

AK LEGISLATURE SPECIAL COMMITTEE FILES SCOMM 148 32126

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB 128-DEC-SPAR 2/20/07
Bill Version: HB 128
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Dept of Environmental Conservation

Title OIL & GAS PRODUCTION TAX EXPENDITURES

RDU Spill Prevention and Response

Component Director's Office

Sponsor Olson et al

Requester House Special Committee on Oil and Gas

Component No. 1392

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

CHANGE IN REVENUES ()

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 (FY2006) 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)

No additional costs are expected with this legislation.

Prepared by: Larry Dietrick
Division: Spill Prevention and Response

Approved by: Larry Hartig
Agency: Department of Environmental Conservation

Phone 465-5250
Date/Time 2/20/07 4:00 PM
Date 2/20/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB128-DC-R-TAX-2-22-07

Bill Version: HB 128

() Publish Date:

Revision Date/Time (Note if correction):

Title Oil & Gas Production Tax: Expenditures

Dept. Affected: Revenue 04

RDU Taxation and Treasury

Component Tax Division

Sponsor Representative Olson

Requester (H) Oil and Gas

Component No. 2476

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	124.9	124.9	124.9	124.9	124.9	124.9
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	124.9	124.9	124.9	124.9	124.9	124.9

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	124.9	124.9	124.9	124.9	124.9	124.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	124.9	124.9	124.9	124.9	124.9	124.9

Estimate of any current year (FY2007) cost: 31.2

Check 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 bill would add certain costs relating to improperly maintained property or equipment to the list of costs that do not qualify as lease expenditures under AS 43.55.165, the petroleum profits production tax system. Under the bill, the commissioner of revenue, in consultation with the commissioner of environmental conservation and the chair of the Alaska Oil and Gas Conservation Commission, would determine whether costs are specifically disallowed under this provision. The provision would disallow any costs incurred to (1) repair or replace improperly maintained property or equipment; and/or (2) maintain the operational capability of facilities or equipment that are either shut down or are diminished in capacity. The bill effective date is retroactive to April 1, 2006 - the effective date of the petroleum profits tax (PPT).

Prepared by: Jon Iversen and Cherie Nienhuis

Division: Tax

Approved by: Jerry Burnett

Agency: Department of Revenue

Phone: 269-1033

Date/Time: 2/22/07 11:00 AM

Date: 2/22/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. HB 128

ANALYSIS CONTINUATION

The impact this bill would have on petroleum tax revenues is indeterminate. Costs identified as disallowed under this bill could be categorized as either operating costs or capital costs. The PPT authorizes eligible operating costs to be deducted from the petroleum profits tax at a rate of 22.5%; the PPT authorizes capital costs to be both deducted at a rate of 22.5% and credited at a rate of 20%, for a combined production tax savings of 42.5%. Any set of disallowed costs is likely to be split between these two categories in a way that is distinct from that of another set of costs.

Administering this legislation would require one full-time equivalent (FTE) with expertise in oil and gas industry practices on the level of a petroleum engineer. The department currently contracts with a petroleum engineer for five years at a cost of \$624,650, or \$124,930 per year, for technical support related to petroleum production. It is anticipated that the department would be required to carry a second contract of this magnitude or greater in order to fulfill the requirements of this legislation.

Black's Law Dictionary (8th ed. 2004),

NEGLIGENCE

negligence, n. 1. The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding of others' rights. • The term denotes culpable carelessness.

"*Gross Negligence.* As it originally appeared, this was very great **negligence**, or the want of even slight or scant care. It has been described as a failure to exercise even that care which a careless person would use. ~~Several courts, however, dissatisfied with a term so nebulous ... have construed~~ **gross negligence as requiring willful, wanton, or reckless misconduct, or such utter lack of all care as will be evidence thereof** But it is still true that most courts consider that 'gross negligence' falls short of a reckless disregard of the consequences, and differs from ordinary negligence only in degree, and not in kind."

IMPROPER

improper, adj. 1. Incorrect; unsuitable or irregular. 2. Fraudulent or otherwise wrongful.

MAINTENANCE

maintenance, n. 1. ~~The continuation of something, such as a lawsuit.~~ 2. ~~The continuing possession of something, such as property.~~ 3. ~~The assertion of a position or opinion; the act of upholding a position in argument.~~ 4. **The care and work put into property to keep it operating and productive; general repair and upkeep.** 5. ~~Financial support given by one person to another, usu. paid as a result of a legal separation or divorce; esp., ALIMONY. • Maintenance may end after a specified time or upon the death, cohabitation, or remarriage of the receiving party.~~

RES IPSA LOQUITUR

res ipsa loquitur (rays ip-s<<schwa>> loh-kw<<schwa>>-t<<schwa>>r). [Latin "the thing speaks for itself"] *Torts.* The doctrine providing that, in some circumstances, the mere fact of an accident's occurrence raises an inference of negligence so as to establish a prima facie case. -- Often shortened to *res ipsa*. [Cases: Negligence ¶1610. C.J.S. Negligence §§ 744-748, 754-756.]

"The phrase 'res ipsa loquitur' is a symbol for the rule that the fact of the occurrence of an injury, taken with the surrounding circumstances, may permit an inference or raise a presumption of negligence, or make out a plaintiff's prima facie case, and present a question of fact for defendant to meet with an explanation. It is merely a short way of saying that the circumstances attendant on the accident are of such a nature as to justify a jury, in light of common sense and past experience, in inferring that the accident was probably the result of the defendant's negligence, in

the absence of explanation or other evidence which the jury believes." Stuart M. Speiser, *The Negligence Case: Res Ipsa Loquitur* § 1:2, at 5-6 (1972).

"Res ipsa loquitur is an appropriate form of circumstantial evidence enabling the plaintiff in particular cases to establish the defendant's likely negligence. Hence the res ipsa loquitur doctrine, properly applied, does not entail any covert form of strict liability.... The doctrine implies that the court does not know, and cannot find out, what actually happened in the individual case. Instead, the finding of likely negligence is derived from knowledge of the causes of the type or category of accidents involved." *Restatement (Third) of Torts* § 17 cmt. a (Tentative Draft No. 1, 2001).



Representative Scott Jiu Wo Kawasaki

Alaska State Legislature

District 9 Fairbanks

MEMORANDUM

TO:

Department of Law
Department of Revenue: Tax Division
Alaska Oil and Gas Conservation Commission

FROM:

Representative Scott Kawasaki

DATE:

February 27, 2007

RE:

Questions about the proposed CS for HB 128

I have some questions about how the administration will interpret language in the proposed CS for HB 128 (25-LS0561\M). Although I will not be able to attend the committee meeting on Thursday, March 1, I hope the answers will be helpful to the other committee members.

1. How are "standard practices of the industry" determined? Is this used anywhere else in law?
2. If a company behaved differently in Alaska compared to everywhere else in the world because of Alaska's tax structure, would these altered behaviors be considered standard practices of the industry?
3. Could BP claim their handling of the OTLs to be a standard practice of the industry because it maximized their tax advantages under PPT?
4. Are there any conceivable situations where it could be a standard practice of the industry to not maintain or improperly maintain a piece of equipment? If so, would related expenses be deductible?
5. Is it possible for an operator to know if expenses will be deductible under PPT prior to making the expenditure?
6. Is it possible for an operator to know if their maintenance practices are adequate to qualify potential future expenses for deduction under PPT?
7. Can political changes affect how the proposed maintenance standard will be applied? Can they do so for maintenance performed before potential political changes?

Copy: Representative Olson
Senator Wagoner
Members of the House Special Committee on Oil and Gas

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Email: Representative_Scott_Kawasaki@legis.state.ak.us

Disallowing "deemed capital maintenance" costs

August 8, 2006

Pedro van Meurs

The shut down of Prudhoe Bay has brought in sharp focus that some of the facilities on the North Slope may be in poor shape.

The repair of such facilities could involve billions of dollars over the next two decades.

This raises firstly a fairness issue. Should companies receive a tax deduction and tax credit together for 40% of the value (under the 20/20 system) for replacing a pipeline that was defective and not properly maintained (as BP admitted during their short presentation to the Senate Committee). The pipeline replacement may also be subject to the "2 for 1" formula which would raise the contribution of Alaska to 50%.

However, at the same time this raises a broader issue. It is likely that over time more defective equipment will be identified that needs repair or replacement. The Prudhoe Bay oil field is now 30 years old and the continued operation for the next 30 years may pose a variety of problems.

In cost control there has always been a rather important "grey area" between "repair" and "betterment or replacement".

Under accounting rules if expenditures are made to replace an asset or improve the asset in a manner that provides it with a longer technical asset life, these costs are typically considered "capital" expenditures, if an asset is merely repaired it is an "operating" expenditure. For auditors it is often difficult to determine the difference.

Under the PPT the capital expenditures can be deducted and also receive a tax credit of 20%. Operating costs can only be deducted. It is therefore logical for companies to try to consider repairs as much as possible as capital expenditures by arguing that they created a "betterment" of the equipment. Or they may decide to simply replace the asset even if it can be repaired because of the tax deductions and credits. This could be an area of misuse under the PPT. A significant percentage of the operating costs could slip into the capital costs to the detriment of the State.

For all these reasons one could simply disallow a small part of the total capital expenditures as "lease expenditures". In this case they cannot be deducted or used for tax credits.

My suggestion is to disallow the first \$ 0.30 per BTU equivalent barrel as "lease expenditures".

A section could be added to AS 43.55.165 (e) of the bill as follows under non deductible lease expenditures (*non legal language*):

- (20) deemed capital maintenance expenditures which shall be capital expenditures equal to US \$ 0.30 per BTU equivalent barrel taxable production.

The US \$ 0.30 per BTU equivalent barrel is based on reasonable capital maintenance costs of fields for which I have (confidential) information. Based on a production of 900,000 barrel equivalent per day, this means that about \$ 100 million in capital expenditures per year will not be deductible for PPT purposes. Based on a PPT rate of 20% and a tax credit rate of 20% this means that the companies will pay \$ 40 million more tax per year.

I believe that this would provide a good answer to possible public criticism that under the PPT we would provide 50% of the replacement costs of pipelines as a result of the Prudhoe Bay shut down. I believe this would be popular with the Senate and the House. This could enhance the probability that the PPT would pass.

adn.com

Anchorage Daily News

Print Page

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BP warns against more tax**LEGISLATURE: An amendment would ban certain deductions.**

By SABRA AYRES

Anchorage Daily News

(Published: March 1, 2007)

JUNEAU -- A BP representative told lawmakers Wednesday that adopting proposed changes to the state oil and gas tax to disallow energy companies from deducting expenses incurred from improper facility maintenance would result in fewer investment dollars for Alaska's energy industry.

The state's Petroleum Production Tax, which lawmakers passed last year, already taxes energy companies at a rate that is too high, said Tom Williams, a senior tax consultant for BP. The proposed amendment on repair costs as a result of improper maintenance is unclear and could hurt the state's future energy industry, he said.

"The PPT is suboptimal for the state because the rate is too high," Williams told the Senate Resources committee. He added that the PPT as written already addresses repair costs. Passing the amendment would mean the state would be "double-dipping" into existing provisions, he said.

The bill was introduced by Sen. Tom Wagoner, R-Kenai, and signed on by 17 other sponsors from both sides of the aisle. A similar House bill has an equally high number of bipartisan sponsors.

The measure was sparked by pipeline leaks last year that resulted in the largest oil spill ever on the North Slope and a decrease in production as Prudhoe Bay pipelines were shut down for repair.

BP, which runs Prudhoe on behalf of itself and other major owners, including Exxon Mobil and BP, is under investigation by federal authorities and has been criticized by members of Congress and federal pipeline regulators for lax pipeline maintenance.

Last month, BP told the Legislature it planned to deduct the cost of the repairs, a move that would save the oil producer as much as \$11 million on its tax bill.

Lawmakers argue that the pipeline corrosion that caused the oil spill was a result of years of neglect and the state shouldn't have to pay for the repair costs. Sponsors of the bill said they had hoped to protect the state from the high costs of improper maintenance practices.

But despite the bipartisan popularity of the bill, it has run into several roadblocks, and now more questions are being raised about how to get a passable version of the bill written.

Energy producer groups argue that the bill's terminology is problematic, particularly in how to define "improper maintenance."

While gross negligence is clearly defined, no such standard exists in the bill for what constitutes improper maintenance, said Jason Brune, executive director of the Resource Development Council for Alaska, a nonprofit organization representing energy producers and resource businesses.

"The predictability just isn't there with this bill," Brune said.

Representatives from the Department of Natural Resources' Division of Oil and Gas said they supported the idea behind the bill but also had concerns with the difficulties in defining improper maintenance.

The state should look to Outside certification agencies, like the American Petroleum Institute, for ways to create standards when defining what is gross and improper maintenance, said the chairman of the Alaska Oil and Gas Conservation Commission, John Norman.

Sen. Lesil McGuire, R-Anchorage, a sponsor of the bill and a member of the committee, agreed. McGuire said the legislation wouldn't do the job "unless we put out what our rules and standards are."

The bill also calls into question whether and how far back the proposed legislation could retroactively apply. While many sponsors have said they hoped passing the bill would block BP from deducting repair costs incurred after last year's oil spill, some feared the legislation could tie the state up in future legal battles.

In a letter to Wagoner, the legislative counsel said the bill's language would allow the legislation to work retroactively to April 1, 2006, the date the PPT took effect.

But according to testimony from Robert Mintz, a consultant for the Department of Revenue, cases involving retroactive changes to existing state tax laws "have seen an uphill battle" in the courtroom.

"The Legislature should be cautious when changing laws targeted at a particular entity or event," Mintz said.

Both House and Senate versions of the bill failed to move out of committee, but were rescheduled.

Wagoner, the main sponsor of the legislation, expressed frustration Wednesday at the bill's lack of progress.

"It seems that we are being dragged back into the PPT debate, which never had any discussion on the maintenance issue," he said.

Daily News reporter Sabra Ayres can be reached at sayres@adn.com or 907-586-1531.

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THE ALLIANCE

...for responsible development of Alaska's Oil, Gas & Mineral Resources

360 West Benson Blvd., Suite 200 * Anchorage, AK 99503 * Phone (907) 563-2226 * Fax (907) 561-8870

Feb. 26, 2007

The Honorable Vic Kohring
Chairman, House Oil & Gas Committee
Alaska State Legislature
State Capitol (MS 3101)
Juneau, Alaska 99801-1182

Dear Senator Huggins,

The Alaska Support Industry Alliance, a trade association whose 400 members provide goods and services to Alaska's oil, gas and mining industries and more than 30,000 jobs for Alaskans, would like to express our opposition to House Bill 128. We believe the bill is unnecessary, unfair and premature. It will accomplish little but to spawn disputes and uncertainty, and it will be a further disincentive to the long-term oil and gas investment that's the lifeblood of Alaska's economy. We urge you not to pass it out of the House Oil & Gas Committee.

The bill is unnecessary. Current legislation already denies tax credits for lease expenditures resulting from fraud, willful misconduct or gross negligence, and disallows costs related to spills.

The bill is unfair, and would result in double taxation. The flat 30-cent-per-barrel tax credit exclusion in the new Petroleum Production Tax (PPT) explicitly was intended to cover all maintenance expenditures - those resulting from "proper" and "improper" maintenance. HB 128's additional exclusion for costs incurred due to "improper maintenance" constitutes double taxation. Producers across the board are denied deductions for maintenance costs under the umbrella of the 30-cent-per-barrel provision of the PPT, then would be denied additional tax credits on a case-by-case basis for some of the same maintenance expenditures under HB 128.

The bill is a petri dish for tax disputes. Terms in HB 128 such as "improper" maintenance and "diminished" capacity are vague and undefined, leaving interpretation in the hands of several commissioners, headed by the commissioner of Revenue. By contrast, the 30-cent provision offers clarity and certainty. We may not like it, but at least everyone understands the rules.

Alliance opposition to HB 128
Page 2

The bill is premature. It's been less than 6 months since the legislature retroactively imposed the largest tax increase in Alaska's history on North Slope producers, roughly tripling severance taxes. Regulations for the new PPT haven't even been drafted yet, and HB 128 proponents already want to change it. The Alliance believes additional changes at this time will further undermine Alaska's reputation as a stable and predictable place to invest, resulting in fewer jobs and business opportunities for Alaskans.

HB 128 may seem like prudent politics to some, but it's poor public policy. The Alliance opposes this proposed legislation and urges you not to move it out of the House Oil & Gas Committee. Thank you for your consideration.

Sincerely,

Signed

Paul Laird
General Manager



Doug Suttles

President

February 15, 2007



BP Exploration (Alaska) Inc.
P.O. Box 196612
900 E. Benson Boulevard
Anchorage, Alaska 99519-6612

Honorable Members
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Ladies and Gentlemen:

A number of questions have been raised about BP's intent to deduct certain costs related to the Prudhoe Bay field shutdown last August. I am writing to confirm our position on this issue and at the same time reiterate BP's commitment to and plans for our business in Alaska.

Direct: 907 564 5422
Main: 907 561 5111
Fax: 907 564 5900
doug.suttles@bp.com

With respect to the deductibility of costs, we can only speak for BP. Taxes are paid on a company wide basis rather than a field specific basis and BP cannot speak for the other Prudhoe Bay owners on tax issues.

BP follows the law when it files its taxes. Accordingly, BP will assume the appropriate deductions & credits for the costs associated with the repair and replacement of the Prudhoe Bay Oil Transit Lines (OTLs). Specifically, BP will deduct appropriate costs associated with repair of the OTLs and will seek authorized credits for capital costs to replace them. Similarly in compliance with the PPT Laws, we will not seek to deduct costs associated with cleaning up the oil spills.

To put this issue into context, I would like to openly share our estimated 2006 production taxes.* For the final nine months of 2006, the period over which PPT was applicable, we estimate that BP's production taxes will almost triple from \$180 million under the old ELF-based tax to more than \$500 million under PPT. Over the same period, BP's share of the deductions and credits associated with the costs of inspection, business resumption, and replacement of the OTLs will result in a total deduction of around \$11 million in 2006, which we have included in our 2006 production tax estimate.

We believe our approach is appropriate for the following reasons:

- 1) It is important to realize that the OTLs are some 30 years old and were sized for significantly higher production than we will have in the future. The OTLs would have been replaced in the normal course of business, even if the events of last year had not taken place.
- 2) We are in the process of building a new state of the art pipeline system for the future life of Prudhoe Bay. This is not a like-for-like replacement. Rather, we are investing in a brand new system, with pipe diameter sizes very different than the original design to reflect the reduced production from these maturing oilfields. The new system will have new chemical injection systems, upgraded pig launchers/receivers, upgraded leak detection system, and a Fusion Bond Epoxy external coating for longer life. The system will be in operation for decades to come. We believe this investment is in the best interests of the State of Alaska and the North Slope producers.

We appreciate the opportunity yesterday to discuss our Alaska business with the Senate Resources Committee and update them on the commitments we made in August 2006.

BP LETTER

February 15, 2007

Page 2 of 2

BP remains fully committed to the ongoing integrity of its facilities. As we embark on a vision of our next 50 years in Alaska, we will continue to make significant investment in facility renewal. This is not about replacement. It is about designing and constructing new facilities in a way that underpins the future and ensures the operability of the North Slope for decades to come.

With respect to PPT, last year the Legislature held long and difficult debates that ultimately led to the passage of PPT. The regulations are still being formalized as this legislation has not been in place for very long. We are only just preparing to submit our first tax returns under this new system. As a result, we believe it is premature to consider changes to the structure or intent of the current legislation. We believe it would be prudent for all parties, including producers and the State, to wait until PPT is fully implemented and we have real experience of its operation and impact before making any changes.

I hope I have provided you with the clarity of BP's intentions that many of you have been seeking and the reasoning behind the decisions we have made.

I look forward to working with the legislature as we progress our vision for our business in Alaska, including the commercialization of Alaska Gas, and as we bring our vision of a 50-year future to reality.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Suttles", with a stylized, overlapping flourish at the end.

Doug Suttles

* Please note that, in disclosing in this letter certain specific tax information and BP's tax positions regarding PPT, BP does not intend to waive the confidentiality of any of its tax materials and information under applicable law (including AS 43.05.230), other than the particular information disclosed.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL & GAS

SARAH PALIN, GOVERNOR

550 WEST 7TH AVENUE, SUITE 800
ANCHORAGE, ALASKA 99501-3880
PHONE: (907) 269-0800
FAX: (907) 269-8838

The Honorable Tom Wagoner
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Wagoner,

This is in response to your letter to Tom Irwin dated February 12, 2007. Thank you for the opportunity to review SB 80 regarding certain credits and deductions against the Petroleum Production Tax. I would like to offer a few comments and suggestions regarding the bill. Some of these issues have been discussed with the State Pipeline Coordinator's Office, the Alaska Oil and Gas Conservation Commission (AOGCC), and the Department of Environmental Conservation (DEC).

I agree that the commissioner of Natural Resources should be one of the commissioners with whom the Department of Revenue (DOR) consults on certain costs related to improperly maintained property or equipment. The Department of Natural Resources (DNR), in representing the state as the landowner, is preparing to closely review the issue of system integrity and take necessary action as part of the function of the Petroleum System Integrity Office (PSIO). As the coordinating agency of the DNR, the PSIO will have the leading role coordinating system integrity issues with other agencies such as the DEC and AOGCC.

Second, I would point out that it may be difficult for the agencies to rely on "standard practices of the industry." Although "standard industry practices" is a commonly used term, it is not a term of art. You could attempt to define and reference standards, such as ISO standards and guidelines, set by various associations such as API and ASME. However, standards for corrosion control and monitoring are not well established. There are no standards that the Division of Oil and Gas is aware of that would provide a measure from which to base a decision for corrosion and maintenance of facilities and equipment.

As an alternative, the Division of Oil and Gas is recommending language be included that defines the standard as "considering practices undertaken by a reasonable and prudent operator under the same or similar circumstances."

It may also be difficult for agencies to define or establish "improper maintenance" or "improperly maintained" in order to use it as a standard for costs. The Division of Oil and Gas suggests that you consider wording such as "improper maintenance as indicated by an unanticipated failure." Alternatively, you might consider "proper maintenance" defined as the replacement of equipment based on a regular or routine surveillance of the property, equipment, or facilities.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

DNR LETTER COMP. BILL

Division of Oil & Gas

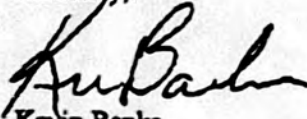
2/15/07

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Finally, I would suggest that DOR be required to provide its consulting agencies with specific data and records relevant to the repair, replacement, and maintenance of the property, equipment, or facility for which lease expenditures are being claimed under AS 43.55.165. Of course, the taxpayer confidentiality provisions in AS 43.05.230 would apply to this information.

DNR is continuing to study the bill and may have additional suggestions for you. Again, I appreciate the opportunity to offer comments and to work with you.

Sincerely,



Kevin Banks
Acting Director

cc: Tom Irwin, Commissioner, DNR
Jonne Slemons, Acting Coordinator PSIO
Marie Croasley, DO&G

STATE OF ALASKA

ALASKA OIL AND GAS CONSERVATION COMMISSION

SARAH PALIN, GOVERNOR

333 W. 7TH AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501-3539
PHONE (907) 278-1433
FAX (907) 278-7542

February 16, 2007

The Honorable Thomas H. Wagoner
Alaska State Legislature
State Capitol, #427
Juneau, AK 99801

Re: SB 80

Dear Senator Wagoner,

This is in response to your February 12 letter requesting comments regarding the referenced legislation.

As an independent regulatory agency, the Alaska Oil and Gas Conservation Commission (AOGCC), does not have a position either in favor of or against this bill. We do however, understand, and agree with the premise that an operator should not be allowed to shift costs resulting from substandard maintenance practices to the State through tax deductions for lease expenditures.

Our main concern with the bill is the absence of a precise definition of improper maintenance. The bill proposes relying on standard practices of the industry to gauge whether there has been improper maintenance; but often there are no established industry standards to rely upon. Even when standards have been established by the American Petroleum Institute (API) or similar professional organizations, they are normally only recommended practices. Also, such industry guidelines are subject to change, which raises a question about whether an operator should be held to the most recent standard or to the standard prevailing when the alleged improper maintenance decision was made.

In some instances it will be obvious that there has been improper maintenance. In other instances (particularly well systems and equipment) the AOGCC will be required to consider design, installation, operation, and maintenance (all are integral to a determination of impropriety); and, making some determinations will require detailed investigation (perhaps including testing- non-destructive, destructive, metallurgic, etc.) and application of expertise not readily available within this agency.

Another concern is the fact that much of the equipment and systems in an oilfield that are subject to maintenance (and thus failure due to improper/inadequate maintenance) are not regulated by either AOGCC or Department of Environmental Conservation. This raises questions about how to judge "improper maintenance" in the absence of regulatory authority and oversight responsibility for such systems and equipment.

AOGC LETTER COMP. BILL

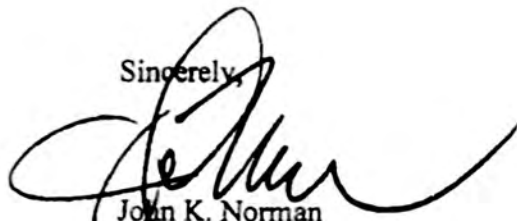
Finally, one can never lose sight of the fact that significant technological advances have occurred as a result of innovations which at the time were departures from standard industry practices. Also, engineers sometimes learn more through failure than from success. Often there is no indication something is being done improperly until a failure has occurred, but it is through analyzing the failure that the root cause can be determined and changes made going forward. This is simply the nature of engineering. In fact, there is a book entitled "To Engineer is Human: The Role of Failure in Successful Design" that describes and gives examples of this process.

Let me reiterate that we understand and agree with the intent of this legislation which is to prevent an operator from shifting financial responsibility to the State for costs resulting from the operator's improper maintenance practices. We do however, wish to point out some of the practical difficulties that may arise in determining whether maintenance has been improper.

One last point - we suggest deleting the words "the chair of" at line 22 on page 3. It is our supposition that the bill is worded this way to ensure prompt consultations on maintenance issues. We can assure you however that consultation with the commission (as opposed to just the chair) will not delay our response time should we be given this responsibility

Thank you for allowing us this opportunity to comment.

Sincerely,



John K. Norman
Chairman

cc: Pat Galvin, Commissioner
Department of Revenue

Larry Hartig, Commissioner
Department of Environmental Conservation

Tom Irwin, Commissioner
Department of Natural Resources

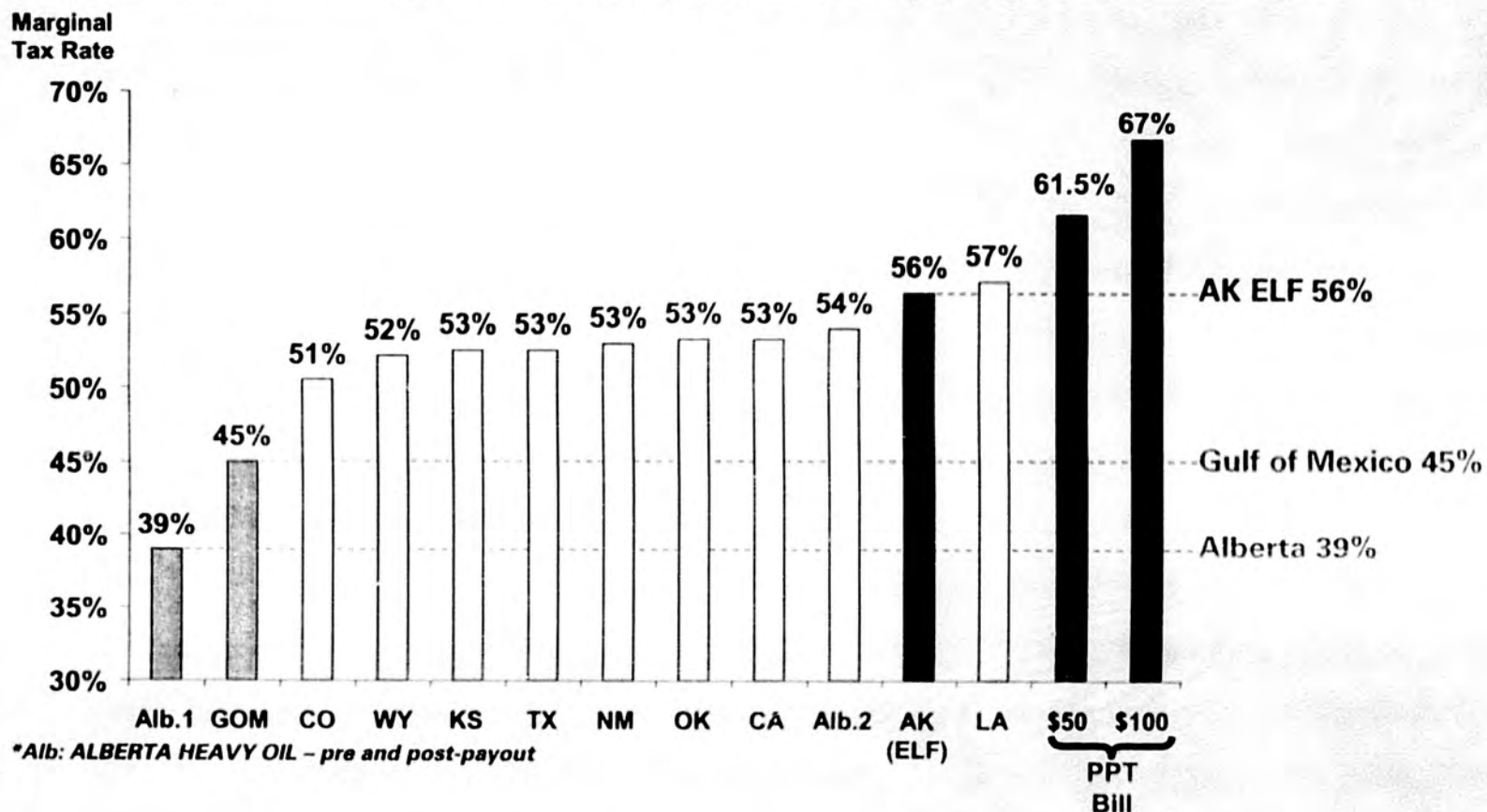
BP Presentation to the House Oil & Gas Committee

Juneau, February 22nd 2007



- PPT is working for the State of Alaska:
 - Pieces fit together and the taxpayers can comply
 - BP's 2006 production tax nearly tripled from ELF to PPT
- Will Alaska attract sufficient investment to stem production decline?
 - PPT has greater incentives for investment than the ELF
 - But we believe the rate is too high to be optimal for the State
- HB 128 would introduce unnecessary uncertainty
 - Potential ambiguity with existing provisions
 - Unnecessary: \$0.30/bbl exclusion addressed the same concern
- Five year period to review success of PPT (AS 43.55.180)

Alaska has adopted the highest marginal tax rate in the North America



Alberta & Gulf of Mexico are booming while Alaska production is declining

BP data

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Marginal
Tax Rate

70%

65%

60%

55%

50%

45%

40%

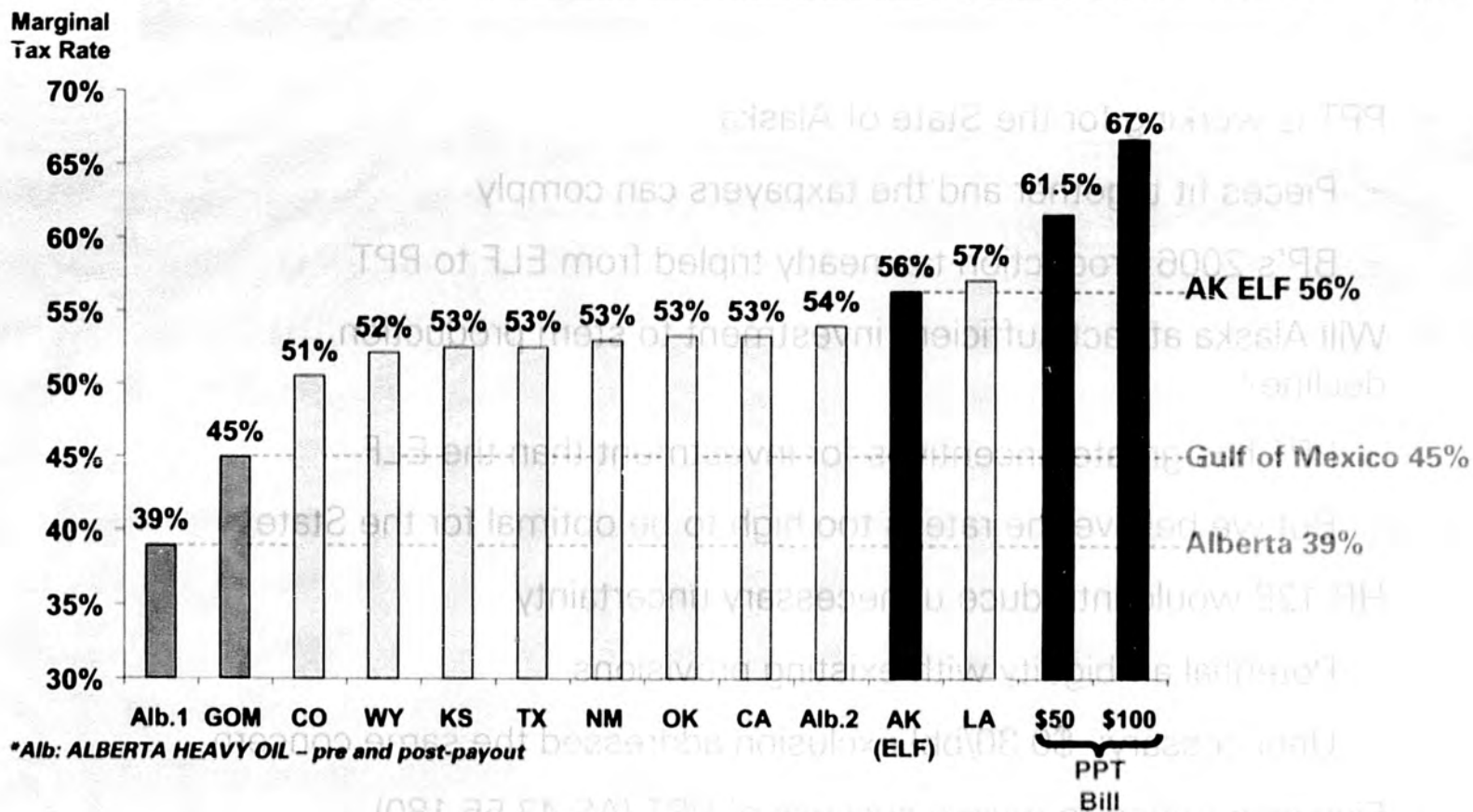
35%

30%

Alberta & Gulf of Mexico are booming while Alaska production is declining

BP data

Alaska has adopted the highest marginal tax rate in the North America



Alberta & Gulf of Mexico are booming while Alaska production is declining

BP data



March 2, 2007

BP Exploration (Alaska) Inc.
900 East Benson Boulevard
P.O. Box 186812
Anchorage, Alaska 99518-6812
(907) 561-5111

The Honorable Kurt Olson
State House of Representatives
Alaska State Capitol, Room 110
Juneau, AK 99801-1182

RE: Response to Prudhoe Bay Pigging Inquiry

Dear Representative Olson:

During Tom Williams' testimony to the House Oil and Gas Committee on behalf of BP Exploration (Alaska) Inc. ("BPXA") on Thursday February 22, 2007, you raised two questions for which Mr. Williams needed to obtain additional information before responding. Specifically, you asked whether BPXA had pigged the oil transit lines since the ARCO acquisition and when the lines had been pigged.

BPXA last ran an in-line inspection tool ("smart pig") in October 2006 in the Eastern Operating Area ("EOA") and in November 2006 in the Western Operating Area ("WOA"), in each case we completed two runs to collect the inspection data required. Prior to these runs in 2006, the last time BPXA ran a smart pig was in 1998. The 1998 smart and maintenance pig runs on the WOA oil transit lines revealed no significant corrosion and only modest solids returns. We also are aware that ARCO Alaska conducted a 1990 pig run in the EOA oil transit lines, while it had operational accountability for facilities on that side of the field. Another smart pig run had been scheduled for mid-2006. Unfortunately the WOA leak occurred before this took place.

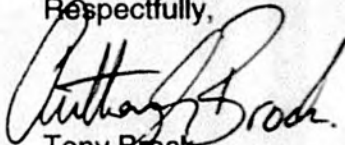
Since this past summer, BPXA has initiated a pigging schedule whereby cleaning (also called maintenance) pigs are run on a weekly basis. In addition to cleaning any solids and water residue that may have accumulated in the lines, pigging is one of a number of techniques used to control corrosion.

BPXA uses pigging, ultrasonic testing (UT), visual inspections, corrosion inhibitors and other techniques as appropriate for each individual oil field's and each line's characteristics and history. While corrosion in oil field production, processing and transmission facilities is a result of natural physical forces and cannot be completely prevented, BPXA's program was designed to control corrosion, extending the useful life of our North Slope infrastructure.

Since August, BPXA has made a number of changes in our operations. The most significant is a change to our organizational structure with the addition of a Technical Director. The Technical Director reports directly to the President of BPXA and provides independent assurance of our infrastructure integrity management.

I trust that this is responsive to your inquiry. If we can be of further assistance to your understanding of these matters, please don't hesitate to contact us.

Respectfully,

A handwritten signature in dark ink, appearing to read "Anthony Brock". The signature is fluid and cursive, with the first name "Anthony" written in a larger, more prominent script than the last name "Brock".

Tony Brock
Technical Director

cc Members House Special Committee on Oil and Gas

SCOMM

1 48:6

†

Date Referred to Committee: March 5, 2007

Finance

April 3, 2007

The HOUSE SPECIAL COMMITTEE ON OIL AND GAS considered:

HB 177

HOUSE BILL NO. 177

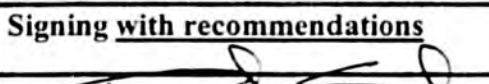
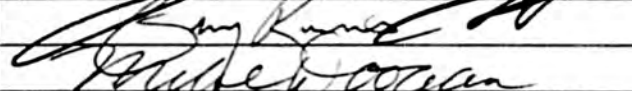
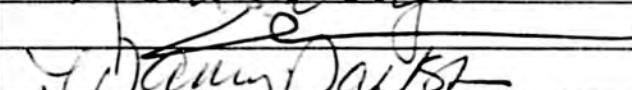
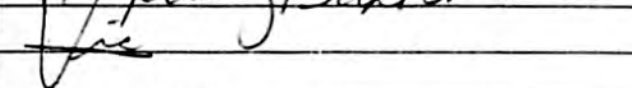
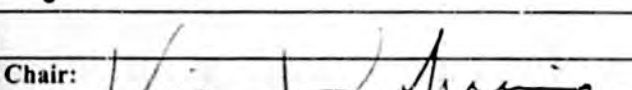
NATURAL GAS PIPELINE PROJECT

"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 HB 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

List of
Abbrev
for[illegible][illegible]

Signing <u>with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	SAMUELS			X	
	RAMRAS	X		X	
	DOOGAN	X			
	OLSON	X			
	Dahlstrom				X n.d.
Chair: 	Kohring				X v.12

25-GH1060/E
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

DRAFT

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

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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

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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

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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

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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

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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

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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**

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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

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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

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(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

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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

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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

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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

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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

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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.

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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

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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

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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

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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

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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

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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"

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1 means the person appointed under AS 43.90.250;

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

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

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

10 (6) "equity holder" means the

11 (A) stockholders of a corporation;

12 (B) members of a limited liability company;

13 (C) partners of a partnership;

14 (D) joint venturers of a joint venture;

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

16 or

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

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

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

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

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

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

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

30 (13) "North Slope" means that part of the state that lies North of 68
31 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"

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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 ¹³~~13~~, line ¹⁴~~20~~

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