public corporation, school board, department, division, bureau, or other

1 subordinate unit, whether advisory or otherwise, of the state, federal, or municipal
2 government."

3
4 Renumber the following bill sections accordingly.

5
6 Page 28, line 7:

7 Delete all material and insert:

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

10 CONDITIONAL EFFECT. AS 42.45.025, enacted by sec. 5 of this Act, takes effect
11 only if a natural gas pipeline project that provides for delivery points in the state receives a
12 license under AS 43.90.

13 * Sec. 9. If sec. 5 of this Act takes effect, it takes effect on the date a natural gas pipeline
14 project that provides for delivery points in the state receives a license under AS 43.90, as
15 enacted by sec. 1 of this Act.

16 * Sec. 10. Except as provided in sec. 9 of this Act, this Act takes effect immediately under
17 AS 01.10.070(c)."

CONCEPTUAL AMENDMENT # 23

OFFERED IN THE HOUSE

TO: HB177

BY: REP. JAY RAMRAS

P.8, L. 16

Insert a new paragraph to read:

(16) commit to offer at reasonably commercial terms to an agency of the state authorized to invest state money a fractional nonvoting ownership interest in the project no less than 5% of the Alaska portion of the project.

Renumber the following paragraph accordingly.

Doogan	N
Ramras	Y
Samuels	N
Kohring	N
Olson	N
Dahlstrom	N
kawasaki	Y

Failed

CONCEPTUAL AMENDMENT #24 withdrawn

OFFERED IN THE HOUSE

TO: HB177

BY: REP. JAY RAMRAS

P. 16, L. 13 Delete "exemption"
Insert "exemptions"

P. 20, L.27 (b) For the five years immediately following commencement of commercial operation of the project, 20 percent of the gas described in AS 43.90.300 is exempt from the state's tax on the production gas.

Doogan

Ramras

Samuels

Kohring

Olson

Dahlstrom

Kawasaki

AMENDMENT NO. 25

OFFERED IN THE
HOUSE SPECIAL COMMITTEE
ON OIL AND GAS
By: Representative Kohring

Page 5, Line 14

...that is not later than [24] 36 months....

Page 5, Line 28

...that is not later than [24] 36 months....

Doogan

Ramras

Samuels

Kohring

Olson

Dahlstrom

Kawasaki

UNan

SARAH PALIN
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



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March 2, 2007

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

Dear Speaker Harris:

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

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

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

The Honorable John Harris

March 2, 2007

Page 2

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

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

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

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

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

The Honorable John Harris

March 2, 2007

Page 3

applications that fulfill the "qualifying application requirements" will be considered for the license to the midstream inducement package.

To accomplish the second goal, the bill will require that applications provide a detailed description of the applicant's proposed project, including route, size, design capacity, timeline and budget. Applicants must agree to hold an Open Season (to solicit firm commitments to ship gas on the pipeline) within three years of getting the license, and will detail steps toward obtaining a Certificate of Public Convenience and Necessity from FERC or the RCA. The state gas pipeline coordinator will also ensure an expeditious regulatory process.

To accomplish the third goal, applicants must commit to expanding the pipeline project when new gas is available. There is currently more than 35 trillion cubic feet (Tcf) of proven reserves of natural gas on Alaska's North Slope. However, most geologists agree that there is many times that amount of North Slope gas awaiting discovery. By ensuring that the pipeline will be expanded when more gas is discovered and ready to be shipped, the bill assures that Alaska's gas will serve the nation's energy needs for decades. Therefore, applicants must commit to evaluate the demand for pipeline expansion at least every two years, and to expand when there is sufficient quantities of gas to ensure an economic expansion. The costs of any expansions will then be collected through "rolled-in" rates that pass those expansion costs on to all shippers in the gas pipeline. The AGIA will cap the cost of rolled-in price increases at no more than 15 percent of initial rates, in response to concerns regarding the predictability of tariff rates.

To accomplish the fourth goal, applicants will have to commit to propose and support tariff rates that would produce the lowest reasonable transportation costs in order to produce the highest price at the wellhead. Minimizing transportation costs result in the state maximizing its royalty revenue stream as well as that of the producers.

To accomplish the fifth goal, applicants must provide for a minimum of five off-take points in Alaska. This, in conjunction with the "distance sensitive tariff rates", will allow gas to be withdrawn from the pipeline at reasonable transportation costs in order to serve residential and business needs across the state.

To accomplish the sixth goal, applicants must commit to establishing a gas pipeline project headquarters in Alaska, establishing hiring offices in Alaska, and hiring qualified Alaskans, thus giving Alaskans access to the thousands of new pipeline jobs.

The bill requires the application process to commence no more than three months after the bill passes, when the commissioners of Natural Resources and Revenue issue a request for applications (RFA). Applications will be due under a deadline established by the commissioners; however, our intention is to allow applicants three (3) months to respond to the RFA.

Applicants will be deemed "qualified" by having fulfilled the bill's requirements. Qualified applications will then be evaluated by the commissioners of Natural Resources and Revenue to determine which application best meets the stated goals. Before issuing a written determination, the commissioners will publicly release complete applications and take comments for 60 days. Applicants could apply to keep confidential the proprietary information or trade secrets included in their applications.

The bill sets forth "evaluative criteria" to facilitate the selection process. The evaluative criteria are: the proposed project timeline, the proposed method to manage cost overruns, the proposed tariff rates, the ability of the project design to accommodate expansion, the percentage of the state matching fund that will be used, whether the project is feasible, and the applicant's ability to perform. The commissioners will publish a notice of intent to issue a natural gas pipeline project license with written findings, and forward the notice of intent, with findings and supporting documentation, to the legislature. The legislature will have 30 days to disapprove the commissioners' proposed action.

The bill also provides that the licensee must commit to spend the money necessary to build the pipeline within one year of receiving a certificate from the FERC or the RCA if the project has credit support adequate to finance construction of the project. If necessary, the licensee would have an additional four years to obtain financing, or transfer the certificate and all associated work product to another licensee designated by the state. If the project becomes uneconomic after the license is awarded, the bill provides a process for relinquishing the license that will enable the state to recover the benefit of its investment in the project and issue another license. To encourage the licensee to spend its money working toward Open Season, and certification, and building the gas pipeline project, the state will agree that if it provides financial benefits to another company to encourage the construction of a competing pipeline project after the license is issued, the licensee will be entitled to recover from the state three times the amount it spent on the project.

The bill identifies quantifiable values the state is willing to commit to encourage early and appropriate development of an Alaska Gas Pipeline project. It also identifies the elements necessary to protect the state, and the nation's, long-term interests in

The Honorable John Harris
March 2, 2007
Page 5

development of additional gas reserves. The bill protects the state from untenable risks and will induce expedited construction of a gas pipeline that powers the state and the nation. I urge your prompt and favorable action on the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large loop at the end.

Sarah Palin
Governor

EXECUTIVE SUMMARY OF AGIA

March 5, 2007

PURPOSE: To encourage expedited development of Alaska's gas resources by offering incentives to companies that produce the state's gas resources and companies that can build a pipeline.

INCENTIVES FOR PIPELINE CONSTRUCTION: The state offers to match up to \$500 million of the costs that the licensee will incur to obtain a certificate from the Federal Energy Regulatory Commission or Regulatory Commission of Alaska. The state will appoint a state pipeline coordinator who will be empowered to coordinate amongst the state regulatory agencies with permitting responsibilities. The state will develop its qualified labor force to support project construction and operations.

INCENTIVES FOR GAS COMMITMENT: The state will adopt regulations to provide predictability in the determination of royalty value and its exercise of its right to take its royalty share in kind as gas or in value as money. The state also offers a production tax exemption for gas committed to the pipeline equal to the difference between the taxpayer's tax obligation defined in the tax law at "open season" (i.e., on the day the first solicitation of gas commitments ends), and any higher obligation that becomes effective for ten years after pipeline start-up.

LICENSE REQUIREMENTS: In order for applications to be evaluated, they must commit to the sixteen requirements in AGIA; including, in particular:

1. a commitment to solicit firm commitments to ship gas on the pipeline within 3 years of getting the license (the open season),
2. a firm date by which the applicant will apply to Federal Energy Regulatory Commission or Regulatory Commission of Alaska for a certificate authorizing the pipeline
3. a commitment to certain financial provisions that will keep tariff rates low
4. a commitment to solicit demand for pipeline expansion at least every two years, to expand when there is sufficient need, and to collect the cost of any expansions through "rolled-in" rates that pass expansion costs onto all shippers so long as rates do not increase more than a fixed amount above initial rates,
5. a description of how cost overrun risks will be managed
6. a commitment to have at least five delivery points in Alaska
7. a commitment to hire qualified Alaskans for construction and operation of the gas pipeline

APPLICATION REVIEW CRITERIA: The Commissioners evaluate the applications under the seven criteria in AGIA:

1. proposed project timeline
2. proposed method to manage cost overruns
3. proposed tariff rate structure
4. the ability of the project design to accommodate expansion
5. how much of the state matching fund will be used and the timing of the state's payments
6. whether the project is feasible
7. the applicant's ability to perform

EXECUTIVE SUMMARY OF AGIA
March 5, 2007

PROJECT PROCESS: The project begins when the Commissioners issue a request for applications no more than three months after AGIA passes. The application deadline will be established by the Commissioners in the notice. The Commissioners will publicly release complete applications and take comments for 60 days. Applicants can apply to protect proprietary information or trade secrets included in their applications. The Commissioners forward a written decision recommending award. The legislature will then have 30 days after that notice to disapprove the Commissioners' proposed action.

After a license is awarded, the licensee must complete an application to the Federal Energy Regulatory Commission or Regulatory Commission of Alaska. The licensee must sanction the project within a year of receiving a certificate from the Federal Energy Regulatory Commission if it has adequate financing. If necessary, the licensee has an additional four years to obtain financing or transfer the certificate, and all associated work product, to another licensee designated by the state.

If the project becomes uneconomic after the license is awarded, AGIA describes a process for relinquishing the license that will enable the state to recover the benefit of its investment in the project by issuing another licensee. To encourage the licensee to commit to spend funds building the pipeline, the state agrees that if it provides financial benefits to another group to encourage the construction of a competing pipeline project after the license is issued, the licensee is entitled to recover three times the amount it spent on the project from the state.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: AGIA-COM-RCA-02-28-07
() Publish Date: _____

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

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Kate Giard, Chair Phone 907.276.6222
Division Regulatory Commission of Alaska Date/Time 2/28/07 3:06 PM
Approved by: Emil Notti, Commissioner Date 2/28/2007
Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: LL 07-0060
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Alaska Gasline Inducements Act RDU Resource Development
 Component Alaska Gasline Inducements Act
 Sponsor Rules Committee
 Requester Governor Component No. new

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

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

(Continued on next page).

Prepared by: Kevin Banks, Acting Director Phone 269-8800
 Division Oil and Gas Date/Time 2/28/2007
 Approved by: Tom Irwin, Commissioner Date 2/28/2007
 Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA 2007 LEGISLATIVE SESSION

BILL NO. LL 07-0060

ANALYSIS CONTINUATION

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

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

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

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

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

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

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

The state gas pipeline coordinator is an exempt position (Range 26M \$209,000). To assist the state coordinator, four additional positions would be needed: a Pipeline Engineer (Range 26D \$150,900), a Natural Resource Specialist IV with knowledge of state and federal environmental regulations and administrative procedure (Range 21C \$108,900), a Natural Resource Specialist III to assist with title work (Range 18C \$91,100), and an Administrative Clerk II (Range 8 \$52,300). It is anticipated that the state coordinator and clerk would begin in FY 08. There will be travel associated with the functions of at least two of these positions. All of the positions will sunset one year after commencement of the gas pipeline commercial operations.

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

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

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: LL07-0060-DNR-O&G-03-01-C
Bill Version: LL07-0060
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Natural Resources

Title: Alaska Gasline Inducements Act

RDU: Resource Development

Component: Oil & Gas Development

Sponsor: Rules Committee

Requester: Governor

Component No. 439

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 6,550.0 ** Requested as a capital project

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Kevin Banks, Acting Director

Division: Oil & Gas

Approved by: Tom Irwin, Commissioner

Agency: Natural Resources

Phone: 907-269-8800

Date/Time: 3/1/2007

Date: 3/1/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: LL-07-0060-DOR-NGC-2-28-07

Bill Version: LL-07-0060

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Title AGIA

Dept. Affected: Revenue

RDU Administration & Support

Component Natural Gas Commercialization

Sponsor Governor

Requester Rules Committee

Component No. 2859

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 784.0

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

☒ X

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Roger Marks

Division: Tax Division

Approved by: Jerry Burnett

Agency: Department of Revenue

Phone: 269-0082

Date/Time: 2/28/07 12:00 AM

Date: 2/28/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. LL-07-0060

ANALYSIS CONTINUATION

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

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

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

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: LL 07-60-DOA-AOGCC-03-02-07

Bill Version: LL 07-60

() Publish Date:

Revision Date/Time (Note if correction):

Dept. Affected: Administration

Title: Alaska Gasline Inducement Act

RDU: AOGCC

Component: AOGCC

Sponsor: Rules Committee

Requester: Governor

Component No.: 2010

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Jody J. Colombie, Special Assistant I
 Division: Alaska Oil and Gas Conservation Commission

Phone: 793-1221
 Date/Time: 3/2/07 3:19 PM

Approved by: Rachael Petro, Deputy Commissioner
 Agency: Department of Administration

Date: 3/2/2007 1:00pm



MEMORANDUM
Department of Natural Resources

STATE OF ALASKA
Division of Oil and Gas

TO: Representative Vic Kohring, Chair
House Oil and Gas Committee

DATE: March 2, 2007

FILE NO:

TELEPHONE: 269-8800

FAX NO: 269-8938

FROM: Kevin Banks, Acting Director

SUBJECT: Analysis of Alaska
Gasline
Inducements Act,
HB ____

Article 1 of the bill, if enacted, would add a new chapter to the state's Revenue and Taxation Code that induces the construction of a Natural Gas Pipeline in Alaska.

Section 010 describes the bill's purpose as facilitating commercialization and promoting exploration of Alaska's North Slope gas resources; maximizing the benefits of development to Alaskans and encouraging lessees to commit gas to a gas pipeline.

Article 2 of the bill describes the AGIA license.

Section 100 authorizes the Commissioners of Natural Resources and Revenue, acting jointly, to award an AGIA license.

Section 110 describes the inducements for construction of a pipeline. The state offers to contribute up to \$500 million to match reasonable costs the licensee incurs over five years toward obtaining a certificate of public convenience and necessity for a gas pipeline project in Alaska from the Federal Energy Regulatory Commission (FERC) or the Regulatory Commission of Alaska (RCA). The state will equally match costs incurred to get to the end of the first binding open season, and up to 80 percent of the costs incurred after the close of the first binding open season. The matching costs do not include the costs of overhead, litigation, existing assets, or fines and penalties. The state also offers the benefit of an AGIA coordinator and a state program to train employees for the gas pipeline project. Section 120 provides that the license may be abandoned by the mutual agreement of the state and licensee, or if one party seeks to abandon the license on grounds that the project has become uneconomic, an impartial third party will determine if the project has become uneconomic. If the license is abandoned, the licensee's receipt of funds to date from the state is still subject to audit, and the licensee must relinquish its project plans, data, contracts and permits to the state or its designee.

Section 130 requires the Commissioners issue a request for applications within 3 months of AGIA's effective date, and authorizes the Commissioners to hire independent contractors to develop the license provisions and evaluate the applications.

Section 140 lists the license requirements. All applications must: 1) be filed by the date set by the Commissioners; 2) include a detailed description of the project that includes its route, receipt and delivery points, economic analysis of its feasibility, timeline for completion, 3) if the application proposes an interstate pipeline, commit to hold an open season within 3 years after the license is issued, use the FERC's pre-filing procedures and apply for a FERC certificate, 4) if the application proposes an intrastate pipeline, hold an open season and apply for an RCA certificate, 5) commit to evaluate market demand for pipeline expansion every two years after the first open season, 6) commit to expand the pipeline in reasonable engineering increments and on commercially reasonable terms, 7) commit to fund the cost of expansions with rolled-in rates capped at 15 percent above the initial rates, 8) commit to apply to FERC or the RCA, 9) propose the percentage of the state's matching contribution, if any, after the first open season, 10) commit to offer rates that are based on a capital structure that includes at least 70 percent debt, 11) describe how the applicant will manage cost overruns, 12) commit to at least five offtake points in Alaska, 13) commit to offer distance sensitive rates to offtake points within Alaska, 14) commit to establish a local project headquarters, 15) commit to hire qualified Alaskans from all over the state, and 16) demonstrate licensee's ability to perform commitments.

Section 150 requires the Commissioners to review the applications based on the criteria in section 140 to determine if they are complete, and also to request additional information if necessary.

Section 160 allows applicants to request confidentiality for the portions of their applications that include proprietary information or trade secrets.

Section 170 states the criteria by which the Commissioner will evaluate the applications: 1) the proposed timeline for holding an open season, obtaining the certificate of public convenience and necessity, progressing the pipeline project, 2) the proposal for cost overrun management, 3) whether the proposal insures low tariff rates, 4) the design and whether it can accommodate expansion, 5) the percentage of state matching funds proposed after the first open season, 6) the feasibility of the work plan and budget, and 7) the applicant's financial ability.

Section 180 requires the Commissioners to publish notice of the applications and seek public comment for 60 days.

Section 190 requires the Commissioners to issue a written determination and notice of intent to award a license if an application merits issuance of a license after their review is complete.

Section 200 gives the legislature thirty days after the notice of intent to award a license is issued to disapprove the proposed award of the license by joint resolution. If the legislature disapproves the Commissioners' decision, they may begin the public process again.

Section 210 requires licensees to accept certification by the FERC or RCA, as appropriate. Licensees must sanction the project within one year of FERC or RCA certification if they have credit support sufficient to finance the project. If they lack credit support sufficient to finance the project, they have five years from certification to sanction the project or transfer the license to another entity designated by the state.

Section 220 allows amendments to the project proposal necessitated by unforeseeable changes, provided the proposal remains consistent with the Section 140 requirements and does not diminish the value of the project to the state.

Section 230 requires the licensee to maintain records for seven years of all expenditures that the state will be asked to match, and makes those records auditable.

Section 240 describes the circumstances that would violate the license and allows the state to halt its matching contributions and recover all matching funds distributed to date. If the licensee does not agree that a violation has occurred, it allows for an expedited hearing.

Article 3 of the bill describes the inducements and the AGIA coordinator's duties.

Section 300 states that any person that commits gas during the first open season is qualified for royalty and tax inducements.

Section 310 requires the state to adopt regulations defining the method of valuing its royalty share. The regulations must describe a methodology to value royalty that minimizes retroactive adjustments and is based on reliable industry sources. The regulations must also establish the methodology that the state will use to exercise its rights to alternate between taking its royalty in kind and in value in a way that will not cause the lessee to bear disproportionate transportation costs or interfere with the lessee's long term marketing plans. A person that commits gas in the first binding open season may elect to calculate the royalty on gas shipped in the project under the person's existing lease and unit agreements or under the regulations. The Commissioner of Natural Resources must review the regulations every two years after commercial production begins to make sure that they are accomplishing the statutory goals. A person may change its election when new regulations are adopted.

Section 320 entitles persons who made firm transportation commitments during the first open season to an exemption from the state's production tax on gas shipped in the project equal to the difference between the production tax rate in effect at the end of the first open season and the production tax rate in effect when taxes are due in each of the ten years after commercial production begins; provided they agree not to protest any rolled-in rate treatment of expansion costs subject to the limit in section 140(7).

Section 330 allows the Governor to appoint, subject to legislative confirmation, an AGIA coordinator who is empowered to coordinate among the state agencies that have regulatory authority and with the federal pipeline coordinator to insure that the pipeline project moves forward.

Section 340 requires all state agencies to conduct their reviews expeditiously and prevents them from imposing any unessential requirements that will result in delay.

Article 4 of the bill includes miscellaneous provisions.

Section 400 establishes a fund for appropriated matching funds.

Section 410 enables the Commissioners of Natural Resources and Revenue to implement regulations.

Section 420 requires legal actions challenging a license to be filed within 90 days of the license award.

Section 430 describes the applicable rate of interest.

Section 440 provides that if the state offers preferential tax or royalty treatment to facilitate construction of a competing pipeline project after a license has been awarded, the state must pay damages equal to three times the costs that the licensee has reasonably expended.

Section 450 allows licensee to transfer the license with the commissioners' approval and allows the licensee to transfer its rights to the royalty and tax inducements described in sections 310 and 320.

Section 460 resolves conflicting law disputes.

Article 5 of the bill is General Provisions.

Section 900 includes definitions.

Section 990 names the chapter the Alaska Gasline Inducements Act.

Other provisions make conforming amendments to other statutes and make the act effective upon passage.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

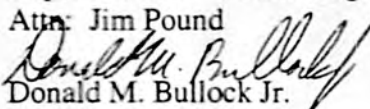
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 7, 2007

SUBJECT: Analysis of HB 177 (HB 177; Work Order No. 25-GH1060\B)

TO: Representative Vic Kohring
Attn: Jim Pound

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You have requested a sectional analysis of the above-described bill.

As a preliminary matter, note that a sectional summary or analysis of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

The following is a summary of the governor's Alaska Gasline Inducement Act. At your request, this analysis is more detailed than the usual sectional summaries we provide to you. However, the cautionary note in the paragraph above continues to apply, the bill itself is the best statement of its contents.

Section 1. Adds a new chapter, AS 43.90, to Title 43 that contains the following:

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

Sec. 43.90.010. Purpose. Explains that the purpose of the chapter is to encourage expedited construction of the gasline and sets four goals for the pipeline.

Article 2. Alaska Gasline Inducement Act License.

Sec. 43.90.100. Gas project. Authorizes the commissioner of the Department of Natural Resources and the commissioner of the Department of Revenue, acting jointly, to award an Alaska Gasline Inducement Act license that entitles the licensee to the inducement in AS 43.90.110.

Sec. 43.90.110. Natural gas pipeline project construction inducement. Lists the inducement a licensee is entitled to receive. Provides for

payments totalling up to a total of \$500,000,000 over 5 years as matching contributions for the licensee's qualified expenditures. Provides for the state to match the licensee's dollar-for-dollar cost through the close of the first binding open season, and provide up to 80 percent of the qualified expenditures after the close of the first binding open season. Defines qualified expenditures as costs that occur after the license is issued and that are related to obtaining a certificate of public convenience and necessity from the Federal Regulatory Commission or the Regulatory Commission of Alaska, as appropriate. Qualified expenditures may not include overhead costs, litigation costs, assets or work product predating the issuance of the license, or civil or criminal penalties or fines.¹ Other incentives include the benefit of an Alaska Gasline Inducement Act coordinator and a state program that provides training for employment in gas pipeline project management, construction, operations, maintenance, and other gas pipeline-related positions.

Sec. 43.90.120. Abandonment of project. Provides for the abandonment of a project if the commissioners and the licensee agree that the project is uneconomic and should be abandoned. If the licensee and the commissioners do not agree, provides for an impartial third party to take evidence and make a determination of whether the project is uneconomic and should be abandoned. Requires the commissioners to adopt regulations establishing the procedures for the third-party selection and review process. Also, provides for the abandonment of the project if the state violates the exclusivity enjoyed by the licensee by extending to another person preferential royalty, tax, or monetary treatment for purposes of facilitating the construction of a competing gasline. (See AS 43.90.440.)

Sec. 43.90.130. Request for applications for the license. Requires commissioners to commence public process to request applications for the license. Authorizes use of independent contractors to develop provisions in the application for a license and to evaluate applications received. States that the requests for applications are not subject to the procurement code (AS 36.30).

Sec 43.90.140. Application requirements. Lists requirements for the application and requires the application to be consistent with the terms established under AS 43.90.130. The application must:

- (1) be filed by the deadline established by the commissioners;

¹ I think the drafter of the governor's bill may have intended to include the *costs* of assets or work product in this list of exclusions because this is a list of expenditures, i.e. money paid out.

(2) provide a detailed description for the proposed gasline project from the North Slope to market, including route, receipt and delivery points; size and design capacity; an analysis of the project's economic and technical viability; viable work plan, timeline, and budget; explain how applicable state, federal, and international requirements will be met; for a route through Canada, provide a description for obtaining rights-of-way; for a project using marine transportation, provide a description of transportation services to be provided by third parties, proposed access and tariff terms, a description of proposed schemes for liquefaction and marine transportation, and explain how the Federal Energy Regulatory Commission (FERC) and/or export requirements will be satisfied;

(3) for a project subject to FERC, commit to conclude an open season within 36 months after obtaining the license; commit to apply for FERC approval to use pre-filing procedures and to use the procedures before filing for a certificate of public convenience and necessity; commit to apply for a certificate of public convenience and necessity;

(4) for a project subject to the Regulatory Commission of Alaska (RCA), commit to conclude a binding open season within 36 months after receiving the license, and to apply for a certificate of public convenience and necessity to authorize construction;

(5) after first binding open season, provide for the assessment of market demand for additional gasline capacity every two years;

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

(7) with regard to expansion, commit to recover costs through rolled-in or partially rolled-in rates that would increase shippers' rates by no more than 15 percent of the "initial maximum recourse rates" from the North Slope to the downstream terminus; the application may include a proposal for any combination of incremental or rolled-in rates for cost recovery that exceed the 15 percent level; agree not to enter into any negotiated rate agreement that would preclude the applicant from collecting the roll-in rates from any shipper;

(8) commit to seek certificate authority from FERC or RCA for a North Slope gas treatment plant owned all or in part by the applicant, and to use net book value for rate-making purposes;

(9) propose a percentage of state contribution for qualified expenditures (up to 80 percent) after the close of the first binding open season;

(10) commit to no less than 70 percent debt as a basis for rate setting for any North Slope gas treatment plant owned all or in part by the applicant;

(11) describe plans to manage and mitigate cost overruns, if any;

(12) commit to at least five in-state delivery points;

(13) commit to offer firm transportation service to in-state delivery points without regard to whether producers bid successfully for firm transportation service to in-state delivery points; commit to offer distance sensitive rates for in-state delivery points;

(14) commit to establish project headquarters in the state;

(15) commit to hire qualified state residents to the extent permitted by law; and

(16) demonstrate ability to perform the work described in the plan, within the plan's timeline and budget.

Sec. 43.90.150. Initial application review; additional information requests; complete applications. Requires commissioners to review a plan submitted for consistency with requirements in the request for applications as well as the specific requirements in AS 43.90.140. Authorizes commissioners to request additional information for a plan that is not rejected, and provides that a plan will be rejected if required additional information is not submitted. Requires commissioners to determine that an application is complete.

Sec. 43.90.160. Proprietary information and trade secrets. Allows proprietary and trade secret information to be confidential and not subject to disclosure as public records. Requires an applicant to identify and demonstrate information that is confidential under this section.

Sec. 43.90.170. Application evaluation criteria. Requires the commissioners to evaluate each application based upon the following criteria: the timing of proposed actions; the plan to manage cost overruns; transportation rates and minimization of the effect of cost overruns; initial design capacity and expandability; percentage of state's contribution after the first binding open season; reasonableness, specificity, and feasibility of work plan, timeline, and budget; applicant's financial resources, project history, ethics and integrity, business operation, and access to equipment for carrying out the project.

Sec. 43.90.180. Notice, review, and comment. Requires notice, public review, and comment on all complete applications. Classifies applications to not be public records until notice for public review is published. Requires commissioners to summarize proprietary and trade secret information that is not subject to public disclosure.

Sec. 43.90.190. Notice to the legislature of intent to issue license; denial of license. After commissioners determine an application will "sufficiently maximize the benefits to the people of the state and merits issuance of a license," requires commissioners to issue the determination with written findings, publish a notice of intent to issue a license, and

forward the intent to issue notice and supporting materials to the legislature. Requires the commissioners to make a written finding if no application "sufficiently maximizes the benefits to the people of the state and merits issuance of a license" and makes that finding a final determination for purposes of appealing the determination to the court.

Sec. 43.90.200. Legislative action; issuance of license. Makes the intent to issue a license a final agency determination, effective, and subject to court appeal "on the 30th legislative day" after the referral to the legislature, unless the notice of intent is disapproved by a joint resolution.² Authorizes the commissioners to proceed with a new request for application process if the legislature disapproves the intent to issue.

Sec. 43.90.210. Certification by regulatory authority and project sanction. Requires the licensee to accept a certificate of public convenience and necessity issued by FERC or RCA, as applicable. Requires the licensee to sanction the project within one year after the effective date of the certificate of public convenience and necessity if the licensee has credit support to finance construction, or within five years if the licensee does not have credit support on the effective date of the certificate. Sufficient credit support is to be determined by considering ownership of rights to produce and market gas resources, firm transportation commitments, or government financing. If the project is not timely sanctioned, requires the licensee to abandon and transfer the certificate to the state or state's designee, and assign to the state's designee all project data, engineering designs, and permits. Provides that the transfer is without cost to the state or the state's designee if the licensee fails to accept the certificate of public convenience and necessity or, having credit support on the effective date of the certificate, fails to sanction the project within one year. A transfer required if the licensee did not have sufficient credit support on the effective date of the certificate and fails to sanction the project within five years is at the licensee's "net cost." Sanction is defined in AS 43.90.900, to mean "procurement commitments to go forward with the project as evidenced by entering into procurement commitments of at least \$1,000,000,000 with third parties."

Sec. 43.90.220. Amendment of or modification to the project plan. Authorizes the commissioners to approve modifications or amendments to the project plan if consistent with the requirements of AS 43.90.140, were required by factors outside of the licensee's control, and were not reasonably foreseeable before the license was issued.

² I do not know how this works if the legislature is not in session or if there are fewer than 30 days remaining in a regular or special session.

Sec. 43.90.230. Records, reports, conditions, and audit requirements.

Requires the licensee to maintain records of all expenditures and commitments of state money received, and authorizes the commissioners to audit the records. Requires the licensee to retain all required records and reports for seven years. Requires the licensee to allow the commissioners to have the same access to information, receive all relevant reports, notices, and information sent to the governing body and equity holders of the licensee, and to allow the commissioners to have a representative at all meetings of the licensee's governing body and equity holders that relate to the project.

Sec. 43.90.240. License violations; damages. Identifies four acts that constitute a violation of the license: committing state money received under AS 43.90 for an unauthorized purpose, departing from the specifications in the application without state approval of an amendment or modification; violating a state or federal law material to the license; or violating a material term in the license. Provides for notice of violation and a period for informal resolution of the violation. Authorizes the commissioners to suspend disbursement of state matching contributions effective on the date of the notice of violation and to resume disbursement when the violation is cured. If the violation is not resolved within 90 days or after notice and hearing, requires the commissioners to make a final written determination of the violation that may be appealed to the court. Provides as remedies for an unresolved violation the discontinuance of state matching contributions, recoupment of state money received by the licensee plus interest, revocation of the license, and any other remedy provided in law or equity.

Article 3. Resource Inducement; Alaska Gasline Inducement Act Coordinator.

Sec. 43.90.300. Qualification for resource inducement. Qualifies a person that has committed to acquire firm transportation capacity in the first binding open season of the project to receive a royalty inducement and a gas production tax exemption for gas shipped in the firm transportation capacity acquired in that first binding open season.

Sec. 43.90.310. Royalty inducement. Requires the commissioner of natural resources to adopt regulations establishing 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 share in-kind or in-value. Requires the regulations to minimize retroactive adjustments, provide a means for establishing a fair market value for each component of the royalty gas

(taking into consideration reliable and available industry data), and for making appropriate adjustments based on transportation costs, location differentials, costs of gas processing, and deductions allowable under the 1980 Royalty Settlement Agreement for Prudhoe Bay gas. Requires the regulations to establish terms for the state to exercise its authority to switch between in-kind and in-value royalty without unreasonable impact on a lessee. Requires the regulations to require a person making an election under this section (including affiliates and subsequent interest holders) to agree not to protest or appeal a filing by the licensee to roll-in or partially roll-in expansion costs up to the level that is required in AS 43.90.140(7).³ The regulations may not preclude the person or the person's affiliates from protesting a filing to roll in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.140(7). Requires the commissioner of natural resources to review the regulations at least every two years and amend the regulations as necessary. If new regulations are adopted, authorizes a lessee qualified for the royalty inducement to elect to calculate its gas royalty obligation under the new regulations or use the methodology set out in the existing leases or unit agreements; the election continues until the regulations are subsequently amended. Prohibits the commissioner of natural resources or the interpretation of any provision in AS 43.90 from prohibiting the exercise of the election between the royalty inducement under new regulations adopted after review and the method in existing leases or unit agreements.

Sec. 43.90.320. Gas production tax exemption. Entitles a person that has committed to acquire firm transportation capacity in the first binding open season of the project to an annual exemption from the production tax on gas equal to the difference between the amount of the person's production tax obligation under the law in effect during that tax year and the tax obligation under the production tax in effect at the conclusion of the first binding open season. Provides that the exemption may not be less than zero. Limits the exemption to the 10 years immediately following the first commercial operation of the gasline and to production taxes that are

³ Although this agreement not to protest is included within the requirements for the regulations, I think the intent may have been to make it a condition precedent for receiving the inducement similar to the requirements for a tax exemption in AS 43.90.320. AS 43.90.320(c) requires the agreement before claiming the tax exemption. The roll-in level in AS 43.90.140(7) is 15 percent of the initial maximum recourse rates from the North Slope to the proposed projects downstream terminus. AS 43.90.140(7) requires an applicant for the license to propose and support mainline capacity expansion costs from all mainline system users through rolled-in or partially rolled-in rates that do not exceed the 15 percent level.

levied on North Slope gas shipped through firm transportation capacity the person qualifying for the exemption acquired during the first binding open season. Requires, as a condition of claiming the exemption, a person making an election under this section (including affiliates subsequent interest holders) to agree not to protest or appeal a filing by the licensee to roll-in or partially roll-in expansion costs up to the level that is required in AS 43.90.140(7).⁴

Sec. 43.90.330. Alaska Gasline Inducement Act coordinator. Establishes the position of Alaska Gasline Inducement Act coordinator, to be filled by a person appointed by the governor and approved by the legislature. Provides that the coordinator shall serve until one year after the commencement of commercial operations of the gasline. Requires the Alaska Gasline Inducement Act coordinator to coordinate action by all state agencies with respect to the project, ensure that state agencies comply with AS 43.90, and coordinate with the federal coordinator for natural gas transportation projects in the state.

Sec. 43.90.340. Expedited review and action by state agencies. Requires expedited review by state agencies relating to the project. Prohibits a state agency from including, in any certificate, right-of-way, permit, or other authorization, a term or condition, or an amendment to a condition or term that is not required by law if the Alaska Gasline Inducement Act coordinator determines the term or condition would prevent or significantly impair the "expeditious construction and operation or expansion of the project."

Article 4. Miscellaneous Provisions.

Sec. 43.90.400. Alaska Gasline Inducement Act matching contribution fund; disbursements; audits. Creates the Gasline Inducement Act matching contribution fund in the general fund and provides that appropriations to the fund do not lapse. Requires the Department of Revenue to manage the fund and authorizes investment of the fund. Requires the commissioners to adopt regulations for applying to

⁴ The level in AS 43.90.140(7) is 15 percent of the initial maximum recourse rates from the North Slope to the proposed projects downstream terminus. AS 43.90.140(7) requires an applicant for the license to propose and support mainline capacity expansion costs from all mainline system users through rolled-in or partially rolled-in rates that do not exceed the 15 percent level.

Although the tax break in this section is referred to as an "exemption," it operates more like a credit because it reduces the tax but does not exempt gas from taxation.

receive matching contributions for expenditures related to obtaining a certificate of public convenience and necessity, and regulations for the audit of the use of contributed funds. Requires the commissioners to report disbursements, justification for each disbursement, and projected amount of money needed for disbursements during the following three fiscal years.

Sec. 43.90.410. Regulations. Provides general authority for the commissioner of revenue and the commissioner of natural resources to adopt regulations for implementing AS 43.90.

Sec. 43.90.420. Statute of limitations. Limits to 90 days after the date a license is issued for a person to bring a judicial action challenging the constitutionality of the chapter or a license issued under the chapter.

Sec. 43.90.430. Interest. Provides an interest rate to be applied to a payment to the state when the payment is delinquent.

Sec. 43.90.440. Licensed project assurances. Provides the assurance by the state that the licensee "has exclusive enjoyment of the inducement provided under [AS 43.90]." Entitles a licensee that is in compliance with the requirements of the license and applicable law to a payment from the state equal to three times the licensee's reasonable costs in developing the project as of the date the state first extends preferential treatment to another person for facilitating the construction of a competing gasline. Requires the licensee receiving payment under the entitlement to assign to the state data, designs, contracts, and permits related to the project.

Sec. 43.90.450. Assignments. Allows the assignment of the license by the licensee if the transfer is approved by the commissioners and does not increase or diminish the obligations created by the license or diminish the value of the license to the state. Subjects the transferor to continued recordkeeping, reporting, conditions, and audit requirements for all state money received by the licensee/transferor before the effective date of the transfer. Limits the transfer of a person's right to the royalty inducement to be done only in connection with a sale or merger that results in the transfer of all of the transferor's assets in the North Slope of the state. As written in the bill as introduced, AS 43.90.450(c) is unclear regarding the connection between the firm transportation capacity contract in the gasline and the transfer of the royalty inducement.⁵

⁵ It would make sense that the transfer of the firm transportation commitment would transfer with the royalty inducement and the assets capable of producing gas to take advantage of the capacity.

Sec. 43.90.460. Conflicting laws. States that nothing in the chapter shall be construed to repeal or abrogate procedures and functions under state or federal law governing the development and oversight of the gasline.

Article 5. General Provisions.

Sec. 43.90.900. Definitions. provides definitions of "affiliate," "Alaska Gasline Inducement coordinator," "commencement of commercial operations," "commissioners," "control" and "controlling," "equity holder," "gas processing," "governing body," "lease," "lessee," "license," "licensee," "project," "recourse rates," "sanction," "under common control with," and "unit agreement."

Sec. 43.90.990. Short title. The short title for the Act is the Alaska Gasline Inducement Act.

Section 2. AS 36.30.850(b) is amended to exclude certain contracts issued in conjunction with the Act from the state's procurement code.

Section 3. AS 39.25.110 is amended to make the Alaska Gasline Inducement Act coordinator an exempt position.

Section 4. AS 40.25.120(a) is amended to exclude records that are proprietary or are a trade secret under the Act, and applications submitted under the Act before a notice is published for soliciting public comment from public disclosure.

Section 5. Makes the Act effective immediately and will require a 2/3 majority vote in each house.

DMB:med
07-155.med

Greenberg Traurig

Memorandum

TO: Antony Scott

FROM: Kenneth M. Minesinger cc: Donald C. Shepler

DATE: March 10, 2007

RE: Examples of Approved Capital Structure and Return on Equity ("ROE") for Major New/Expansion Projects (Initial Rates)

As you know, a major driver of the rates for a natural gas pipeline project is capital structure (debt/equity ratio), along with return on equity ("ROE"). The attached table lists several major new pipelines and expansion projects, and the capital structure and ROE approved by the Federal Energy Regulatory Commission ("FERC") for each project as part of the initial rates approved in the pipeline's certificate proceeding. The table reflects an average capital structure for these projects of approximately 66 percent debt and 34 percent equity. A 70/30 debt/equity ratio, with a ROE of 13-14 percent, is fairly common for new/expansion projects. There are some notable exceptions, however, such as Rockies Express, which has only 45 percent debt and 35 percent equity.

FERC Certificate Orders
Examples of Approved Capital Structure and Return on Equity ("ROE") for
Major New/Expansion Projects (Initial Rates)

Pipeline	Capital Structure (Debt/Equity)	ROE
<i>Millennium Pipeline Co., LLC, 117 FERC ¶ 61,319 (2006)</i>	70/30	14.00%
<i>North Baja Pipeline, LLC, 117 FERC ¶ 61,022 (2006)</i>	70/30	14.00%
<i>Entrega Gas Pipeline, Inc., 112 FERC ¶ 61,177 (2005)</i>	35/65	12.00%
<i>Rockies Express Pipeline, LLC, 116 FERC ¶ 61,272 (2006)</i>	45/55	13.00%
<i>Colorado Interstate Gas Co. and Cheyenne Plains Gas Pipeline Co., 105 FERC ¶ 61,095 (2003)</i>	69/31	14.00%
<i>Islander East Pipeline Co., LLC, 97 FERC ¶ 61,363 (2001)</i>	70/30	14.00%
<i>Iroquois Gas Transmission System, LP, 100 FERC ¶ 61,275 (2002)</i>	75/25	12.38%
<i>Guardian Pipeline, LLC, 91 FERC ¶ 61,285 (2000)</i>	70/30	14.00%
<i>Gulfstream Natural Gas System, LLC, 91 FERC ¶ 61,119 (2000)</i>	70/30	14.00%
<i>Vector Pipeline LP, 85 FERC ¶ 61,083 (1998)</i>	70/30	14.00%
<i>Alliance Pipeline LP, 80 FERC ¶ 61,149 (1997)</i>	70/30	14.00%
<i>Nautilus Pipeline Co., LLC, 78 FERC ¶ 61,325 (1997)</i>	50/50	13.25%
<i>Maritimes & Northeast Pipeline, LLC, 76 FERC ¶ 61,124 (1996)</i>	75/25	14.00%
<i>Portland Natural Gas Transmission System, 76 FERC ¶ 61,123 (1996)</i>	75/25	14.00%
<i>Kern River Gas Transmission Co., 98 FERC ¶ 61,205 (2002)</i>	70/30	13.25%

Average Debt = 66 percent; High = 75 percent; Low = 35 percent

Greenberg Traurig

Memorandum

TO: Antony Scott
FROM: Kenneth M. Minesinger **cc:** Donald C. Shepler
DATE: March 10, 2007
RE: Examples of Approved Capital Structure in FERC Rate Case Orders

From time to time an existing natural gas pipeline will propose to increase its rates in a rate case proceeding at the Federal Energy Regulatory Commission ("FERC"). The attached table shows the capital structure (debt/equity ratio) approved in some of the pipeline rate cases decided at FERC from 1993 to the present.

FERC Rate Case Orders
Examples of Approved Capital Structure

Pipeline	Capital Structure (Debt/Equity)
<i>Kern River Gas Transmission Co., 117 FERC ¶ 61,077 (2006)</i>	62/38
<i>High Island Offshore System, LLC, 110 FERC ¶ 61,043 (2005)</i>	51/49
<i>Northwest Pipeline Corporation, 92 FERC ¶ 61,287 (2000)</i>	45/55
<i>Transcontinental Gas Pipeline Corporation, 90 FERC ¶ 61,279 (2000)</i>	40/60
<i>Williams Natural Gas, 86 FERC ¶ 61,232 (1999)</i>	36/64
<i>Williams Natural Gas, 84 FERC ¶ 61,080 (1998)</i>	36/64
<i>Opinion No. 414-A, Transcontinental Gas Pipeline Corporation, 85 FERC ¶ 61,084 (1998)</i>	43/57
<i>Opinion No. 414-B, Transcontinental Gas Pipeline Corporation, 85 FERC ¶ 61,323 (1998)</i>	42/58
<i>Panhandle Eastern Pipeline Company, 74 FERC ¶ 61,109 (1996)</i>	40/60
<i>Panhandle Eastern Pipeline Company, 71 FERC ¶ 61,228 (1995)</i>	38/62
<i>Pacific Gas Transmission Co., 62 FERC ¶ 61,109 (1993)</i>	31/69

Greenberg Traurig

Memorandum

TO: Antony Scott
FROM: Donald C. Shepler
DATE: March 10, 2007
RE: Open Season postings in trade press for last 12 months

As we have discussed, in my experience interstate gas pipelines are constantly searching for new business opportunities and expansions. Under FERC policy any expansion must be preceded by an open season to ensure that capacity is made available to all parties and potential shippers on a non-discriminatory basis.

As confirmation of this proposition I recently did a *Lexis* search of articles in *Gas Daily* (a widely-read industry trade publication) that turned up over 70 articles in the last year regarding open seasons by various interstate pipelines. The results are attached. Some of the articles relate to binding open seasons and some relate to non-binding open seasons. I believe this confirms the fact that pipelines are actively testing the markets for new capacity and confirms the appropriateness of the provisions in AGIA relating to solicitations of interest in new capacity every two years.

1. Gas Daily, February 16, 2007, Pg. 4, 97 words, Lodi Gas Storage seeks bids for future expansion capacity
... a non-binding open season Friday for firm ...
... May. Questions regarding the open season, which ends at 3 ...
2. Gas Daily, February 16, 2007, Pg. 4, 136 words, Enterprise launches open season for 10-Bcf Texas storage project, SGS
... announced a binding open season for shipper support of ...
... US, the company said. The open season will begin at ...
3. Gas Daily, February 14, 2007, Pg. 6, 146 words, Sempra takes bids for expansion capacity at Liberty Gas Storage, SGS
... Storage have launched an open season to assess market interest ...
... Bcf of capacity. During the open season that ends March 2, the ...
4. Gas Daily, February 5, 2007, Pg. 3, 261 words, LNG-linked pipeline in Oregon solicits shippers, SGS
An open season for the \$850 ...
... More information on the open season can be obtained from Hank ...
5. Gas Daily, February 2, 2007, Pg. 3, 157 words, Enstor launches open season for storage services at three sites, SGS
... Thursday launched an open season for binding firm ...
... conduct a separate open season for its Waha Storage ...
6. Gas Daily, January 22, 2007, Pg. 6, 202 words, Black Bayou seeks bids for service at planned Louisiana storage facility
... in a binding open season for service at its ...
... Sabine Lake. In the open season, customers will be offered ...
7. Gas Daily, January 18, 2007, Pg. 4, 172 words, Northern Natural solicits bids for pipeline capacity in Iowa
... bids in two open seasons that run through 4 ...
In the first open season, Northern Natural is soliciting ...
... 2008. In the second open season, Northern Natural is accepting ...
... amount of capacity available. The open seasons also include solicitations to turn ...
8. Gas Daily, January 4, 2007, Pg. 3, 307 words, Texas Gas solicits shippers, considers expansion, JB
... launched a binding open season through January 24 ...
... More information on the open season is available at www. ...
9. Gas Daily, January 3, 2007, 341 words, Alabama storage project approved; open season planned for February, JK
... a non-binding open season in February for ...

10. Gas Daily, December 20, 2006, Pg. 4, 249 words, Shippers snag 1.6 Bcf/d of capacity on two planned Boardwalk pipelines, BH
... said it was extending its open season on Gulf Crossing to ...
... 85. "The Gulf Crossing open season has generated significant interest from ...
... on the ultimate results of the open season, we may expand the design ...
11. Gas Daily, December 18, 2006, RETAIL REPORT ... a weekly supplement to Gas Daily; Pg. 8, 571 words, PUC approves firm access rights for Semptra pipelines, SGS
... Access to be granted through open season process Access rights ...
... a three-step open season process that would be held every ...
12. Gas Daily, December 15, 2006, Pg. 6, 205 words, Arcadia launches open season for Louisiana storage capacity, VJ
... a non-binding open season today for salt- ...
In the open season, which is set to close at ...
13. Gas Daily, December 14, 2006, Pg. 1, 371 words, With ETP aboard, Midcontinent pipe may expand, BH
... outcome of a second open season launched Wednesday.
... result of an initial open season held by Kinder ...
... conducting a binding open season until 3 pm ...
... information on the project and open season materials are available from David ...
14. Gas Daily, December 7, 2006, Pg. 1, 342 words, Duke plans multi-pronged storage expansion, SGS
... Market Hub Partners open season earlier this year (GD ...
15. Gas Daily, November 20, 2006, Pg. 6, 180 words, Boardwalk launches open season for Gulf Crossing pipeline capacity, SGS
... it has begun an open season for some 650,000 ...
... Choctaw County, Alabama. The open season runs through December ...
16. Gas Daily, November 17, 2006, Pg. 1, 700 words, FERC backs flexible rates for storage projects, CN
... capacity in an open season and its capacity was fully subscribed ...
17. Gas Daily, November 17, 2006, Pg. 4, 387 words, FERC approves Big Sandy pipeline to move gas from eastern Kentucky, CN
... million. During two open seasons conducted earlier this year, ...
18. Gas Daily, November 16, 2006, Pg. 7, 169 words, EPP to conduct open season for Texas gas storage capacity
... a non-binding open season on November 20 to ...
... Belvieu, Texas, facility. The open season will run through ...

19. Gas Daily, November 10, 2006, 178 words, Algonquin pipeline system expansion draws 'exceptional' shipper interest, RAW
... during a recent open season, parent company Duke ...
... completed the non-binding open season on October 27. ...
20. Gas Daily, November 9, 2006, Pg. 5, 169 words, Texas Gas plans third expansion of market-area storage capacity
... area and has launched an open season for firm service.
... conducted two successful open seasons that will boost the pipeline's ...
... November 1, 2008. The open season ends at 5 ...
21. Gas Daily, November 2, 2006, Pg. 5, 254 words, NGS launches open season for Texas gas storage facility
... Wednesday launched an open season for capacity at ...
... Morgan County, Colorado. The open season for Tres Palacios ...
22. Gas Daily, October 31, 2006, Pg. 3, 227 words, Enterprise plans open season for up to 4 Bcf of storage capacity
... hold a binding open season to gauge shipper interest ...
... Pipeline. The company said the open season will begin at ...
23. Gas Daily, October 23, 2006, Pg. 1, 341 words, Two Mississippi gas storage projects advance
... Friday launched an open season for storage services ...
... Hub held an open season for the storage facility ...
24. Gas Daily, October 6, 2006, Pg. 1, 536 words, El Paso scraps its Continental Connector pipeline, JK
... a non-binding open season attracted shipper requests ...
... holding a binding open season and starting the prefiling process ...
25. Gas Daily, October 6, 2006, Pg. 3, 246 words, Bay Gas holds open season for Alabama storage capacity, MT
... a non-binding open season for 10 Bcf of ...
The open season is linked to the planned development of ...
... 5 Bcf of capacity. The open season began Thursday and will ...
26. Gas Daily, October 2, 2006, Pg. 1, 355 words, Algonquin eyes LNG-linked mainline expansion, SGS
... Friday launched an open season to gauge shipper interest ...
Depending on the response to the open season, which ends October 27, ...
... so we will see what the open season brings," he said, adding that ...
27. Gas Daily, September 27, 2006, Pg. 3, 275 words, Southern Natural soliciting bids for Mississippi storage project, SGS
... subsidiary launched an open season Tuesday for non- ...
... will depend upon the open season results and initial engineering ...

28. Gas Daily, September 27, 2006, Pg. 4, 265 words, NW Natural, TransCanada ponder joint gas pipeline project in Oregon, RAW

... pipeline are conducting an open season to determine customer interest ...

29. Gas Daily, September 15, 2006, Pg. 3, 196 words, Sabine Pipe Line plans to boost delivery capacity to Henry Hub

In an open season announcement, the pipeline said the ...

... acceptable bid in the open season is 50,000 Dt/d. ...

30. Gas Daily, September 14, 2006, Pg. 4, 124 words, Iroquois launches open season for 2008-2009 expansion project

... launch-ed an open season for its 2008-2009 Expansion Project. The open season, which runs to October 6, is ...

31. Gas Daily, September 7, 2006, Pg. 6, 203 words, Sempra finalizing plans for Mexican LNG terminal expansion, CEO says, MT

... strong response to an open season it held earlier this ...

32. Gas Daily, August 24, 2006, Pg. 5, 112 words, DTE offers firm gas storage services at Michigan facility

... it has launched an open season for firm storage ...

... term, the company said. The open season ends at 3 ...

... hubs. To obtain an open season package, or for more ...

33. Gas Daily, August 24, 2006, Pg. 7, 311 words, Florida P&L to take 500,000 Mcf/d on planned Southeast Supply pipeline, JB

... shippers that responded to an open season earlier this year. The 270- ...

34. Gas Daily, August 18, 2006, Pg. 1, 346 words, Northwest gets FERC nod for Piceance lateral ... ago. After an open season that ended last November, ...

... Lateral. A subsequent open season in December did not ...

35. Gas Daily, July 27, 2006, Pg. 4, 268 words, Firms propose new pipeline from eastern Canada to Ohio, SGS

... determined by an open season for the project scheduled ...

... More information on the open season can be obtained from Tony ...

36. Gas Daily, July 21, 2006, Pg. 7, 116 words, Northwest holds open season for capacity on Colorado lateral

... subsidiary is conducting an open season for long-term ...

... commitment received during the open season, which ends at 5 ...

37. Gas Daily, July 20, 2006, Pg. 6, 240 words, Rockies Express garners interest in 1 Bcf/d of expansion capacity, MT

A recent open season for the Oakford extension of the ...

... binding commitments during the open season, which ended July 14, " ...

38. Gas Daily, July 19, 2006, Pg. 1, 391 words, Transco files D.C.-area pipeline expansion plan, SGS

... agreed after an open season last year to sign ...

39. Gas Daily, July 18, 2006, Pg. 6, 82 words, CIG pipeline seeks interest in North System capacity

... Company is conducting an open season to solicit shipper interest ...

... starting October 1. The open season runs until 3 ...

40. Gas Daily, July 17, 2006, Pg. 1, 624 words, Ethanol boom expected to increase gas demand, JMM

... a non-binding open season to expand the Kinder Morgan ...

41. Gas Daily, July 7, 2006, Pg. 3, 223 words, Kinder Morgan eyes expansion of interstate line to Nebraska, BH

... a non-binding open season Wednesday to determine shipper ...

... Kansas, Missouri and Nebraska. The open season lasts through 5 ...

42. Gas Daily, July 6, 2006, Pg. 4, 365 words, TransColorado files 250,000 Dt/d expansion project with FERC, JK

... pipeline stems from an open season held earlier this year ...

43. Gas Daily, June 28, 2006, Pg. 7, 272 words, AES announces open season for LNG-linked pipeline system, MT

... Tuesday began an open season for firm transportation ...

... depending on the results of the open season. Open season participants will be responsible ...

... no later than 2010. The open season ends at 5 ...

44. Gas Daily, June 27, 2006, Pg. 6, 273 words, Texas Eastern holds open season for West-to-Northeast gas pipeline

... Monday launched an open season to gauge interest in ...

The non-binding open season for the proposed Texas ...

45. Gas Daily, June 26, 2006, Pg. 7, 119 words, Heartland Gas solicits interest in capacity on Indiana pipeline

... launched a binding open season Friday to gauge shipper ...

... date of October 1. The open season is slated to close at ...

46. Gas Daily, June 23, 2006, Pg. 3, 263 words, MoBay files FERC application for proposed Gulf storage facility

... a non-binding open season held in March, ...

47. Gas Daily, June 23, 2006, Pg. 6, 240 words, Tennessee seeks interest in proposed expansion from Ohio to New York City

... a non-binding open season to gauge interest in ...
 ... years," Tennessee said. The open season, scheduled to close at ...
 ... a subsequent binding open season is necessary. If the project moves ...

48. Gas Daily, June 21, 2006, Pg. 6, 276 words, Rockies Express holds open season for Ohio-to-Pennsylvania extension, SGS
 ... launched a binding open season to solicit interest in their ...
 ... eastward from Ohio to Pennsylvania. The open season ends at 5 ...
 ... Additional information related to the open season is available at www.rockiesexpress.com ...

49. Gas Daily, June 8, 2006, Pg. 3, 588 words, Official: New England no longer constricted market, CC
 ... week launched an open season for Mid-Continent ...

50. Gas Daily, June 2, 2006, Pg. 1, 640 words, CenterPoint, Duke plan 1,600-mile pipeline, RAW
 ... a non-binding open season closes July 31. ...
 ... said an initial open season for an 800- ...
 ... jointly held an open season on a proposed ...
 ... new 60-day open season to solicit interest from producers ...
 ... Regulatory Commission after the open season closes. The non-binding open season began June 1. ...

51. Gas Daily, June 2, 2006, Pg. 3, 746 words, Rockies Express files FERC application for first leg, JK
 ... plans to begin an open season in about a ...

52. Gas Daily, May 24, 2006, Pg. 6, 121 words, El Paso extends its open season on Continental Connector project
 ... June 8 the binding open season for a project ...
 ... Connector Pipeline subsidiary. The open season originally was slated to end ...
 ... information on the binding open season package and related items ...

53. Gas Daily, May 23, 2006, Pg. 4, 228 words, New Dominion 'hub' would serve fast-growing gas demand in East, MD
 ... a non-binding open season beginning today and ending ...
 ... More information on the open season can be obtained from Josh ...

54. Gas Daily, May 16, 2006, Pg. 6, 201 words, Sempra says it received strong interest in Mexico LNG expansion
 ... launched the non-binding open season last month (GD 3/14). "This successful open season demonstrates the strategic significance" of the ...

55. Gas Daily, May 12, 2006, Pg. 6, 60 words, Transwestern holds open season for capacity at several locations

56. Gas Daily, May 9, 2006, Pg. 3, 744 words, Mackenzie gas pipeline dispute headed to NEB, GP

... MEG. A 2003 open season offering rights to book ...

57. Gas Daily, May 9, 2006, Pg. 3, 744 words, Mackenzie gas pipeline dispute headed to NEB, GP
... MEG. A 2003 open season offering rights to book ...

58. Gas Daily, May 8, 2006, Pg. 5, 108 words, Mississippi Hub to hold storage open season beginning May 15
... a non-binding open season for a proposed ...

59. Gas Daily, May 8, 2006, Pg. 1, 906 words, Kinder Morgan expands Express project eastward, BH
... company received to its binding open season on Rockies Express where ...
... a non-binding open season completed last week ...

60. Gas Daily, May 5, 2006, CORRECTION; Pg. 3, 41 words, Correction
... on a binding open season El Paso is conducting ...

61. Gas Daily, May 4, 2006, Pg. 3, 115 words, Bobcat receives strong interest in proposed La. storage facility
... recent non-binding open season for firm gas ...

62. Gas Daily, May 3, 2006, Pg. 4, 422 words, Marketing segment drives Semptra's earnings higher, MT
... said. In addition, the open season for a possible ...

63. Gas Daily, May 2, 2006 Correction Appended, Pg. 4, 315 words, El Paso holds binding open season for Continental Connector pipeline, MT
... begun a binding open season for its proposed Continental ...
The open season, which began at 10 ...
... a non-binding open season held late last ...
... 713-823-4338. Open season documents can also be downloaded ...
... on a binding open season El Paso is conducting ...

64. Gas Daily, May 1, 2006, Pg. 3, 329 words, Duke eyes storage capacity additions at three sites, RAW
... a non-binding open season that begins today. The others ...
... Interest expressed during the open season, which runs through May ...
... more information about the open season should contact Janice Devers ...

65. Gas Daily, April 27, 2006, Pg. 7, 185 words, CenterPoint launches open season for next phase of Gulf Coast pipeline
... binding, 30-day open season to gauge interest in ...

66. Gas Daily, April 25, 2006, Pg. 4, 728 words, Report: Alaska pipeline more cost-effective than LNG, MT
... plans to participate in the open season being held by ...

67. Gas Daily, April 21, 2006, Pg. 3, 189 words, Caledonia begins open season for 1.7 Bcf of Mississippi storage, SGS

... it has launched an open season for 1.7 Bcf of ...

... Caledonia will administer the open season as well as manage nominations, ...

... four cycles/year. The open season concludes at 5 ...

68. Gas Daily, April 17, 2006, Pg. 1, 455 words, Kinder Morgan proposes another major pipeline, BH

... a non-binding open season Thursday for the MidContinent ...

... GD 2/22). The open season for MidContinent Express ...

69. Gas Daily, April 12, 2006, Pg. 4, 213 words, KM holds binding open season for proposed expansion of NGPL

... launched a binding open season to gauge interest in ...

... Henry Hub. The binding open season concludes at 3 ...

70. Gas Daily, March 28, 2006, Pg. 1, 593 words, TransCanada expansion to serve US Northeast, MT

... it held an open season last spring to gauge ...

71. Gas Daily, March 28, 2006, Pg. 3, 245 words, Bobcat launches open season for proposed Louisiana facility

... a month-long open season offering service at its ...

... Investments LLC, is conducting the open season for only the initial ...

... Dt/d, respectively. The open season, which started Monday, will ...

72. Gas Daily, March 23, 2006, Pg. 1, 672 words, Storage increasingly seen as insurance policy, SGS

... just conducted an open season for Mobile Bay- ...

73. Gas Daily, March 17, 2006, Pg. 1, 441 words, CenterPoint plans 1.25 Bcf/d Midwest pipeline, MT

... Thursday launched an open season to gauge interest in ...

... after the non-binding open season, CEGT said a ...

... jointly held an open season on a proposed ...

... 17). In the latest open season, which runs through 3 ...

... in participating in the open season should contact Haynes at ...

74. Gas Daily, March 15, 2006, Pg. 3, 472 words, Charge causes Southern Union to report \$111.1 million Q4 loss, MT

... Bond also noted that an open season held for Panhandle ...

75. Gas Daily, March 14, 2006, Pg. 5, 210 words, Sempra plans open season for Mexican LNG terminal, MT

... a non-binding open season to seek shipper interest ...

... response received" during the open season. The open season is set to begin at ...
... Commission. "The proposed expansion and open-season process represent a ...

76. Gas Daily, March 10, 2006, Pg. 1, 374 words, Merrill Lynch, Sempra sign LNG capacity deal,
MT
... preparations for an open season related to a possible ...

77. Gas Daily, March 9, 2006, Pg. 4, 145 words, Equitrans holds open season for firm capacity in
Kentucky
... a non-binding open season to solicit interest in ...

Greenberg Traurig

Memorandum

TO: Antony Scott

FROM: Kenneth M. Minesinger cc: Donald C. Shepler

DATE: March 14, 2007

RE: Examples of Approved Capital Structure and Return on Equity ("ROE") for Major New/Expansion Projects (Initial Rates)

The attached table -- which, as requested, contains more detail than the one we sent you on March 10 -- lists several major new pipelines and expansion projects, and the capital structure and return on equity ("ROE") approved by the Federal Energy Regulatory Commission ("FERC") for each project as part of the initial rates approved in the pipeline's certificate proceeding. The table reflects an average capital structure for these projects of approximately 66 percent debt and 34 percent equity. The table also indicates that a 70/30 debt/equity ratio, with a ROE of 13-14 percent, is fairly common for new/expansion projects. There are some notable exceptions, however, such as Rockies Express, which has a capital structure of 45 percent debt and 55 percent equity.

In addition, this table provides: (1) a short description of each project; (2) the project's length, diameter, and capacity; and (3) the project's cost. Of course, none of the listed projects is as large as the anticipated size of an Alaska natural gas pipeline project, either in terms of capacity or cost. Nevertheless, the table provides a reasonable sample of recent major new or expansion projects in the Lower 48 states, including some that have a capacity greater than 1 billion cubic feet per day ("Bcf/day"), along with several projects with a capacity significantly less than 1 Bcf/day.

FERC Certificate Orders

Examples of Approved Capital Structure and Return on Equity ("ROE") for Major New/Expansion Projects (Initial Rates)

Pipeline	Project Description ¹	Capital Structure (Debt/Equity)	ROE	Length, Diameter and Capacity ²	Project Cost (estimate from application; older projects not in 2007 dollars)
Millennium Pipeline Co., LLC, 117 FERC ¶ 61,319 (2006)	Proposal to construct new pipeline in New York state to serve increased demand in the New York City area	70/30	14.00%	181.7 miles of 30-inch pipeline Approx. 525,400 Dth/d	\$664 million
North Baja Pipeline, LLC, 117 FERC ¶ 61,022 (2006)	Expansion of existing natural gas pipeline running from the Arizona/California border into Southern California, and then into Mexico, to accommodate anticipated LNG supplies; also modification of the pipeline to accommodate bi-directional gas flow	70/30	14.00%	New loop of 68.1 miles of 48-inch pipeline and 11.2 miles of 42-inch pipeline, and smaller lateral facilities Expansion from approx. 512,500 Dth/d to 2.7 Bcf/d	\$291 million
Entrega Gas Pipeline, Inc., 112 FERC ¶ 61,177 (2005)	New pipeline for Rockies gas extending from the Piceance Basin in Colorado to the Cheyenne, Wyoming Hub (Note: this pipeline has since been consolidated into Rockies Express -- see next entry)	35/65	12.00%	136 miles of 36-inch pipeline and 191 miles of 42-inch pipeline Approx. 1.5 Bcf/d	\$664 million
Rockies Express Pipeline, LLC, 116 FERC ¶ 61,272 (2006)	An extension of the former Entrega pipeline, which ultimately will ship Rockies gas to Ohio; this is the "REX-West" portion, which primarily involves new pipeline facilities extending from the Cheyenne Hub to an interconnection with Panhandle Eastern Pipe Line Company located in Missouri	45/55	13.00%	Primarily 713 miles of 42-inch pipeline Approx. 1.5 Bcf/d	\$1.6 billion

¹ All of the information contained in this chart was derived from the orders cited in the "Pipeline" column.

² Compression associated with these facilities has not been specifically discussed on this chart, although it is reflected in the capacity figures that are listed.

Colorado Interstate Gas Co. and Cheyenne Plains Gas Pipeline Co., 105 FERC ¶ 61,095 (2003)	A new interstate natural gas pipeline receiving Rockies supplies at the Cheyenne Hub and extending southeastward across Colorado and Kansas to a terminus in southwestern Kansas	69/31	14.00%	380 miles of 30-inch diameter pipeline 560,000 Dth/d	\$332 million
Islander East Pipeline Co., LLC, 97 FERC ¶ 61,363 (2001)	A proposed new pipeline extending from an interconnection with Algonquin near North Haven, Connecticut, across Long Island Sound and terminating on Long Island	70/30	14.00%	Approximately 50 miles of 24-inch pipeline 285,000 Dth/d	\$149.6 million
Iroquois Gas Transmission System, LP, 100 FERC ¶ 61,275 (2002)	Named the Eastern Long Island Expansion Project (ELI Project), this project was designed to provide service to eastern Long Island, New York	75/25	12.38%	29.1 miles of 20-inch pipeline 175,000 Dth/d	\$105 million
Guardian Pipeline, LLC, 91 FERC ¶ 61,285 (2000)	A new natural gas pipeline serving Wisconsin, extending from the Chicago Hub to a terminus in Wisconsin, together with a lateral off of its mainline to another point in Wisconsin	70/30	14.00%	140.3 miles of new 36-inch pipeline 750,000 Dth/d	\$224.3 million
Gulfstream Natural Gas System, LLC, 91 FERC ¶ 61,119 (2000)	New natural gas transmission facility designed to transport up to 1.13 Bcf per day from supply areas in Alabama and Mississippi across the Gulf of Mexico to load centers in central and eastern Florida	70/30	14.00%	744 miles of pipeline of diameters ranging from 36-inch to 24-inch 1.13 Bcf/d	\$1.654 billion
Vector Pipeline LP, 85 FERC ¶ 61,083 (1998)	New pipeline extending from near Chicago through Indiana and Michigan to the U.S.-Canada border near St. Clair, Michigan	70/30	14.00%	270 miles of 42-inch pipeline 1 MMDth/d	\$447 million
Alliance Pipeline LP, 80 FERC ¶ 61,149 (1997)	New pipeline from British Columbia to the U.S./Canada border near Sherwood, North Dakota, to an interconnection with Peoples Gas Light and Coke Company near Chicago (figures are for U.S. portion only)	70/30	14.00%	887 miles of 36-inch pipeline 1.325 Bcf/d	\$1.34 billion
Nautilus Pipeline Co., LLC, 78 FERC ¶ 61,325 (1997)	Facilities that transport natural gas from offshore Louisiana to onshore Louisiana	50/50	13.25%	101 miles of 30-inch diameter pipeline 600 MMcf/d	\$121 million

Maritimes & Northeast Pipeline, LLC, 76 FERC ¶ 61,124 (1996)	New pipeline extending from a point of interconnection with Tennessee Gas Pipeline in Massachusetts to a point of interconnection with Granite State Gas Transmission in Maine	75/25	14.00%	64 miles of 24-inch pipeline 60,000 MMBtu/d	\$82 million
Portland Natural Gas Transmission System, 76 FERC ¶ 61,123 (1996)	New pipeline extending from an interconnection with TransCanada at the Canadian border near North Troy, Vermont to points in Maine, New Hampshire, and Massachusetts	75/25	14.00%	242 miles of 20-inch pipeline 178 MMcf/d	\$271 million
Kern River Gas Transmission Co., 98 FERC ¶ 61,205 (2002)	2003 Expansion of Kern River's system, which ships Rockies gas from points in Wyoming to delivery points located primarily in California	70/30	13.25%	634.3 miles of 36-inch pipeline and 82.4 miles of 42-inch pipeline 885.6 MMcf/d	\$1.27 billion

Average Debt = 66 percent; High = 75 percent; Low = 35 percent

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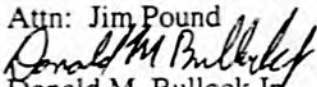
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MEMORANDUM

March 14, 2007

SUBJECT: HB 177 drafting issues and concerns
(Work Order No. 25-GH1060\B)

TO: Representative Vic Kohring
Chair of the House Special Committee on Oil and Gas
Attn: Jim Pound

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

I write to you in your capacity as the chair of the first committee for referral for HB 177, the governor's proposed Alaska Gasline Inducement Act.¹ This memorandum is a supplement to the sectional summary of the bill I have already provided to you.

As a general observation, the bill as drafted should be edited to conform to the 2007 edition of the Manual of Legislative Drafting. The use of the Manual of Legislative Drafting makes the form of the Alaska Statutes internally consistent and facilitates the interpretation of Alaska law by those responsible for the administration of the law and the courts. Nonsubstantive edits may be made by the attorneys and editor in the course of preparing amendments and new versions of the bill unless we are specifically directed not to. Should these edits not be included as this bill and the House companion bill proceed through the legislature, corrections may be required in a future Revisor's bill.

Although there is only a single tax provision relating to tax in the bill -- the gas production tax exemption in AS 43.90.320 on page 16 -- the bill places the Act in Title 43, relating to revenue and taxation. Based on the bill's purpose as an inducement for the construction of a natural gas pipeline, the substance of the bill may be more consistent with Title 31, relating to oil and gas, or Title 42, relating to public utilities and carriers.

What follows are specific revisions, comments, and questions arising from my review of the bill as introduced, House Bill 177, Version 25-GH1060\B. Suggested language is subject to review and revision as required by our review process and should not be accepted as final.

Sec. 43.90.010. Edits: change "this state" to "the state". "This state" is used when referring to Alaska as opposed to another state; when only Alaska is addressed in a provision, "the state" is appropriate. "This state" should be changed to "the state"

¹ The bill proposes a new word for the Alaska Statutes. Although "gas pipeline" and "gas line" are present in existing law, "gasline" is a term not used in the current statutes.

throughout the bill except where Alaska is to be distinguished from another state.

Sec. 43.90.100. This section could be expanded to include generally applicable provisions from sec. 43.90.130 on page 4 of the bill as follows:

Sec. 43.90.100. Gas project. (a) The commissioners may award an Alaska Gasline Inducement Act license as provided in this chapter.

(b) The commissioners may enter into contracts with independent contractors for the purpose of developing provisions for the application for a license under this chapter and for evaluating applications submitted to obtain a license.

(c) A person awarded a license under this chapter is entitled to the inducement set out in AS 43.90.110.

Sec. 43.90.110. I recommend restructuring of the section for clarity:

Sec. 43.90.110. Natural gas pipeline project construction inducement.

(a) A license issued under this chapter entitles the licensee or its designated affiliate to receive the benefits in this section as inducement to proceed with the development of the project.

(b) Subject to appropriation, the state shall provide a total of not more than \$500,000,000 in matching funds for qualified expenditures. Of this amount, the state shall contribute:

(1) 50 percent of the qualified expenditures incurred before the close of the first binding open season; and

(2) subject to an amount remaining after all payments have been made under (1) of this subsection, the lesser of 80 percent or the percentage proposed by the licensee under AS 43.90.140(9) of the qualified expenditures incurred after the close of the first binding open season and before the licensee receives a certificate of public convenience and necessity for the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate.

(c) The Alaska Gasline Inducement Act coordinator appointed under AS 43.90.330(a) shall work with the licensee and assist with the development of the project as required under AS 43.90.330(b).

(d) The licensee may benefit from a state program that provides training for employment in gas pipeline project management, construction, operation, maintenance, and other positions related to the development and operation of the project.

(e) In (b) of this section, "qualified expenditures" means costs incurred by a licensee after receiving a license under this chapter that are directly and reasonably related to receiving a certificate of public necessity and convenience from the Federal Regulatory Agency or the Regulatory Commission of Alaska, as appropriate, for the development of the project; "qualified expenditures" do not include overhead costs, litigation costs, the cost of assets or work product incurred or paid before receiving the license, and civil or criminal penalties.

The commitment of \$500,000,000 to the project involves subsidizing the application process over two time intervals. The first interval starts when the license is issued and

continues through the end of the first binding open season. The second interval starts when the first interval ends and continues until the certificate of public convenience and necessity is issued. You may wish to limit the amount dedicated for each interval because of the factor in AS 43.90.140(9) that makes the percentage of match during the second interval a factor for evaluating the application. Perhaps testimony during your hearings will provide insight into the reasons for the two intervals, the fixed 50 percent match in the first, and the flexible match in the second.

This section also refers to a state training program for gas pipeline-related jobs. Is there another bill coming that will create this program? If there is an existing program, reference to that program could be added here.

Sec. 43.90.120. This section seems out of place chronologically. I would expect that it should be inserted after AS 43.90.220, after the provisions that establish the project. Regardless of where the section ultimately falls, I recommend revising the section as follows:

Sec. 43.90.120. Abandonment of project. (a) The project shall be abandoned upon a determination that the project is uneconomic and should be abandoned or if the state extends to a person other than the licensee preferential royalty, tax, or monetary treatment for the purpose of facilitating the construction of a competing natural gas pipeline project in the state.

(b) If the project is abandoned under this section,

(1) the inducement under AS 43.90.110 terminates; and

(2) the licensee continues to be subject to the requirements imposed on the licensee under AS 43.90.230 for state money received by the licensee before the abandonment of the project.

(c) A determination that the project is uneconomic and should be abandoned may be made

(1) jointly by a written agreement between the licensee and the commissioners; or

(2) if the commissioners and the licensee are in disagreement as to whether the project should be abandoned, by an impartial third party selected and agreed upon by the commissioners and the licensee that makes the determination after taking evidence and receiving arguments on the economic viability of the project.

(d) The commissioners shall establish by regulation the procedures for the selection of and determination by the third-party in (c) of this section.

Sec. 43.90.130. Several comments:

Subsection (a) could be added as uncodified law at the end of the bill through a statement such as, "The legislature intends that the commissioners commence the public process to solicit applications for a license under this Act within three months of the effective date of this Act."

An uncodified provision expresses the same intent for acting quickly, but avoids the question that a provision like this raises, "what happens if the commissioners do not act timely"? What if the commissioners do not commence the public process within three

months? If you want the provision in statutory form, you might direct the commissioners to begin the process "as soon as practicable," or similar language sufficient to get things moving in a timely manner.

The speed at which applications may be solicited may also be affected by the timeliness of the adoption of regulations that may be required to implement the Act.

The substance of subsections (b) and (c) could be moved to AS 43.90.100, which authorizes the commissioners to award the license.

Sec 43.90.140. A few comments:

For your information, the requirements for the application in the bill are similar to provisions that are required in a notice of open season under 18 C.F.R. 157.134(c). One difference is that the bill requires analyses and commitments that are impliedly firm and final in the application while the FERC regulation states, "[H]owever, to the extent that any item of such information is not known or determined at the time the notice is issued, the prospective applicant shall make a good faith estimate based on the best information available of all unknown or undetermined items of required information and further, must identify the source of information relied on, explain why such information is not presently known, and update the information when and if it is later determined during the open season period[.]"

On page 4, line 11, I suggest deleting the words "consistent with" and inserting "responsive to." The request for applications under AS 43.90.130 will include requirements that an applicant must meet to be considered; an application will be responsive if it meets the requirements in the application.

Some of the items listed in this section could be moved, and might be better placed in AS 43.90.130, if they are requirements that an applicant must meet in order to qualify for consideration. The deadline in AS 43.90.140(1) is a good example.

Some of the requirements of the application are very complex, particularly those in AS 43.90.140(2), and may affect the speed with which a potential applicant can respond.

The alternative routes, overland through Canada or the intrastate-LNG option,² are quite different and may be difficult to compare. There may be differences in economic life, the length of time before gas can be shipped, the economic life of the project, and netbacks that affect the wellhead value on which the state's royalties and production taxes are based. Does AS 43.90.170, in sec. 9 of the bill, provide the commissioners the criteria they need to consider to decide whether a viable overland route is better than the intrastate LNG option or vice versa? For example, is the risk of cost overruns greater for one route over another? AS 43.90.140(12) provides for a minimum of five delivery points in the state; will the location of those points be different for the overland route compared with the intrastate LNG route?

Structurally, it may make the requirements more clear if one statutory section covers requirements applicable to all project proposals, and subsequent sections address issues that are specific to projects requiring FERC approval and those requiring RCA approval.

² This is shorthand for a project that ships the gas via pipeline to tidewater, liquefies the gas, then uses marine transportation for the next leg of delivery.

Sec. 43.90.140(9): With regard to my comments above concerning how much of the \$500,000,000 may be available during each of the two increments, you may wish to consider changing paragraph (9) to request an estimate of the amount of state money that would be required through the end of the first binding open season and then a percentage to be applied during the subsequent interval leading up to the certificate of public convenience and necessity.

Sec. 43.90.140(12): Do you want to specify where the five delivery points should be? You might use a standard such as how far apart they should be, or within certain mileage of, for example, Fairbanks, Tok, or Anchorage.

Sec. 43.90.140(13): What does firm transportation service to delivery points in the state mean? Does it only mean that there will be a filed tariff for delivery to those points or does this provision also require the applicant to solicit shippers that were not successful during the first open season to ship gas to the in-state delivery points?

Sec. 43.90.150. This section uses the phrase, at page 8, lines 22-23, "consistent with the terms of the request for applications" that could be replaced with language that addresses whether the application is "responsive." Although this solicitation is not subject to the State Procurement Code, AS 36.30, the request for applications is similar to a request for proposals and the standard for accepting an application is similar to determining whether an application is responsive to the solicitation.

Sec. 43.90.170. This section is important to the state's defense if an unsuccessful applicant challenges the award of the license by the commissioners.

I suggest inserting a reference to the criterion of maximizing the benefits to the state to tie into the determination reference in AS 43.90.190 on page 10, lines 9 - 11. On page 9, line 8, following "upon," you could add language such as, "whether the application sufficiently maximizes the benefits to the people of the state and merits issuance of a license, taking into consideration."

You may want to strengthen the language. For example, on page 9, line 11, you could replace "how the applicant plans to manage overruns in costs" with "how the applicant plans to minimize cost overruns." This criteria seems to overlap with the third criteria regarding cost overruns and the effect on the tariff.

Sec. 43.90.170(4). "Low cost" may be too vague to be a helpful standard for the commissioners to apply. Low relative to what?

Sec. 43.90.170(5). This paragraph requires speculation on the amount of the \$500,000,000 that may be available after the end of the first binding open season. As I suggested above, you may wish to expand this criteria to include the amount that is expected to be used during the first interval and then the percentage or amount to be provided by the state during the second interval, up to the time when the certificate of public convenience and necessity is obtained.

Sec. 43.90.180. When would this notice, review, and comment period occur? Is it after the commissioners have applied their criteria, in which case a favored applicant may already be identified? Or is it earlier, after the commissioners have made a determination that an application is complete under AS 43.90.150?

If the notice, review, and comment follow the determination under AS 43.90.150(d), the public may help evaluate the applications using the same criteria the

commissioners apply under AS 43.90.170. If the public review is after the commissioners have applied the criteria, the public notice and review could focus on the application(s) the commissioners find to be the most satisfactory under the criteria.

Sec. 43.90.190. This section includes two appealable determinations by the commissioners. Under AS 43.90.190(a)(1), the commissioners' determination that an application would sufficiently maximize the benefits to the people of the state and merits issuance of a license is a final agency action and is therefore subject to appeal.³ Note, however, that the date the decision is final is determined under AS 43.90.200(a). Under AS 43.90.190(b) and (c), a finding by the commissioners that no application satisfies the requirement of maximization of benefits is also a final action for appeal purposes.

Sec. 43.90.200. Subsection (a) makes the commissioners' determination in AS 43.90.190(a) "final agency action[] effective under this chapter on the 30th legislative day after the date of referral to the legislature[.]" The "30th legislative day" language may need to be refined. If the commissioners make the determination with less than 30 days left in the first regular legislative session, say 20 days before, would the determination not be final until 10 days into the next regular session? What if there is an intervening special session with limited subject matter? Thirty days coincides with the length of a special session, which may be contemplated by the drafter of the bill, but the circumstances of a regular session should also be addressed.

Sec. 43.90.200(c): The words "Alaska Rules of Appellate Procedure" are unnecessary; when the right to appeal vests, the court rules establish the procedure to be followed without this language.

Sec. 43.90.210. In subsection (a), you might want to check with the tariff experts in the Department of Law concerning whether the RCA would regulate tariffs to the in-state delivery points even though the interstate part of the pipeline is regulated by FERC. If RCA and FERC both may be involved, subsection (a) should be reworded to allow for the acceptance of a certificate from each regulatory agency. The subsection could simply read as follows:

(a) A licensee that is awarded a certificate of public convenience and necessity for the project shall accept the certificate.

Subsections (b) and (c) read like additional grounds for abandonment to those listed in AS 43.90.120. It seems to me that a finding that the project is "uneconomic" for the purpose of AS 43.90.120 may at least be intertwined with the licensee who may fail to secure financing and sanction the project as required in AS 43.90.210(c). I suggested above that the abandonment provision be moved later in the chapter; perhaps the remedies for failure to sanction and abandonment could either be combined or placed together because both address the failure of a project and the ensuing consequences.

³ *Bethel Utilities Corp. v. City of Bethel*, 780 P.2d 1018, 1022 (Alaska 1989) ("Unless the legislature provides otherwise, administrative decisions are presumed to be judicially reviewable.")

Sec. 43.90.220. Page 12, line 11: I suggest also inserting AS 43.90.130 in addition to AS 43.90.140, so that the project plan is consistent with the original solicitation.

Sec. 43.90.230. Look at AS 43.99.010 that (since 1949) requires a person subject to tax to keep tax records in the state. You may wish to require that the records subject to audit be available in the state. Although this may seem to be redundant to the requirement in AS 43.90.140(14) to "commit to establish a local headquarters in [the] state," you may wish to clearly require in-state recordkeeping so that an affiliate developing the project makes the records available here rather than at its parents' headquarters.

Sec. 43.90.240. In the situation of an unresolved violation that results in the revocation of the license, the follow-up for revocation could follow a similar course to that for abandonment under AS 43.90.120, and the failure to sanction in AS 43.90.210.

Sec. 43.90.240(e). Page 13, lines 27 - 28: The words, "under the Alaska Rules of Appellate Procedure," are unnecessary.

Sec. 43.90.330 and Sec. 43.90.340. It seems that AS 43.90.330 (Alaska Gasline Inducement Act coordinator) and AS 43.90.340 (Expedited review and action by state agencies) should either be placed here at the end of art. 1 or in among the miscellaneous provisions in art. 4. The reason for this suggestion is that these two sections primarily are directed at facilitating the gasline, not the shippers whose inducement is offered in art. 3. If the two sections are also intended to facilitate the inducements in art. 3 as well as art. 2, they may be better placed in art. 4, among the miscellaneous provisions.

Sec. 43.90.310. This section offers a shipper an election to change the calculation of its royalty obligation from that set out in an existing lease or unit agreement to the calculation provided in new regulations to be adopted by the commissioner of natural resources. Every two years the regulations are to be reviewed, and if amended, the producer may elect to return to the obligation under the lease or unit agreement or to be subject to the amended regulations. This approach seems to avoid an issue under the contracts clause in art. I, sec. 15 of the state constitution because it does not actually and unilaterally change the contractual obligations of a producer under the lease or unit agreement, and thus there is no impairment. The producer is given the opportunity to compare royalty obligations under the regulations with those in the contractual agreements and elect to choose the most favorable.

I am not sure how this section is intended to work. Under AS 43.90.310(a), the regulations to be adopted must "establish terms under which the state will exercise its right to switch between taking its royalty in-value or in-kind." Is this a separate issue from the determination of the value of the state's royalty share or are they somehow intertwined? Paragraphs (b)(1) and (2) seem to be related to the value determination part of the mandated regulations and (b)(3) seems to be related to the switching terms. Is this correct? My impression is that how the state intends to exercise its switching rights will be a factor in a shipper's evaluation of how much of its production the state will take in-value rather than in-kind so that the shipper knows how much capacity to commit during the first open season. For example, if a shipper commits all of its own production to its share of pipeline capacity acquired during the first open season, to what extent could the shipper also commit a portion of the state's royalty production for which the shipper

expects the state to take in-value? Would you want to include in the bill a limitation on how often the state may switch between taking royalty in-kind or in value to give stability to a shipper? Is this even a factor?

Sec. 43.90.310(b)(2)(D) requires that regulations adopted under the section reflect the 1980 Royalty Settlement Agreement for Prudhoe Bay gas for the purpose of determining a fair market value. Is this agreement public? If the agreement is not already public, it may be helpful to have that agreement entered into the legislative record so that an interested person could evaluate whether the regulations are consistent with that agreement and consistent with the statutory directive.

Sec. 43.90.310(b)(4). You may wish to make this a subsection within this section rather than merely requiring the condition to be adopted as part of the regulations. As a separate subsection, (4) would become (c), and delete "require that in" and insert "In". This makes the requirement in this new subsection similar to the requirement for the tax exemption in AS 43.90.320(c). The following subsections would be relettered to reflect the addition of an additional subsection.

Sec. 43.90.310(e). If there are no new leases contemplated by DNR between now and the end of the first binding open season, then the only leases that may be in conflict with making the election are leases entered into before the effective date of the Act. However, do you want a new lease to disallow the election in (d)?

Sec. 43.90.320. Although written in terms of an exemption, this section actually provides a credit, a dollar for dollar reduction in tax obligation based on an increase in tax following a change in the production tax. While a credit reduces the amount of tax for which a person would otherwise be liable, an exemption removes a subject from the imposition of the tax. The use of the term "exemption" to describe the credit is probably intended to coincide with the exception in art. IX, sec. 4 to art. IX, sec. 1 of the state constitution.

Art. IX, sec. 4 reads as follows:

Exemptions. The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

Sec. 43.90.320 could be rewritten to make the inducement an exemption rather than a tax credit by exempting from tax a percentage of the gas production committed to the pipeline during the first binding open season. An exemption like this would be more aligned with the examples of exemptions in art. IX, sec. 4, that exempt all or part of certain property from a tax.⁴

⁴ It may be possible to include a tax increase as a basis for calculating an exemption. For example, if the tax increased four percent, then four percent of the production committed to the pipeline would be exempt from tax.

Whether AS 43.90.320 is amended or not, the section should clarify whether the tax obligation is the nominal obligation determined by the nominal or minimum tax determined under AS 43.55.011, or its successor, or after applying the credits authorized in AS 43.55.023, 43.55.024, and 43.55.025. If the section is amended to exempt part of the production committed to the pipeline from tax, you should address whether credits and allowable lease expenditures used to determine the taxable value of the gas should be allocated between taxable and non-taxable gas, or may be fully applied to the taxable portion of the gas.

Sec. 43.90.330. As noted above, I suggest moving this section into art. 2, the article that provides inducement for a pipeline project, or art. 4, if the coordinator is to benefit both shippers and the project licensee.

I suggest adding provisions for the coordinator to hire staff and to designate where the coordinator will be situated within state government for administrative purposes. Will the position be in the governor's office, the Department of Revenue, the Department of Natural Resources, or some other department? You may wish to authorize the coordinator to hire exempt or partially exempt staff or specify that administrative support will be provided by the department in which the position is placed.

Do you want to add minimum qualifications for this position? Besides coordinating state agency activity to expedite the project, the position must also be capable of gauging Alaska law against agency action for the purpose of determining whether the agency action is contrary to the prohibitions in AS 43.90.340(b) and (c).

Sec. 43.90.340. As noted earlier, this section could be moved to art. 2, if it is intended to relate to the pipeline project, or art. 4, if it is intended to relate to both the pipeline project and to shippers.

AS 43.90.340(b). The drafter used the phrase, "notwithstanding any contrary provision of law." If the drafter had particular provisions in mind that may interfere with the intent of this section, those provisions could be addressed directly.

Sec. 43.90.400. This provision establishes the fund in the general fund that holds the \$500,000,000 that will be appropriated for the gasline inducement.

I suggest adding additional language to state that the fund is not a dedicated fund and that money may be expended without further appropriation. See for example AS 26.05.263(d) and (e) (fund for service members group life insurance premiums).

Sec. 43.90.410. I suggest deleting "jointly" on page 18, line 6. Each commissioner could be authorized to adopt regulations necessary to implement the chapter. I expect that there will also be a need for regulations that relate to the Alaska Gasline Inducement Act coordinator and the operation of that office.

Sec. 43.90.430. An alternative to this interest provision would be to incorporate the interest due on delinquent taxes under AS 43.05.225.

Sec. 43.90.440. Although the section makes the licensee entitled to "an amount equal to three times the total of the reasonable costs that the licensee has incurred" the payment

Representative Vic Kohring
March 14, 2007
Page 10

would be subject to appropriation. Note that the breach of the assurance by the state constitutes project abandonment under AS 43.90.120.

Sec. 43.90.450(c). As drafted, this subsection does not make sense. How does the phrase "include the firm transportation capacity contracts in the project" fit with the first part of the subsection? I think the intent was to require transfer of the capacity acquired during the first binding open season when the gas (and oil?) interests in the North Slope are transferred.

Sec. 43.90.900. A definition for "North Slope" should be added. For example, AS 43.55.011(f) uses the description "oil and gas produced north of 68 degrees North latitude" to refer to North Slope production.

On page 20, line 4, delete "and 'controlling'" as "controlling" is not used in the bill.

"Gas processing" is defined in AS 43.55.900 and that definition could be incorporated by reference.

"Lease" could be defined to mean "state lease" as that term is defined in AS 38.06.080.

I am not sure "under common control with" needs to be defined in this bill. The phrase is only used in the definition of "affiliate." If necessary, limit the term to "common control."

If I may be of further assistance, please advise.

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Petroleum NEWS

March 4, 2007

NATURAL GAS

Cash, but no ownership

Alaska gas pipeline act has state investing up to \$500M for certification

By KRISTEN NELSON

Petroleum News

Alaska would contribute to upfront costs of an Alaska natural gas pipeline project, but would not be an owner, Gov. Sarah Palin said Feb. 28 from Washington, D.C.

The governor, in the nation's capital meeting with key energy officials, provided a press briefing on the Alaska Gasline Inducement Act she plans to introduce to the Legislature March 2.

Palin said Alaska will provide a trained local workforce, predictable regulatory requirements and a state contribution to early development of the line. That contribution would be up to \$500 million, on a 50/50 basis, of the estimated \$1 bil-



GOV. SARAH PALIN

lion it will take for a project to receive certification from the Federal Energy Regulatory Commission.

Palin met with FERC Chairman Joseph Kelliher Feb. 26, and said in a statement that it was an opportunity to walk Kelliher through her proposal. "I recognize, as does the chairman, that a natural gas pipeline is not only in the state's best interest, but in the nation's best interest as well," the governor said.

Kelliher said he believes the governor's plans "represent the best hope for building a pipeline to bring Alaska's vast natural gas resources to the energy-consuming Lower 48 states." He said the commission stands "ready to help to the extent we

see PLAN page 18

continued from page 1

PLAN

can."

The governor also met with Interior Secretary Dirk Kempthorne, Energy Secretary Sam Bodman and Alaska's congressional delegation.

One-stop regulatory shopping

Marty Rutherford, deputy commissioner of the Department of Natural Resources, and head of the administration's gas pipeline team, was also in Washington for the meetings. She said the \$500 million capital match will be toward the cost of obtaining a FERC certificate and could not be rolled into the tariff, so it would result in a lower tariff for all shippers. Over 25 to 30 years the state would recoup a good deal of that \$500 million because of lower tariffs.

The state will mimic what the federal government has done and provide a single point of contact, a state pipeline coordinator, for coordinating among state regula-

tory agencies on permitting. Rutherford said the federal government has indicated it is willing to integrate its regulatory process with that of the state. The goal, she said, is to provide one-stop shopping for state and federal regulatory processes.

On the upstream side of the project, the state would reward producers making commitments to ship in a first open season with a contractual commitment that if the Legislature changed the production tax rate for gas in the first 10-year period, the producers would be reimbursed the difference as a tax credit. Rutherford said the state will change its existing lease provisions to provide predictability in how royalty rates are determined. The formula used now is complicated, she said, and the state would make the formula more certain for producers who commit gas into the project. The state will also



MARTY RUTHERFORD

change lease provisions on how it switches between royalty in value and royalty in kind to give producers longer notice and will take the transportation commitment to market for RIK.

All of this, she said, is intended to provide some elimination of risk for parties who will develop natural gas.

State wants commitments

What does the state want?

Rutherford said applicants would have to commit to hold an open season within three years of a licensee being determined and commit to a firm date for an application to FERC. Applicants would have to identify interim steps they intend to take and timing within the application and would need to tell the state how they intend to use matching funds.

The state wants financial provisions that will ensure that the tariff rate is low for all upstream companies and a commitment to solicit for expansion demand on the pipeline every two years and, when reasonable, to expand the pipeline.

The state also wants applicants to indicate how they intend to deal with the risk of cost overruns, and how they might take on some of that risk in the tariff structure. The state wants at least five off-take points within Alaska and a commitment to hire Alaskans to the degree allowed by law.

The state wants to make sure, Rutherford said, that applicants are able to perform commitments they are making to the state. The purpose of AGIA is to move the project forward and put Alaska skin in the game so the nation and applicants know the state is willing to share some of the risk, Rutherford said.

The administration will ask the Legislature to pass AGIA this session and hopes to have a request for proposals out by June or July, with applications due Oct. 1. Rutherford said the timeline would be for state and public review and a written decision to the Legislature by the end of January 2008, with a goal to have a license issued April 1, 2008, so that field work can begin in the summer of 2008. ●

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Anchorage Daily News

Print Page

Close Window

Palin's plan for gas line takes first public licks**NEW ENERGY: About 30 people air views on governor's legislation.**

By RICHARD RICHTMYER

Anchorage Daily News

(Published: March 6, 2007)

A week before state lawmakers are scheduled to take their first crack at Gov. Sarah Palin's natural gas pipeline legislation, members of her pipeline project team took the proposal directly to the people.

Revenue Commissioner Pat Galvin, Resources deputy commissioner Marty Rutherford and other Palin administration officials gave an overview of the governor's bill during a town hall-style meeting in Anchorage on Monday night. They also took questions from the group of about 30 people who showed up for the event.

Many who turned out voiced comments or aired concerns instead of asking questions.

For example, one man said he was pleased that the legislation included provisions aimed at ensuring Alaskans get to work on the project but was disappointed that it didn't require a project-labor agreement. Another voiced concerns about how the state, since it would be soliciting proposals from a wide range of potential builders, would be able to fairly weigh drastically different pipeline plans against one another.

This was the first of several public meetings Palin officials said they plan to hold throughout the state in the coming weeks. The governor wants to get the bill passed before the Legislature adjourns in mid-May.

She unveiled her pipeline plan, called the Alaska Gasline Inducement Act, on Friday. The 21-page bill would provide cash and other incentives to potential builders of a pipeline that would carry the North Slope's vast reserves of natural gas to Lower 48 markets.

Legislative committee work on the bill isn't scheduled to begin until next week. In the meantime, members of Palin's pipeline team got a head start addressing some of the questions that are expected to emerge in the Legislature.

One of the biggest inducements in Palin's bill is a state gift of up to \$500 million, to be matched by a pipeline builder, to help offset early upfront costs.

That was the first issue that came up during Monday's question-and-answer session.

"Why should the state of Alaska subsidize Exxon, Conoco Phillips and BP to get natural gas to market to the tune of \$500 million?" an audience member asked.

Galvin defended the plan, asserting that in return for that money the state would be "buying" project terms that are valuable to Alaska.

"It's not a subsidy. It's actually a purchase," Galvin said.

Among the givebacks are a pipeline that can be expanded to allow a wide range of gas explorers to tap it; commitments by a pipeline builder to provide at least five places where the gas could be drawn off for in-state use at rates below those charged to Lower 48 buyers; and project timelines and benchmarks, the governor's people said.

Some of the questions narrowly focused on specific points in the legislation. For instance, why does Palin's proposal call for five in-state taps instead of four, as proposed in former Gov. Frank Murkowski's plan?

The answer, Rutherford said, is that the number of taps isn't as important as ensuring a good supply of gas for Alaska. Other components of the legislation, such as requiring the builder to set rates for in-state gas that only charge for transportation from the North Slope and not all the way to the end of the line, are more important.

Murkowski last year presented a deal with Exxon, Conoco and BP setting tax and other terms for a possible pipeline. That deal died after most state lawmakers criticized it as giving too much to the oil companies.

The former governor's critics cast doubt on his plan, arguing that it was impossible to know if the deal he struck with the producers was the best deal for Alaskans because there hadn't been adequate public scrutiny of other proposals.

Palin's plan allows for anyone interested in building a pipeline to submit a project plan and for all the proposals that meet the state's guidelines be released for public review before state officials select the winner.

That might achieve the transparency that the new governor has promised in the process, but some participants in Monday's meeting said that might ultimately weaken the state's bargaining position.

Galvin acknowledged the quandary.

"It's all going to be laid out there, and within that framework is one of the problems that we just inherently have to recognize," he said. "We're a democracy, and we have to make a public decision. That by its nature puts us at a disadvantage."

Reporter Richard Richtmyer can be reached at rrichtmyer or 257-4344.

Print Page

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Daily News - Miner

State showcases new gas line plan

By Eric Lidji

Published March 6, 2007

Tom Irwin, the commissioner of the Alaska Department of Natural Resources, unveiled details of Gov. Sarah Palin's plan for getting North Slope natural gas to market on Monday night, presenting the plan as the state's way of moving into an active role to bring about a natural gas pipeline.

"The state is moving forward," Irwin said. "We're not waiting."

The Alaska Gas Inducement Act, or AGIA, Irwin said, issues a list of the state's demands for a pipeline, paired against incentives, or "inducements," for the agency ultimately chosen to build the project.

More than 35 people gathered in the Lathrop High School library to hear Irwin and a panel of representatives from the state Division of Oil and Gas discuss the plan.

The Palin administration held a simultaneous town hall meeting in Anchorage on Monday night.

While the crowd seemed enthusiastic about the proposal, many also expressed concern that AGIA did not adequately guarantee Alaskan employment on a pipeline project.

Irwin acknowledged the concerns, but said that weighing the proposal down with too many specifics now could jeopardize the entire plan, and that the details of any labor agreement could be settled after legislative approval of AGIA.

Employment for Alaskans is one of six goals Palin had for the plan, according to Bruce Anders, a leasing manager with the Division of Oil and Gas.

Other goals include creating a competitive marketplace for project proposals, ensuring long-term development and expansion of North Slope facilities, setting reasonable tariffs on gas moving through the pipeline and guaranteeing a natural gas supply for Alaskans.

One of the inducements would match initial state or federal permitting costs up to \$500 million. Another would offer certain tax exemptions to producers for natural gas committed to a pipeline.

Irwin set out a rough timeline for the plan leading to preparations for construction as early as the summer of 2008.

The timeline begins with legislative approval this session.

AGIA entered the legislative process Monday when senators and representatives referred mirroring versions of Palin's proposal to six different committees for review.

According to Irwin, the state would take two months after legislative approval to finalize the act and issue a call for application from groups interesting in building the pipeline.

Those groups would have three months, or somewhere around Oct. 1, to return the application.

After a 15-day review by the state, the public would have two months to review and comment on all the applications.

The state would then make a recommendation to the Legislature next January, and the process would be finalized by the end of next year's session.

Alaska's North Slope has 35 trillion cubic feet of proven natural gas reserves.

Contact staff writer Eric Lidji at 459-7504 or elidji@newsminer.com.

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Palin bets her image on gas line

With a \$500 million incentive on the line, some lawmakers say stakes are too high

Gov. Sarah Palin is staking half a billion dollars and much of her popularity on an effort to give Alaska a \$20 billion to \$30 billion natural gas pipeline and send the state's vast reserves of the clean-burning fuel to market.

Palin and others say the \$500 million state offer to help a developer get permits for the pipeline is far less than former Gov. Frank Murkowski was willing to pay in his failed gas line effort.

Still, the \$500 million incentive in Palin's Alaska Gasline Inducement Act has raised eyebrows among Democrats and her own Republican Party.

"Half a billion dollars is no small chump change," said Rep. John Coghill, R-North Pole, a key member of the House's Republican leadership.

"Why are we giving away \$500 million?" asked Rep. Mike Doogan, D-Anchorage, a freshman Democrat.

"It sounds like a jaw-dropping figure," Palin acknowledged.

Previous efforts, including Murkowski's, cost less up front, but would have cost the state dearly over the long term, Palin said. Because it didn't guarantee a pipeline would be built quickly, the Murkowski plan also added the risk and cost of additional delay, she said.

Under Murkowski's plan "the state was at risk for \$13-14 billion, plus unquantifiable value of our resource development future," she said.

Palin's plans to invest the money early, hoping that a smaller amount spent in the critical early stages will have more impact than a larger amount later.

If it works, it could bring more of the benefits of Alaska's gas reserves to Alaskans.

Trillions and trillions

Those reserves are huge, said Commissioner of Natural Resources Tom

Irwin.

Companies looking for oil have located 35 trillion cubic feet of natural gas in proven reserves. Geologists who have studied the terrain think there are another 250 trillion cubic feet to be found once they start looking for it, he said.

And gas hydrates locked in ocean floor sediments probably amount to much more, he said.

Some scientists, Irwin said, are thinking there are "hundreds, maybe a thousand, maybe thousands of trillion cubic feet" of gas available.

Once the pipeline is in place, that entire resource can be exploited.

Palin's plan would match money spent by whoever is licensed to build the line while they go through the initial process of getting Federal Energy Regulatory Commission approval.

The match would be "dollar for dollar," said Patrick Galvin, commissioner of the Department of Revenue, and a member of Palin's gas line team. That upfront incentive would have to be approved by the Legislature.

A tough sell

Senate President Lyda Green, R-Wasilla, said the hearings on the bill are likely to begin this week, and likely will be "very vigorous."

Sen. Hollis French, D-Anchorage, said he appreciated that Palin's proposal lets candidates for the pipeline make their offers more attractive by taking less than the \$500 million.

Some think that's too much to be offering anyway.

"If the company can't afford the \$500 million to do the design and engineering, to do the initial licensing, how the heck are they going to afford the \$25 billion" total cost, asked Rep. Kevin Meyer, R-Anchorage.

Rep. Beth Kerttula, D-Juneau, was skeptical of the incentive amount but said it might be needed to get smaller companies into the deal.

"I'm not sure how necessary it is for the big oil companies, but for the smaller companies that are going to be so critical to Alaska and critical to our future it may be very important," Kerttula said.

"I think the governor's using it as a carrot, and it might work," Sen. Tom Wagoner, R-Kenai, said from Washington, D.C., where he was attending meetings of the Energy Council and advocating for the pipeline.

The tariff charged to companies shipping gas through the line will be lower if

it costs less to build. Having the state contribute up front could mean Alaska will get more for its gas later, he said.

That's how an early investment can be magnified to benefit the state, Palin said.

"It will be returned to Alaska again and again over the years in the form of those lower tariffs," she said.

Wagoner said Palin's incentive was far less than what Murkowski's gas contract would have eventually cost, which he estimated at \$15 billion.

"It pales in comparison to what the Murkowski proposal did," he said.

Kerttula agreed. "Five hundred million dollars is a lot of money, but in the grand scheme of things ... it is a whole lot less than what we were going to see going out in the bill before," she said.

A popular governor and an unpopular one

Palin brings something to the negotiations that Murkowski didn't: her own jaw-dropping popularity numbers.

A February survey by Hellenthal & Associates of Anchorage found Palin with a 73 percent approval rating, with negatives of only seven percent, for an unheard of 10-1 ratio.

"This was the highest I've ever had," pollster Marc Hellenthal said.

Murkowski, politically damaged last year by actions such as appointing his daughter to his old U.S. Senate seat and buying a jet lawmakers opposed, did not have the political clout to get his deal done.

Murkowski concluded that only three big Alaska oil producers were capable of building the pipeline. He spent a hectic last year of his administration negotiating a contract with them and trying to shepherd it through the Legislature.

Lawmakers never did approve that effort, and Palin rejected it when she took office in December.

She has since told producers, BP, ConocoPhillips and Exxon Mobil, who had a favored position with Murkowski, that they'd have to compete with independent explorers and pipeline companies to win building rights.

Palin has managed to get a host of companies, including the producers, to endorse her strategy.

"We're ready to roll up our sleeves and get to work," said Doug Suttles, president of BP-Alaska, at the press conference rolling out the inducement

act.

Palin said the state investment will show everyone - producers, federal regulators and investors - that the state is serious about building the line.

"It's up front, it's on the table for all to see," she said. "It's our real skin in the game here."

To get her bill through the Legislature, Palin will have to persuade skeptics such as Coghill that it's a good deal.

"I just hope we don't get skinned alive on it," Coghill said.

- Pat Forgey can be reached at patrick.forgey@juneauempire.com.

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