

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8072

10413 HOUSE RULES

32

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 6  
 Bill Version: CSHB 519(RLS)  
 (H) Publish Date: 5/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
 Title: Natural Gas Pipeline: Special BRU: Office of the Commissioner  
 Component: Commissioner's Office  
 Sponsor: House Rules  
 Requester: House Rules Component Number: 340

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel	3.0					
Contractual	21.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>24.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>24.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This act would require the department to hold at least one public hearing prior to making a finding regarding if an application for a natural gas project ensures employment of Alaskans and the use of Alaskan firms in the construction and operation of the project. The department proposes to hold public hearings in Anchorage, Fairbanks and Juneau as well as a statewide teleconference. Costs associated with this bill include travel to attend the hearings, the costs to advertise and hold the hearings and costs to obtain legal advice regarding the finding.

Prepared by: Remond Henderson, Director Phone: 465-2720  
 Division: Administrative Services Date/Time: 5/2/02 1:21 PM  
 Approved by: Ed Flanagan, Commissioner Date: 05/02/02  
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

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CS FOR HOUSE BILL NO. 519(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing priority treatment under the Right of-Way Leasing Act for an  
2 Alaska North Slope natural gas project and limiting judicial review of action under that  
3 Act relating to that project; authorizing the Alaska Railroad Corporation to provide  
4 financing for the acquisition, construction, improvement, maintenance, equipping, or  
5 operation of facilities for the transportation by others of natural gas resources within  
6 and outside the state and to issue its bonds to finance those facilities; exempting an  
7 Alaska North Slope natural gas project from state and municipal property taxes during  
8 construction and initial operation, eliminating the authority of a municipality to levy a  
9 sales or use tax on property or services used or to be used on the project, and defining  
10 the scope of that project; providing, through the Department of Community and  
11 Economic Development, emergency financial assistance for municipalities affected by  
12 natural gas development; expanding the scope for the kinds of gas development projects

1 that may become qualified projects under the Alaska Stranded Gas Development Act,  
2 amending the definitions of 'qualified sponsor' and 'qualified sponsor group' under that  
3 Act, extending the deadline for submitting applications under that Act, and modifying  
4 the conditions under which an application made under that Act may be considered; and  
5 providing for an effective date."

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

7 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 **FINDINGS AND INTENT.** The legislature finds that

10 (1) a vast quantity of gas in Alaska is currently stranded from commercial  
11 development, in part due to the cost associated with providing access to markets for that gas;  
12 the Alaska North Slope has the largest known discovered natural gas resources, estimated to  
13 be 35 trillion cubic feet, in the United States and has undiscovered gas resources estimated to  
14 be in excess of 100 trillion cubic feet;

15 (2) demand for natural gas in the lower 48 states is expected to experience  
16 record growth; the lower 48 states have an inadequate resource base to meet this expected  
17 demand, and there is an urgency to make an Alaska natural gas pipeline project move forward  
18 to fill this gap with North American gas rather than with gas from uncertain sources overseas;

19 (3) it is important for the United States to have a reliable and affordable source  
20 of domestic natural gas for energy for its economy, for the well-being of its citizens, for the  
21 growth of its businesses, and for the national security;

22 (4) the North Slope of Alaska is one of the few known locations in the United  
23 States that can supply significant natural gas supplies to the lower 48 states for years to come;

24 (5) during the past three decades, several companies and entities have studied  
25 different ways to commercialize Alaska North Slope gas and have been unsuccessful in  
26 identifying an economic project; most recently, the three major producers, through their  
27 Alaska Gas Producers Pipeline Team, have studied a southern route approximately following  
28 a route along the Trans Alaska Pipeline System from Pump Station One to Delta Junction and  
29 along the Alaska Highway through Alaska and Canada to the lower 48 states and a northern

1 route off the shore of the Arctic National Wildlife Refuge in the Beaufort Sea, and have  
2 concluded that neither is sufficiently economic, given the magnitude of the risks associated  
3 with the project; however, at least one producer has indicated a willingness to proceed further  
4 if federal and state enabling legislation with provisions to mitigate long-term natural gas price  
5 risks and for fiscal certainty and incentives is enacted;

6 (6) the major producers have proposed new federal enabling legislation that  
7 they believe will expedite the construction and operation of a natural gas pipeline from the  
8 North Slope to the lower 48 states;

9 (7) in addition to the state's receipt of revenue from taxes and royalties,  
10 Alaskans will benefit from the commercialization of Alaska North Slope natural gas through  
11 opportunities for in-state use of the natural gas and for participation by Alaskans in  
12 construction, maintenance, and operation of a natural gas pipeline project;

13 (8) because of the high cost of providing access to markets for Alaska North  
14 Slope gas, exploration efforts on the North Slope have historically focused on oil; recently,  
15 some companies have expressed interest in gas exploration; if the infrastructure needed to  
16 provide access to market for Alaska North Slope gas were available, new gas exploration  
17 efforts might be initiated on the Alaska North Slope and in other basins that currently remain  
18 largely unexplored for oil and gas; it is vital to the State of Alaska that there be continued and  
19 robust exploration and development of natural gas resources on the Alaska North Slope;

20 (9) Alaskans need a portion of the gas from a natural gas pipeline project for  
21 in-state use; however, it is unlikely that markets will develop within the state that would need  
22 more than a relatively small portion of the volume of gas already discovered on the Alaska  
23 North Slope; it is vital for economic development that Alaska communities and businesses  
24 have access under fair and reasonable terms to the pipeline for in-state use of Alaska North  
25 Slope natural gas;

26 (10) the construction and operation of a natural gas pipeline in the state and  
27 the sale of Alaska North Slope gas is critical to the health and welfare of the state

28 (11) for a natural gas pipeline project to become economically viable and  
29 competitive, the estimated costs of constructing the project and the associated financial risk  
30 must be reduced significantly; changes in the local, state, and federal tax structure may also be  
31 necessary to make commercialization of the gas resources economically viable by, in part,

1 structuring tax and royalty incentives related to the project and providing as much clarity and  
2 certainty as possible regarding the taxes that would apply to a project throughout its life;

3 (12) art. IX, sec. 4, Constitution of the State of Alaska, empowers the  
4 legislature to create tax exemptions by general law, and the creation of tax exemptions to  
5 make Alaska North Slope gas commercially viable and competitive is consistent with the  
6 legislature's responsibility under art. VIII, sec. 2, Constitution of the State of Alaska;

7 (13) good faith efforts by producers and other companies engaged in the  
8 design, construction, and operation of the natural gas pipeline voluntarily to provide  
9 employment opportunities for Alaska residents and opportunities for Alaska businesses are in  
10 the long-term interests of the state;

11 (14) there has been a history of costly disputes between producers of oil and  
12 the state over the determination of the production taxes due for oil produced and sold, in part  
13 because of disputes over the definition of terms pertinent to the calculation of the tax;

14 (15) it is in the state's best interest to provide clarity and certainty to the  
15 process of determining a producer's tax and royalty liability, AS 43.82 (Alaska Stranded Gas  
16 Development Act) provides, among other provisions, in AS 43.82.020, 43.82.200, and  
17 43.82.210, mechanisms for the state and the sponsor of a North Slope natural gas pipeline  
18 project to negotiate a contract that could provide that clarity and certainty and resolve other  
19 important issues, including accommodating the interests of affected municipalities.

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

22 FINDINGS, INTENT, AND PURPOSE OF SECTIONS 4 - 6 AND 19. (a) The  
23 Alaska State Legislature finds that

24 (1) the Alaska Railroad Corporation is uniquely suited to serve essential  
25 functions of the state by providing financing for a facility for the transportation of certain  
26 natural gas resources located within the state;

27 (2) providing financing for that facility furthers the purposes of both the state  
28 and the Alaska Railroad Corporation by assuring that the state's natural gas resources will be  
29 transported to their appropriate markets, thus creating revenue for the Alaska Railroad  
30 Corporation and for the state and providing employment opportunities for residents of the  
31 state;

1 (3) the facility also will enhance and improve the state's ability to develop and  
2 transport other natural resources of the state, including oil and gas resources located off the  
3 North Slope of this state; and

4 (4) these results are essential purposes of the state and the achievement of  
5 these purposes is critical to the health and welfare of the state.

6 (b) A purpose of secs. 4 - 6 and 19 of this Act is to clarify the statutory functions and  
7 powers of the Alaska Railroad Corporation by expressly including the power to provide  
8 financing for transportation facilities as described in those sections of this Act.

9 (c) It is the intent of the legislature that

10 (1) secs. 4 - 6 and 19 of this Act be construed broadly to permit the Alaska  
11 Railroad Corporation the greatest flexibility to accomplish the purpose described in (b) of this  
12 section within the limitations set out in those sections of this Act; and

13 (2) other provisions of AS 42.40 in existence before the enactment of secs. 4 -  
14 6 and 19 of this Act be similarly construed to complement the provisions of this Act.

15 \* Sec. 3. AS 38.35 is amended by adding new sections to read:

16 **Sec. 38.35.240. Expeditious priority treatment by state officials and**  
17 **agencies in support of development and construction of an Alaska North Slope**  
18 **natural gas project under this chapter.** (a) In the development and construction of  
19 an Alaska North Slope natural gas project that requires the grant of a right-of-way  
20 lease under this chapter, every state official and agency shall give full cooperation to  
21 the commissioner, or to any official to whom delegation of the authority of the  
22 commissioner is made by or under law, consistent with the provisions of the law  
23 administered by the official or agency, by issuing or granting necessary permits,  
24 certificates, authorizations, and similar actions required to be taken at the earliest  
25 practicable date, with action to be taken on an expedited basis and, notwithstanding  
26 any other provision of law, having precedence over any like matter pending before the  
27 official or agency.

28 (b) In the commissioner's consideration of an application under this chapter  
29 for a lease for the Alaska North Slope natural gas project, the commissioner may limit  
30 the scope of review, analysis, and finding for the applicant's proposed lease  
31 application under this chapter to a particular phase of the project if, in the judgment of

1 the commissioner, the project is capable of proceeding in discrete phases and

2 (1) the uses and activities involving the project on the land for which  
3 the approval is to be granted are part of that discrete phase;

4 (2) before the next phase of the project may proceed, the commissioner  
5 gives public notice and opportunity for comment about that phase, unless the use or  
6 activity to be approved is subject to a consistency determination under AS 46.40 and  
7 public notice and the opportunity to comment are provided under AS 46.40.096(c);

8 (3) the commissioner's approval is required before the next phase of  
9 the project may proceed; and

10 (4) the commissioner sets out the reasons for proceeding on the  
11 application in discrete phases.

12 (c) In this section, "Alaska North Slope natural gas project" means "North  
13 Slope natural gas pipeline" as set out in AS 38.35.120(a)(1)(B), including the facilities  
14 that are necessary for, and to the extent used for, treating and conditioning the gas to  
15 be transported, and the components of the processing plants associated with natural  
16 gas conditioning, to be constructed or modified to follow generally a route that  
17 parallels the Trans Alaska Pipeline System and the Alaska Highway to the Canadian  
18 border, or to tidewater for liquefied natural gas, and any spur lines to serve people in  
19 the state, to transport natural gas derived from the area of the state lying north of 64  
20 degrees North latitude.

21 **Sec. 38.35.245. Judicial review.** Notwithstanding AS 38.35.200 and  
22 notwithstanding any other provision of law, with respect to a decision made or action  
23 taken bearing upon the development, construction, and operation of an Alaska North  
24 Slope natural gas project, as described in AS 38.35.240, a person may seek judicial  
25 review of a decision of the commissioner under AS 38.35.100 or 38.35.240 or of any  
26 agency or employee relating to the project only on the grounds provided in  
27 AS 38.35.200(b). The claim for judicial review may be brought only within 60 days  
28 after the making of the decision or taking of the action.

29 \* **Sec. 4.** AS 42.40.250 is amended by adding a new paragraph to read:

30 (31) provide financing for the acquisition, construction, improvement,  
31 maintenance, equipping, and operation of facilities for the transportation of natural gas

1 resources within and outside the state without regard to whether the facilities are or  
2 will be owned in whole or in part by the corporation or located on land owned by the  
3 corporation.

4 \* Sec. 5. AS 42.40.630 is amended by adding new subsections to read:

5 (b) Before issuing bonds to provide the financing described in  
6 AS 42.40.250(31) for a facility to be owned in whole or in part by an entity other than  
7 the corporation, the corporation shall enter into a contract, lease, or other form of  
8 agreement that will, in the judgment of the corporation, provide sufficient  
9 consideration to

10 (1) pay the principal of and interest on the bonds as they become due;

11 (2) create and maintain the reserves for the payments that the  
12 corporation considers necessary or desirable; and

13 (3) pay all costs necessary to service or additionally secure the bonds,  
14 including trustee's fees and bond insurance premiums, unless these costs are to be paid  
15 by a party other than the corporation.

16 (c) Before issuing bonds to provide the financing described in  
17 AS 42.40.250(31), whether for a facility to be owned by the corporation or for a  
18 facility to be owned as described in (b) of this section, the corporation shall obtain the  
19 prior approval of the governor.

20 \* Sec. 6. AS 42.40 is amended by adding a new section to read:

21 **Sec. 42.40.695. Public purpose of bonds.** Bonds of the corporation issued to  
22 finance facilities described in AS 42.40.250(31) are issued by a public corporation and  
23 an instrumentality of the state for an essential public and governmental purpose.

24 \* Sec. 7. AS 43.56.020(a) is amended to read:

25 (a) The following are exempt from local taxes levied or authorized under  
26 AS 43.56.010(b):

27 (1) property rights attached to or inherent in the right to explore for or  
28 produce oil or gas;

29 (2) oil or gas leases or properties, whether producing or not;

30 (3) oil or gas in place;

31 (4) oil or gas produced or extracted in the state;

1 (5) the value of intangible drilling expenses and exploration expenses;

2 (6) an interest in property described in AS 43.55.017(a);

3 (7) an interest in taxable property that is part of an Alaska North

4 Slope natural gas project, whether or not, under AS 43.82, the project has been  
5 determined by the commissioner of revenue to meet the requirements of  
6 AS 43.82.100, from the project's construction commencement date as defined in  
7 AS 43.56.210, as determined by the commissioner, until 12 full calendar months  
8 after the calendar month that the project is placed in service, but not later than  
9 December 31, 2012, but the commissioner shall extend this date after project  
10 construction has commenced if that construction is delayed due to litigation or to  
11 shortages of supplies for construction that are not due to or under the control of  
12 a taxpayer who is a producer, as that term is defined in AS 31.05.170, or not due  
13 to or under the control of a project sponsor.

14 \* Sec. 8. AS 43.56.020(b) is amended to read:

15 (b) There is exempt from state taxes levied or authorized under  
16 AS 43.56.010(a),

17 (1) before the construction commencement date, property that is  
18 committed by contract or other agreement for use in this state primarily for the  
19 production or pipeline transportation of gas or unrefined oil, or in the operation or  
20 maintenance of facilities for the production or pipeline transportation of gas or  
21 unrefined oil; and

22 (2) taxable property described in (a)(7) of this section, subject to  
23 the requirements or conditions of (d) of this section.

24 \* Sec. 9. AS 43.56.020 is amended by adding new subsections to read:

25 (d) For the Alaska North Slope natural gas project, the exemptions provided in  
26 (a)(7) and (b)(2) of this section do not apply unless a taxpayer, or a person acting  
27 under contract with the taxpayer or the project's sponsor,

28 (1) complies with all relevant requirements of 15 U.S.C. 717z (Natural  
29 Gas Act) or 15 U.S.C. 719 - 719o (Alaska Natural Gas Transportation Act of 1976), as  
30 applicable to the project;

31 (2) complies with all valid federal, state, and municipal laws relating to

1 hiring Alaska residents and contracting with Alaska businesses to work in the state in  
2 the design, construction, and operation of the project to the extent the residents and  
3 businesses are available, competitively priced, and qualified, and the taxpayer or  
4 project sponsor does not discriminate against Alaska residents or businesses;

5 (3) advertises for available positions in newspapers in the location  
6 where the work is to be performed and in other publications distributed throughout the  
7 state, including in rural areas, and uses Alaska job service organizations located  
8 throughout the state and not just in the location where the work is to be performed in  
9 order to notify Alaskans of work opportunities on the project;

10 (4) within the constraints of law, encourages the owner's contractors to  
11 train and subsequently to hire state residents consistent with (2), (3), and (5) of this  
12 subsection;

13 (5) recruits, within the constraints of law, and employs qualified state  
14 residents as workers on available jobs; the owner shall prepare and submit to the  
15 commissioner of labor and workforce development

16 (A) on an annual basis, a report that sets out in detail the  
17 specific measures that the owner and the owner's contractors have taken or are  
18 planning to take

19 (i) to recruit qualified state residents for available jobs  
20 and that describes job training opportunities; and

21 (ii) to use Alaska businesses;

22 (B) on a quarterly basis, using state data, a report concerning  
23 the use of state residents, including the number of residents hired or employed  
24 during the previous period;

25 (6) makes, as permitted by law, reasonable efforts

26 (A) to employ Alaska firms that are available, competitively  
27 priced, and qualified to perform engineering and construction services; and

28 (B) to fabricate or manufacture in the state needed gas  
29 production and pipeline modules and other facilities;

30 (7) agrees to apply, after the project is placed in service, and does  
31 apply the full amount of the tax exemptions provided in (a)(7) and (b)(2) of this

1 section and AS 43.56.030(2)(A) and (C) to reduce the applicable tariff;

2 (8) agrees to submit an application under AS 43.82.120;

3 (9) not later than June 30, 2004,

4 (A) submits an application for the grant of a right-of-way lease  
5 under AS 38.35; and

6 (B) schedules an open season for the natural gas pipeline so  
7 that all potential shippers of North Slope natural gas, whether with respect to  
8 the pipeline's initial capacity or its expansion capacity, have a fair and equal  
9 opportunity to obtain shipping capacity on the pipeline; and

10 (10) requires that its agents and contractors, the agents and contractors  
11 of a person acting under contract, or the agents and contractors of a project sponsor,  
12 negotiate to obtain, where possible, a project labor agreement for the employment of  
13 laborers and mechanics for the construction of the project.

14 (e) The provisions of (d) of this section do not create or abridge individual  
15 rights and do not create a private right of action or claim by any person.

16 \* Sec. 10. AS 43.56.030 is amended to read:

17 Sec. 43.56.030. In place of other taxes. Except for those taxes imposed  
18 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of  
19 all other

20 (1) [ALL OTHER] ad valorem taxes or other taxes imposed by a  
21 municipality on property subject to tax under this chapter or exempted from taxation  
22 by AS 43.56.020; and

23 (2) [ALL OTHER] taxes imposed by a municipality on or with respect  
24 to the property subject to tax under this chapter or exempted from taxation by  
25 AS 43.56.020, including, but not limited to,

26 (A) taxes on the retail sale or use of the property except for the  
27 retail sales tax on the first \$1,000 of each sale; however, the exception for  
28 retail sales or use taxes on the first \$1,000 of each sale does not apply to a  
29 retail sale or use involving property used or committed by contract or  
30 other agreement for use in the development, construction, operation, or  
31 maintenance of an Alaska North Slope natural gas project;

1 (B) taxes on the sale or use of gas or unrefined oil;

2 (C) taxes on the sale or use of services used in or associated  
3 with the property or in its maintenance or operation except for the sales tax on  
4 the first \$1,000 of each sale; however, the exception for retail sales or use  
5 taxes on the first \$1,000 of each sale does not apply to a retail sale or use  
6 involving services used in or associated with the property used or  
7 committed by contract or other agreement for use in the development,  
8 construction, operation, or maintenance of an Alaska North Slope natural  
9 gas project;

10 (D) taxes on or measured by gross or net income from the  
11 property, including income from the exploration for, production of, or pipeline  
12 transportation of gas or unrefined oil or property; and

13 (E) any license, excise, fee, charge, or other tax on or  
14 pertaining to the property or services.

15 \* Sec. 11. AS 43.56.210(2) is amended to read:

16 (2) "construction commencement date" means, for property subject  
17 to tax under this chapter used in the exploration for, production of, or pipeline  
18 transportation of unrefined oil through a facility the construction of which was  
19 began before April 1, 1974, the earlier of April 1, 1974, or the date the following  
20 occur, and, for all other property subject to tax under this chapter, including  
21 property used in the pipeline transportation of North Slope natural gas through  
22 an Alaska North Slope natural gas project, the date on which all of the following  
23 have occurred:

24 (A) there has been issued to the owner or an agent of the owner  
25 right-of-way permits, leases, and title and other rights in land, and other  
26 approvals, permits, licenses, and certificates, by federal, state, and local  
27 agencies that a reasonable and prudent person would consider adequate to  
28 commence construction of the facilities in the expectation that all other  
29 approvals, permits, licenses, and certificates necessary for the completion of  
30 facilities will be obtained;

31 (B) all approvals, permits, licenses, and certificates are in full

1 force and effect, unrevoked and without any modification that might jeopardize  
2 the completion or continued construction of the facilities; and

3 (C) no order, judgment, decree, determination, or award of a  
4 federal, state, or local court or administrative or regulatory agency enjoining,  
5 either temporarily or permanently, the construction or the continuation of  
6 construction of the facilities is in effect;

7 \* Sec. 12. AS 43.56.210 is amended by adding a new paragraph to read:

8 (9) "Alaska North Slope natural gas project" means a natural gas  
9 pipeline that originates in the Prudhoe Bay area of the North Slope of Alaska and that  
10 generally follows a route that parallels the Trans Alaska Pipeline System and the  
11 Alaska Highway to the Canadian border or, for liquefied natural gas, to tidewater; the  
12 term

13 (A) includes those portions of any gas processing facilities  
14 described in this paragraph that are used to remove carbon dioxide or other  
15 nonhydrocarbon impurities and to boost pressure, for the purpose of  
16 conditioning gas for immediate shipment in the pipeline described in this  
17 paragraph;

18 (B) does not include facilities, equipment, or other property

19 (i) to the extent or in the proportion they are used for  
20 the purpose of manufacturing natural gas liquids or miscible injectant;  
21 or

22 (ii) upon which taxes imposed by this chapter have been  
23 paid before the effective date of this paragraph.

24 \* Sec. 13. AS 43.82.100 is amended to read:

25 Sec. 43.82.100. **Qualified project.** Based on information available to the  
26 commissioner, the commissioner may determine that a proposal for new investment is  
27 a qualified project under this chapter only if the project

28 (1) is a project that principally involves

29 (A) the processing and transportation of natural gas by  
30 pipeline to one or more markets outside the state, including an Alaska  
31 North Slope natural gas project as that term is defined in AS 38.35.240;

1                    (B) [FOR] the export of liquefied natural gas from the state to  
2                    one or more other states or countries; or

3                    (C) the development of discrete facilities, or portions of  
4                    discrete facilities, that are necessary to produce, gather, process,  
5                    condition, compress, or distribute natural gas, to be transported to, by, or  
6                    from a pipeline or liquefied natural gas project described in (A) or (B) of  
7                    this paragraph;

8                    (2) would produce at least 500,000,000,000 cubic feet of stranded gas  
9                    within 20 years from the commencement of commercial operations; and

10                    (3) is capable, subject to applicable commercial regulation and  
11                    technical and economic considerations, of making gas available to meet the reasonably  
12                    foreseeable demand in this state for gas within the economic proximity of the project.

13                    \* Sec. 14. AS 43.82.110 is amended to read:

14                    Sec. 43.82.110. **Qualified sponsor or qualified sponsor group.** The  
15                    commissioner may determine that a person or group is a qualified sponsor or qualified  
16                    sponsor group if the person or a member of the group

17                    (1) intends to own an equity interest in a qualified project, intends to  
18                    commit gas that it owns to a qualified project, or holds the permits that the department  
19                    determines are essential to construct and operate a qualified project; and

20                    (2) meets one or more of the following criteria:

21                    (A) owns a working interest in at least 10 percent of the  
22                    stranded gas proposed to be developed by a qualified project;

23                    (B) has the right to purchase at least 10 percent of the stranded  
24                    gas proposed to be developed by a qualified project;

25                    (C) has the right to acquire, control, or market at least 10  
26                    percent of the stranded gas proposed to be developed by a qualified project;

27                    (D) has a net worth equal to at least 33 percent of the estimated  
28                    cost of constructing a qualified project;

29                    (E) has an unused line of credit equal to at least 25 percent of  
30                    the estimated cost of constructing a qualified project;

31                    (F) has entered into a contract or binding precedent

1 agreement to provide gathering, processing, conditioning, compression,  
2 transportation, or distribution services for at least 10 percent of the  
3 stranded gas proposed to be developed by a qualified project.

4 \* Sec. 15. AS 43.82.120 is amended by adding a new subsection to read:

5 (d) For purposes of an application for facilities described in  
6 AS 43.82.100(1)(C) that relate to a project, one or more qualified sponsors or qualified  
7 sponsor groups may file separate applications for any discrete facility or portion of a  
8 discrete facility of a project.

9 \* Sec. 16. AS 43.82.140 is amended by adding a new subsection to read:

10 (d) For purposes of an application for facilities described in  
11 AS 43.82.100(1)(C) that relate to a project for which application is made under  
12 AS 43.82.120(d), the commissioner and the commissioner of natural resources may  
13 review and approve applications from one or more qualified sponsors or qualified  
14 sponsor groups for any discrete facility or portion of a discrete facility of a project if  
15 the commissioner or the commissioner of natural resources finds that the facility or  
16 portion of the facility is a necessary part of a comprehensive transportation system  
17 described in AS 43.82.100(1)(A) or (B).

18 \* Sec. 17. AS 43.82.170 is amended to read:

19 **Sec. 43.82.170. Application deadline.** The commissioner of revenue or the  
20 commissioner of natural resources may not act on an application for a contract  
21 submitted under AS 43.82.120 unless the application is received by the Department of  
22 Revenue no later than **June 1, 2003** [JUNE 30, 2001].

23 \* Sec. 18. AS 44.33 is amended by adding a new section to read:

24 **Article 5A. Natural Gas Pipeline Impact Assistance.**

25 **Sec. 44.33.440. Natural gas pipeline impact assistance.** (a) It is the  
26 intention of the legislature to provide temporary emergency financial assistance to  
27 municipalities for the purpose of meeting certain extraordinary operating and capital  
28 improvement expenditures necessitated by population growth resulting from natural  
29 gas pipeline development construction. It is the further intention of the legislature that  
30 the state respond promptly to the needs of municipalities that are related to the effect  
31 of natural gas pipeline development.

1 (b) Subject to legislative appropriations for the purpose, the department may  
2 make grants to a municipality that is affected by natural gas pipeline development,  
3 demonstrating extraordinary municipal and educational operating expenditures that are  
4 beyond its reasonable capability to meet from growth in receipts from current  
5 municipal revenue sources. Grants made under this subsection may be expended only  
6 for municipal and educational operating services.

7 (c) Grants made under this section may not be used directly or indirectly to  
8 reduce current municipal tax rates.

9 (d) Where the impact of rapid, sudden population growth threatens to develop  
10 open space land that otherwise would remain free of urban development, the  
11 department may make grants to a municipality affected by natural gas pipeline  
12 development, contributing an equal amount for the acquisition or improvement of  
13 open space or greenbelt lands, recreation facilities, parks, or wildlife refuges. A grant  
14 under this subsection may exceed \$500,000. A grant made under this subsection may  
15 not be used directly or indirectly to reduce current municipal tax rates or to retire  
16 existing bonded indebtedness.

17 (e) Grants under this section may be made only upon application by the  
18 municipality to the department. Each grant application must state the intended use for  
19 which the grant will be expended.

20 (f) A municipality receiving grants under this section shall

21 (1) maintain a separate account for the grants received under this  
22 section;

23 (2) provide for an annual independent audit of the separate account for  
24 grants received under this section; and

25 (3) submit a copy of the independent audit report to the department.

26 (g) The department may adopt regulations necessary to carry out the purpose  
27 of this section.

28 (h) In this section,

29 (1) "department" means the Department of Community and Economic  
30 Development;

31 (2) "municipality" means a home rule or general law city or borough,

1 including but not limited to a unified municipality;

2 (3) "operating expenditures" means personal services, contractual  
3 services, travel, commodities, and up to \$20,000 for each item of equipment, except  
4 that the term does not include any of these items if the item is part of a capital  
5 improvement expenditure; relocatable classrooms necessary for expanded school  
6 enrollment are not subject to the \$20,000 limitation.

7 \* **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 **LEGISLATIVE AUTHORIZATION AND APPROVAL.** (a) Subject to the  
10 requirements of AS 42.40.630(b), enacted by sec. 5 of this Act, the Alaska Railroad  
11 Corporation is authorized to issue bonds under the power granted to it in AS 42.40 to finance  
12 the construction of a natural gas pipeline and related facilities for the transportation of natural  
13 gas recovered from the North Slope of this state. The maximum principal amount of bonds  
14 that the Alaska Railroad Corporation may issue under this section is \$17,000,000,000. The  
15 Alaska Railroad Corporation may issue the bonds in a single issuance or in several issuances,  
16 without limitation as to number of issuances or timing, and as the Alaska Railroad  
17 Corporation determines best furthers the purpose of financing the gas pipeline and related  
18 facilities described in this section. The Alaska Railroad Corporation shall negotiate with the  
19 producers of the gas or with one or more other entities as the Alaska Railroad Corporation  
20 considers appropriate, and shall enter into agreements with those producers or one or more  
21 other entities to provide revenue sufficient to accomplish the purposes described in  
22 AS 42.40.630.

23 (b) This section constitutes the approval required by AS 42.40.285 for the issuance of  
24 the bonds described in this section.

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

27 **RETROACTIVITY.** Sections 13 - 17 of this Act are retroactive to July 1, 2001.

28 \* **Sec. 21.** Sections 7 - 12 and 18 of this Act take effect January 1, 2003.

29 \* **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect immediately under  
30 AS 01.10.070(c).

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Chenoweth  
5/10/02

*Kottmann*  
*5.10.02*

**CS FOR HOUSE BILL NO. 519(2d RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act authorizing priority treatment under the Right-of-Way Leasing Act for an  
2 Alaska North Slope natural gas project and limiting judicial review of action under that  
3 Act relating to that project; authorizing the Alaska Railroad Corporation to provide  
4 financing for the acquisition, construction, improvement, maintenance, equipping, or  
5 operation of facilities for the transportation by others of natural gas resources within  
6 and outside the state and to issue its bonds to finance those facilities; relating to state  
7 and municipal property taxes for an Alaska North Slope natural gas project during  
8 construction; adding a property tax repayment surcharge levied under the oil and gas  
9 exploration, production, and pipeline transportation tax and relating to the levy of the  
10 surcharge and to the accounting for foregone tax revenue under that tax and surcharge;  
11 defining the scope of that project; providing, through the Department of Community  
12 and Economic Development, emergency financial assistance for municipalities affected

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1 by natural gas development; expanding the scope for the kinds of gas development  
2 projects that may become qualified projects under the Alaska Stranded Gas  
3 Development Act, amending the definitions of 'qualified sponsor' and 'qualified sponsor  
4 group' under that Act, extending the deadline for submitting applications under that  
5 Act, and modifying the conditions under which an application made under that Act may  
6 be considered; and providing for an effective date."

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

8 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 **FINDINGS AND INTENT.** The legislature finds that

11 (1) a vast quantity of gas in Alaska is currently stranded from commercial  
12 development, in part due to the cost associated with providing access to markets for that gas;  
13 the Alaska North Slope has the largest known discovered natural gas resources, estimated to  
14 be 35 trillion cubic feet, in the United States and has undiscovered gas resources estimated to  
15 be in excess of 100 trillion cubic feet;

16 (2) demand for natural gas in the lower 48 states is expected to experience  
17 record growth; the lower 48 states have an inadequate resource base to meet this expected  
18 demand, and there is an urgency to make an Alaska natural gas pipeline project move forward  
19 to fill this gap with North American gas rather than with gas from uncertain sources overseas;

20 (3) it is important for the United States to have a reliable and affordable source  
21 of domestic natural gas for energy for its economy, for the well-being of its citizens, for the  
22 growth of its businesses, and for the national security;

23 (4) the North Slope of Alaska is one of the few known locations in the United  
24 States that can supply significant natural gas supplies to the lower 48 states for years to come;

25 (5) during the past three decades, several companies and entities have studied  
26 different ways to commercialize Alaska North Slope gas and have been unsuccessful in  
27 identifying an economic project; most recently, the three major producers, through their  
28 Alaska Gas Producers Pipeline Team, have studied a southern route approximately following  
29 a route along the Trans Alaska Pipeline System from Pump Station One to Delta Junction and

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1 along the Alaska Highway through Alaska and Canada to the lower 48 states and a northern  
2 route off the shore of the Arctic National Wildlife Refuge in the Beaufort Sea, and have  
3 concluded that neither is sufficiently economic, given the magnitude of the risks associated  
4 with the project; however, at least one producer has indicated a willingness to proceed further  
5 if federal and state enabling legislation with provisions to mitigate long-term natural gas price  
6 risks and for fiscal certainty and incentives is enacted;

7 (6) the major producers have proposed new federal enabling legislation that  
8 they believe will expedite the construction and operation of a natural gas pipeline from the  
9 North Slope to the lower 48 states;

10 (7) in addition to the state's receipt of revenue from taxes and royalties,  
11 Alaskans will benefit from the commercialization of Alaska North Slope natural gas through  
12 opportunities for in-state use of the natural gas and for participation by Alaskans in  
13 construction, maintenance, and operation of a natural gas pipeline project;

14 (8) because of the high cost of providing access to markets for Alaska North  
15 Slope gas, exploration efforts on the North Slope have historically focused on oil; recently,  
16 some companies have expressed interest in gas exploration; if the infrastructure needed to  
17 provide access to market for Alaska North Slope gas were available, new gas exploration  
18 efforts might be initiated on the Alaska North Slope and in other basins that currently remain  
19 largely unexplored for oil and gas; it is vital to the State of Alaska that there be continued and  
20 robust exploration and development of natural gas resources on the Alaska North Slope;

21 (9) Alaskans need a portion of the gas from a natural gas pipeline project for  
22 in-state use; however, it is unlikely that markets will develop within the state that would need  
23 more than a relatively small portion of the volume of gas already discovered on the Alaska  
24 North Slope; it is vital for economic development that Alaska communities and businesses  
25 have access under fair and reasonable terms to the pipeline for in-state use of Alaska North  
26 Slope natural gas;

27 (10) the construction and operation of a natural gas pipeline in the state and  
28 the sale of Alaska North Slope gas is critical to the health and welfare of the state;

29 (11) for a natural gas pipeline project to become economically viable and  
30 competitive, the estimated costs of constructing the project and the associated financial risk  
31 must be reduced significantly; changes in the local, state, and federal tax structure may also be

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1 necessary to make commercialization of the gas resources economically viable by, in part,  
2 structuring tax and royalty incentives related to the project and providing as much clarity and  
3 certainty as possible regarding the taxes that would apply to a project throughout its life;

4 (12) art. IX, sec. 4, Constitution of the State of Alaska, empowers the  
5 legislature to create tax exemptions by general law, and the creation of tax exemptions to  
6 make Alaska North Slope gas commercially viable and competitive is consistent with the  
7 legislature's responsibility under art. VIII, sec. 2, Constitution of the State of Alaska;

8 (13) good faith efforts by producers and other companies engaged in the  
9 design, construction, and operation of the natural gas pipeline voluntarily to provide  
10 employment opportunities for Alaska residents and opportunities for Alaska businesses are in  
11 the long-term interests of the state;

12 (14) there has been a history of costly disputes between producers of oil and  
13 the state over the determination of the production taxes due for oil produced and sold, in part  
14 because of disputes over the definition of terms pertinent to the calculation of the tax;

15 (15) it is in the state's best interest to provide clarity and certainty to the  
16 process of determining a producer's tax and royalty liability, AS 43.82 (Alaska Stranded Gas  
17 Development Act) provides, among other provisions, in AS 43.82.020, 43.82.200, and  
18 43.82.210, mechanisms for the state and the sponsor of a North Slope natural gas pipeline  
19 project to negotiate a contract that could provide that clarity and certainty and resolve other  
20 important issues, including accommodating the interests of affected municipalities.

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

23 FINDINGS, INTENT, AND PURPOSE OF SECTIONS 4 - 6 AND 19. (a) The  
24 Alaska State Legislature finds that

25 (1) the Alaska Railroad Corporation is uniquely suited to serve essential  
26 functions of the state by providing financing for a facility for the transportation of certain  
27 natural gas resources located within the state;

28 (2) providing financing for that facility furthers the purposes of both the state  
29 and the Alaska Railroad Corporation by assuring that the state's natural gas resources will be  
30 transported to their appropriate markets, thus creating revenue for the Alaska Railroad  
31 Corporation and for the state and providing employment opportunities for residents of the

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1 state;

2 (3) the facility also will enhance and improve the state's ability to develop and  
3 transport other natural resources of the state, including oil and gas resources located off the  
4 North Slope of this state; and

5 (4) these results are essential purposes of the state and the achievement of  
6 these purposes is critical to the health and welfare of the state.

7 (b) A purpose of secs. 4 - 6 and 19 of this Act is to clarify the statutory functions and  
8 powers of the Alaska Railroad Corporation by expressly including the power to provide  
9 financing for transportation facilities as described in those sections of this Act.

10 (c) It is the intent of the legislature that

11 (1) secs. 4 - 6 and 19 of this Act be construed broadly to permit the Alaska  
12 Railroad Corporation the greatest flexibility to accomplish the purpose described in (b) of this  
13 section within the limitations set out in those sections of this Act; and

14 (2) other provisions of AS 42.40 in existence before the enactment of secs. 4 -  
15 6 and 19 of this Act be similarly construed to complement the provisions of this Act.

16 \* Sec. 3. AS 38.35 is amended by adding new sections to read:

17 **Sec. 38.35.240. Expeditious priority treatment by state officials and**  
18 **agencies in support of development and construction of an Alaska North Slope**  
19 **natural gas project under this chapter. (a) In the development and construction of**  
20 **an Alaska North Slope natural gas project that requires the grant of a right-of-way**  
21 **lease under this chapter, every state official and agency shall give full cooperation to**  
22 **the commissioner, or to any official to whom delegation of the authority of the**  
23 **commissioner is made by or under law, consistent with the provisions of the law**  
24 **administered by the official or agency, by issuing or granting necessary permits,**  
25 **certificates, authorizations, and similar actions required to be taken at the earliest**  
26 **practicable date, with action to be taken on an expedited basis and, notwithstanding**  
27 **any other provision of law, having precedence over any like matter pending before the**  
28 **official or agency.**

29 (b) In the commissioner's consideration of an application under this chapter  
30 for a lease for the Alaska North Slope natural gas project, the commissioner may limit  
31 the scope of review, analysis, and finding for the applicant's proposed lease

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1 application under this chapter to a particular phase of the project if, in the judgment of  
2 the commissioner, the project is capable of proceeding in discrete phases and

3 (1) the uses and activities involving the project on the land for which  
4 the approval is to be granted are part of that discrete phase;

5 (2) before the next phase of the project may proceed, the commissioner  
6 gives public notice and opportunity for comment about that phase, unless the use or  
7 activity to be approved is subject to a consistency determination under AS 46.40 and  
8 public notice and the opportunity to comment are provided under AS 46.40.096(o);

9 (3) the commissioner's approval is required before the next phase of  
10 the project may proceed; and

11 (4) the commissioner sets out the reasons for proceeding on the  
12 application in discrete phases.

13 (c) In this section, "Alaska North Slope natural gas project" means "North  
14 Slope natural gas pipeline" as set out in AS 38.35.120(a)(1)(B), including the facilities  
15 that are necessary for, and to the extent used for, treating and conditioning the gas to  
16 be transported, and the components of the processing plants associated with natural  
17 gas conditioning, to be constructed or modified to follow generally a route that  
18 parallels the Trans Alaska Pipeline System and the Alaska Highway to the Canadian  
19 border, or to tidewater for liquefied natural gas, and any spur lines to serve people in  
20 the state, to transport natural gas derived from the area of the state lying north of 64  
21 degrees North latitude.

22 Sec. 38.35.245. Judicial review. Notwithstanding AS 38.35.200 and  
23 notwithstanding any other provision of law, with respect to a decision made or action  
24 taken bearing upon the development, construction, and operation of an Alaska North  
25 Slope natural gas project, as described in AS 38.35.240, a person may seek judicial  
26 review of a decision of the commissioner under AS 38.35.100 or 38.35.240 or of any  
27 agency or employee relating to the project only on the grounds provided in  
28 AS 38.35.200(b). The claim for judicial review may be brought only within 60 days  
29 after the making of the decision or taking of the action.

30 \* Sec. 4. AS 42.40.250 is amended by adding a new paragraph to read:

31 (31) provide financing for the acquisition, construction, improvement,

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1 maintenance, equipping, and operation of facilities for the transportation of natural gas  
2 resources within and outside the state without regard to whether the facilities are or  
3 will be owned in whole or in part by the corporation or located on land owned by the  
4 corporation.

5 \* Sec. 5. AS 42.40.630 is amended by adding new subsections to read:

6 (b) Before issuing bonds to provide the financing described in  
7 AS 42.40.250(31) for a facility to be owned in whole or in part by an entity other than  
8 the corporation, the corporation shall enter into a contract, lease, or other form of  
9 agreement that will, in the judgment of the corporation, provide sufficient  
10 consideration to

11 (1) pay the principal of and interest on the bonds as they become due;

12 (2) create and maintain the reserves for the payments that the  
13 corporation considers necessary or desirable; and

14 (3) pay all costs necessary to service or additionally secure the bonds,  
15 including trustee's fees and bond insurance premiums, unless these costs are to be paid  
16 by a party other than the corporation.

17 (c) Before issuing bonds to provide the financing described in  
18 AS 42.40.250(31), whether for a facility to be owned by the corporation or for a  
19 facility to be owned as described in (b) of this section, the corporation shall obtain the  
20 prior approval of the governor.

21 \* Sec. 6. AS 42.40 is amended by adding a new section to read:

22 **Sec. 42.40.695. Public purpose of bonds.** Bonds of the corporation issued to  
23 finance facilities described in AS 42.40.250(31) are issued by a public corporation and  
24 an instrumentality of the state for an essential public and governmental purpose.

25 \* Sec. 7. AS 43.56.010(a) is amended to read:

26 (a) Except as provided in (e) and (f) of this section, an [AN] annual tax of  
27 20 mills is levied each tax year beginning January 1, 1974, on the full and true value  
28 of taxable property taxable under this chapter.

29 \* Sec. 8. AS 43.56.010(b) is amended to read:

30 (b) Except as provided in (e) and (f) of this section, a [A] municipality may  
31 levy and collect a tax under AS 29.45.080 at the rate of taxation that applies to other

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1 property taxed by the municipality. The tax shall be levied at a rate no higher than the  
2 rate applicable to other property taxable by the municipality. A municipality may not  
3 exempt from taxation property authorized to be taxed under this chapter. Exemptions  
4 shall be limited to those in AS 29.45.030, 29.45.050, and AS 43.56.020.

5 \* Sec. 9. AS 43.56.010 is amended by adding new subsections to read:

6 (e) Beginning on the construction commencement date of an Alaska North  
7 Slope natural gas project and continuing through December 31 of the first calendar  
8 year after the calendar year in which the Alaska North Slope natural gas project first  
9 delivers gas to market, an annual tax of three mills is levied on the full and true value  
10 of taxable property used or committed for use on the Alaska North Slope natural gas  
11 project if that property was not taxable property under this chapter before the project's  
12 construction commencement date. The tax levied under this subsection is in place of  
13 all other state and municipal property taxes that may be levied on the property taxed  
14 under this subsection.

15 (f) The provisions of (e) of this section apply only if a taxpayer, or a person  
16 acting under contract with the taxpayer or the project's sponsor,

17 (1) complies with all relevant requirements of 15 U.S.C. 717z (Natural  
18 Gas Act) or 15 U.S.C. 719 - 719o (Alaska Natural Gas Transportation Act of 1976)  
19 and regulations of the Federal Energy Regulatory Commission, as applicable to the  
20 project;

21 (2) complies with all valid federal, state, and municipal laws relating to  
22 hiring Alaska residents and contracting with Alaska businesses to work in the state in  
23 the design, construction, and operation of the project to the extent the residents and  
24 businesses are available, competitively priced, and qualified, and the taxpayer or  
25 project sponsor does not discriminate against Alaska residents or businesses;

26 (3) advertises for available positions in newspapers in the location  
27 where the work is to be performed and in other publications distributed throughout the  
28 state, including in rural areas, and uses Alaska job service organizations located  
29 throughout the state and not just in the location where the work is to be performed in  
30 order to notify Alaskans of work opportunities on the project;

31 (4) within the constraints of law, encourages the owner's contractors to

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1 train and subsequently to hire state residents consistent with (2), (3), and (5) of this  
2 subsection;

3 (5) recruits, within the constraints of law, and employs qualified state  
4 residents as workers on available jobs; the owner shall prepare and submit to the  
5 commissioner of labor and workforce development

6 (A) on an annual basis, a report that sets out in detail the  
7 specific measures that the owner and the owner's contractors have taken or are  
8 planning to take

9 (i) to recruit qualified state residents for available jobs  
10 and that describes job training opportunities; and

11 (ii) to use Alaska businesses;

12 (B) on a quarterly basis, using state data, a report concerning  
13 the use of state residents, including the number of residents hired or employed  
14 during the previous period;

15 (6) makes, as permitted by law, reasonable efforts

16 (A) to employ Alaska firms that are available, competitively  
17 priced, and qualified to perform engineering and construction services; and

18 (B) to fabricate or manufacture in the state needed gas  
19 production and pipeline modules and other facilities;

20 (7) agrees to apply, after the project is placed in service, and does  
21 apply the full amount of the tax reduction provided in (e) of this section to reduce the  
22 applicable tariff;

23 (8) agrees to submit an application under AS 43.82.120; the  
24 application must contain or include a proposed project plan that describes satisfactory  
25 methods and terms for accommodating reasonably foreseeable demand for natural gas  
26 in this state within economic proximity of the project during the term of a proposed  
27 contract to be entered into under AS 43.82, including proposed expansion rules;

28 (9) not later than June 30, 2004,

29 (A) submits an application for the grant of a right-of-way lease  
30 under AS 38.35; and

31 (B) schedules an open season for the natural gas pipeline so

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1 that all potential shippers of North Slope natural gas, whether with respect to  
2 the pipeline's initial capacity or its expansion capacity, have an opportunity to  
3 obtain shipping capacity on the pipeline without undue discrimination or  
4 preference; and

5 (10) requires that its agents and contractors, the agents and contractors  
6 of a person acting under contract, or the agents and contractors of a project sponsor,  
7 negotiate to obtain, where possible, a project labor agreement for the employment of  
8 laborers and mechanics for the construction of the project.

9 (g) The provisions of (f) of this section do not create or abridge individual  
10 rights and do not create a private right of action or claim by any person.

11 \* Sec. 10. AS 43.56.210(2) is amended to read:

12 (2) "construction commencement date" means, for property subject  
13 to tax under this chapter used in the exploration for, production of, or pipeline  
14 transportation of unrefined oil through a facility the construction of which was  
15 begun before April 1, 1974, the earlier of April 1, 1974, or the date the following  
16 occur, and, for all other property subject to tax under this chapter, including  
17 property used in the pipeline transportation of North Slope natural gas through  
18 an Alaska North Slope natural gas project, the date on which all of the following  
19 have occurred:

20 (A) there has been issued to the owner or an agent of the owner  
21 right-of-way permits, leases, and title and other rights in land, and other  
22 approvals, permits, licenses, and certificates, by federal, state, and local  
23 agencies that a reasonable and prudent person would consider adequate to  
24 commence construction of the facilities in the expectation that all other  
25 approvals, permits, licenses, and certificates necessary for the completion of  
26 facilities will be obtained;

27 (B) all approvals, permits, licenses, and certificates are in full  
28 force and effect, unrevoked and without any modification that might jeopardize  
29 the completion or continued construction of the facilities; and

30 (C) no order, judgment, decree, determination, or award of a  
31 federal, state, or local court or administrative or regulatory agency enjoining,

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1 either temporarily or permanently, the construction or the continuation of  
2 construction of the facilities is in effect;

3 \* Sec. 11. AS 43.56.210 is amended by adding new paragraphs to read:

4 (9) "Alaska North Slope natural gas project" means a natural gas  
5 pipeline that originates in the Prudhoe Bay area of the North Slope of Alaska and that  
6 generally follows a route that parallels the Trans Alaska Pipeline System and the  
7 Alaska Highway to the Canadian border or, for liquefied natural gas, to tidewater; the  
8 term

9 (A) includes those portions of any gas processing facilities  
10 described in this paragraph that are used to remove carbon dioxide or other  
11 nonhydrocarbon impurities and to boost pressure, for the purpose of  
12 conditioning gas for immediate shipment in the pipeline described in this  
13 paragraph;

14 (B) does not include facilities, equipment, or other property  
15 (i) to the extent or in the proportion they are used for  
16 the purpose of manufacturing natural gas liquids or miscible injectant;  
17 or

18 (ii) upon which taxes imposed by this chapter have been  
19 paid before the effective date of this paragraph.

20 (10) "average monthly price at the AECO C Hub in Alberta, Canada"  
21 means the price reported under "Alberta Spot Price - AECO C/N.I.T.(7A),"  
22 "US\$/MMBtu," in the "Canadian Gas Price Reporter," published by Canadian  
23 Enerdata Ltd., or, if this price ceases to be reported in that publication or the  
24 publication ceases to be published, the price reported in another publication for gas at  
25 that location, or at another location with an appropriate price adjustment reflecting the  
26 location differential, as the department prescribes by regulation; if the price reported is  
27 not quoted in United States dollars, the department shall prescribe by regulation the  
28 data source and method to be used to convert the reported price into United States  
29 dollars; for purposes of this paragraph, "MMBtu" means a quantity of gas having a  
30 heating value of 1,000,000 British thermal units.

31 \* Sec. 12. AS 43.56 is amended by adding new sections to read:

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1           **Article 2. Tax Surcharge for an Alaska North Slope Natural Gas Project.**

2           **Sec. 43.56.300. Tax repayment surcharge for an Alaska North Slope**  
3 **natural gas project. (a)** An Alaska North Slope natural gas project that was taxed  
4 under AS 43.56.010(e) but is no longer being taxed under that subsection is subject to  
5 a surcharge equal to the lesser of

6                   (1) 10 mills on the full and true value of the project times a fraction,  
7 the numerator of which is the number of months during the previous year when the  
8 average monthly price at the AECO C Hub in Alberta, Canada, for natural gas during  
9 the month is greater than the base price under AS 43.56.310, as adjusted under  
10 AS 43.56.310(b) if applicable, and the denominator of which is 12; or

11                   (2) the sum of the amount determined under AS 43.56.320(b) and the  
12 amount determined under AS 43.56.320(c), minus the cumulative amount collected  
13 under this subsection.

14           (b) The surcharge imposed by (a) of this section is in addition to and shall be  
15 paid in the same manner as the tax imposed by this chapter,

16           (c) Levy and collection of the surcharge levied under (a) of this section is  
17 suspended beginning with the year in which the commissioner finds that the  
18 cumulative amount collected under (a) of this section equals or exceeds an amount  
19 equal to the sum of the amount determined under AS 43.56.320(b) plus the amount  
20 determined under AS 43.56.320(c).

21           (d) The property tax repayment surcharge account is established in the general  
22 fund. The surcharge collected under this section shall be deposited in the property tax  
23 repayment surcharge account.

24           **Sec. 43.56.310. Base price for surcharge; adjustment for inflation. (a)** For  
25 purposes of AS 43.56.300, the base price is \$4.88 per MMBtu of gas at the AECO C  
26 Hub in Alberta, Canada, adjusted for inflation as provided in (b) of this section.

27           (b) To adjust for inflation for a year beginning after January 1, 2010, the base  
28 price set in (a) of this section shall be multiplied by the inflation adjustment factor for  
29 that calendar year, determined under 26 U.S.C. 43(b)(3)(B) (Internal Revenue Code),  
30 as amended, substituting "calendar year ending before the later of January 1, 2010, or  
31 the initial date for the transportation of Alaska natural gas" for "1990."

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**Sec. 43.56.320. Accounting for foregone tax revenue.** (a) Each year in which property used or committed for use on the Alaska North Slope natural gas project is taxed under AS 43.56.010(e), the department shall determine the amount of foregone tax revenue for the state and each affected municipality.

(b) For purposes of this section, foregone tax revenue under AS 43.56.010(b) for a municipality or combination of municipalities occupying the same geographical area in whole or in part, is the lesser of

(1) the product of the municipal mill rate levied that year times the full and true value of the property subject to tax under AS 43.56.010(e); or

(2) the product of a 20 mill rate times the full and true value of the property subject to tax under AS 43.56.010(e).

(c) For purposes of this section, foregone tax revenue under AS 43.56.010(a) and (d) is the product of a 17 mill rate times the full and true value of the property subject to tax under AS 43.56.010(e), less the total amount determined under (b) of this section.

(d) The department shall include property taxed under AS 43.56.010(e) on the annual assessment roll as provided in AS 43.56.090. A taxpayer or a municipality may appeal from the assessment as provided in AS 43.56.110 - 43.56.130.

**Sec. 43.56.330. Distribution of surcharge.** (a) The commissioner shall report to the legislature each year the total amount of foregone property tax revenue for each affected municipality and for the state as determined under AS 43.56.320, less any appropriations to the affected municipality or the state from the property tax repayment surcharge account established in AS 43.56.300(d).

(b) Subject to appropriation by the legislature, each fiscal year, the commissioner shall pay to each affected municipality and the general fund a pro rata share of the amount deposited into the account established in AS 43.56.300(d) during the previous fiscal year. The pro rata share shall be based on the amount determined under (a) of this section.

\* **Sec. 13.** AS 43.82.100 is amended to read:

**Sec. 43.82.100. Qualified project.** Based on information available to the commissioner, the commissioner may determine that a proposal for new investment is

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1 a qualified project under this chapter only if the project

2 (1) is a project that principally involves

3 (A) the processing and transportation of natural gas by  
4 pipeline to one or more markets outside the state, including an Alaska  
5 North Slope natural gas project as that term is defined in AS 38.35.240;

6 (B) [FOR] the export of liquefied natural gas from the state to  
7 one or more other states or countries; or

8 (C) the development of discrete facilities, or portions of  
9 discrete facilities, that are necessary to produce, gather, process,  
10 condition, compress, or distribute natural gas, to be transported to, by, or  
11 from a pipeline or liquefied natural gas project described in (A) or (B) of  
12 this paragraph;

13 (2) would produce at least 500,000,000,000 cubic feet of stranded gas  
14 within 20 years from the commencement of commercial operations; and

15 (3) is capable, subject to applicable commercial regulation and  
16 technical and economic considerations, of making gas available to meet the reasonably  
17 foreseeable demand in this state for gas within the economic proximity of the project.

18 \* Sec. 14. AS 43.82.110 is amended to read:

19 **Sec. 43.82.110. Qualified sponsor or qualified sponsor group.** The  
20 commissioner may determine that a person or group is a qualified sponsor or qualified  
21 sponsor group if the person or a member of the group

22 (1) intends to own an equity interest in a qualified project, intends to  
23 commit gas that it owns to a qualified project, or holds the permits that the department  
24 determines are essential to construct and operate a qualified project; and

25 (2) meets one or more of the following criteria:

26 (A) owns a working interest in at least 10 percent of the  
27 stranded gas proposed to be developed by a qualified project;

28 (B) has the right to purchase at least 10 percent of the stranded  
29 gas proposed to be developed by a qualified project;

30 (C) has the right to acquire, control, or market at least 10  
31 percent of the stranded gas proposed to be developed by a qualified project;

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(D) has a net worth equal to at least 33 percent of the estimated cost of constructing a qualified project;

(E) has an unused line of credit equal to at least 25 percent of the estimated cost of constructing a qualified project;

(F) has entered into a contract or binding precedent agreement to provide gathering, processing, conditioning, compression, transportation, or distribution services for at least 10 percent of the stranded gas proposed to be developed by a qualified project.

\* Sec. 15. AS 43.82.120 is amended by adding a new subsection to read:

(d) For purposes of an application for facilities described in AS 43.82.100(1)(C) that relate to a project, one or more qualified sponsors or qualified sponsor groups may file separate applications for any discrete facility or portion of a discrete facility of a project.

\* Sec. 16. AS 43.82.140 is amended by adding a new subsection to read:

(d) For purposes of an application for facilities described in AS 43.82.100(1)(C) that relate to a project for which application is made under AS 43.82.120(d), the commissioner and the commissioner of natural resources may review and approve applications from one or more qualified sponsors or qualified sponsor groups for any discrete facility or portion of a discrete facility of a project if the commissioner or the commissioner of natural resources finds that the facility or portion of the facility is a necessary part of a comprehensive transportation system described in AS 43.82.100(1)(A) or (B).

\* Sec. 17. AS 43.82.170 is amended to read:

**Sec. 43.82.170. Application deadline.** The commissioner of revenue or the commissioner of natural resources may not act on an application for a contract submitted under AS 43.82.120 unless the application is received by the Department of Revenue no later than June 1, 2003 [JUNE 30, 2001].

\* Sec. 18. AS 44.33 is amended by adding a new section to read:

**Article 5A. Natural Gas Pipeline Impact Assistance.**

**Sec. 44.33.440. Natural gas pipeline impact assistance.** (a) It is the intention of the legislature to provide temporary emergency financial assistance to

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1 municipalities for the purpose of meeting certain extraordinary operating and capital  
2 improvement expenditures necessitated by population growth resulting from natural  
3 gas pipeline development construction. It is the further intention of the legislature that  
4 the state respond promptly to the needs of municipalities that are related to the effect  
5 of natural gas pipeline development.

6 (b) Subject to legislative appropriations for the purpose, the department may  
7 make grants to a municipality that is affected by natural gas pipeline development,  
8 demonstrating extraordinary municipal and educational operating expenditures that are  
9 beyond its reasonable capability to meet from growth in receipts from current  
10 municipal revenue sources. Grants made under this subsection may be expended only  
11 for municipal and educational operating services.

12 (c) Grants made under this section may not be used directly or indirectly to  
13 reduce current municipal tax rates.

14 (d) Where the impact of rapid, sudden population growth threatens to develop  
15 open space land that otherwise would remain free of urban development, the  
16 department may make grants to a municipality affected by natural gas pipeline  
17 development, contributing an equal amount for the acquisition or improvement of  
18 open space or greenbelt lands, recreation facilities, parks, or wildlife refuges. A grant  
19 under this subsection may exceed \$500,000. A grant made under this subsection may  
20 not be used directly or indirectly to reduce current municipal tax rates or to retire  
21 existing bonded indebtedness.

22 (e) Grants under this section may be made only upon application by the  
23 municipality to the department. Each grant application must state the intended use for  
24 which the grant will be expended.

25 (f) A municipality receiving grants under this section shall

26 (1) maintain a separate account for the grants received under this  
27 section;

28 (2) provide for an annual independent audit of the separate account for  
29 grants received under this section; and

30 (3) submit a copy of the independent audit report to the department.

31 (g) The department may adopt regulations necessary to carry out the purpose

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1 of this section.

2 (h) In this section,

3 (1) "department" means the Department of Community and Economic  
4 Development;

5 (2) "municipality" means a home rule or general law city or borough,  
6 including but not limited to a unified municipality;

7 (3) "operating expenditures" means personal services, contractual  
8 services, travel, commodities, and up to \$20,000 for each item of equipment, except  
9 that the term does not include any of these items if the item is part of a capital  
10 improvement expenditure; relocatable classrooms necessary for expanded school  
11 enrollment are not subject to the \$20,000 limitation.

12 \* Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 LEGISLATIVE AUTHORIZATION AND APPROVAL. (a) Subject to the  
15 requirements of AS 42.40.630(b), enacted by sec. 5 of this Act, the Alaska Railroad  
16 Corporation is authorized to issue bonds under the power granted to it in AS 42.40 to finance  
17 the construction of a natural gas pipeline and related facilities for the transportation of natural  
18 gas recovered from the North Slope of this state. The maximum principal amount of bonds  
19 that the Alaska Railroad Corporation may issue under this section is \$17,000,000,000. The  
20 Alaska Railroad Corporation may issue the bonds in a single issuance or in several issuances,  
21 without limitation as to number of issuances or timing, and as the Alaska Railroad  
22 Corporation determines best furthers the purpose of financing the gas pipeline and related  
23 facilities described in this section. The Alaska Railroad Corporation shall negotiate with the  
24 producers of the gas or with one or more other entities as the Alaska Railroad Corporation  
25 considers appropriate, and shall enter into agreements with those producers or one or more  
26 other entities to provide revenue sufficient to accomplish the purposes described in  
27 AS 42.40.630.

28 (b) This section constitutes the approval required by AS 42.40.285 for the issuance of  
29 the bonds described in this section.

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

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- 1           **RETROACTIVITY.** Sections 13 - 17 of this Act are retroactive to July 1, 2001.
- 2           \* **Sec. 21.** Sections 7 - 12 and 18 of this Act take effect January 1, 2003.
- 3           \* **Sec. 22.** Except as provided in sec. 21 of this Act, this Act takes effect immediately under
- 4 AS 01.10.070(c).

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FAX: (907) 465-3886

550 WEST 7<sup>TH</sup> AVENUE, SUITE 1400  
ANCHORAGE, ALASKA 99501-3650  
PHONE: (907) 269-8431  
FAX: (907) 269-8918

April 30, 2002

Pete Kott  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Kott:

I write regarding the Knowles-Ulmer administration's recommendations for changes in House Bill 519, relating to gasoline tax exemptions, currently making its way through the state House of Representatives. As you know, in its testimony to three House committees the Administration has recommended the negotiated framework of the Stranded Gas Development Act (enacted HB 393) for possible tax and royalty incentives for an Alaska natural gas pipeline. We continue to believe that process is the most appropriate for analyzing economic needs for incentives and to secure actions and commitments from a gasoline sponsor that would be of interest to the state.

However, the Legislature is considering a direct, up-front grant of a property tax exemption to provide an incentive to advance a gasoline project. Property taxes have long been recognized in our studies of gasoline projects as one of the more regressive and perhaps single largest tax disincentive to project economics because the tax is collected during construction before revenues are realized. A property tax exemption would be acceptable with the following amendments to HB 519(FIN). The amendments would narrow the scope and cost of the exemptions but still provide an incentive to project sponsors of approximately \$450 million dollars.

1) Tax exemptions should encourage an early start-up.

If the property tax is to provide any incentive at all to a decision to begin the project, there must be an earlier sunset to take advantage of the sizeable tax exemptions provided. We recommend a sunset of July 2008. This would allow six months of further study, 18 months for permitting, and four years of construction. The Finance version provides a sunset for the tax exemption of 2012 plus a possible extension.

2) Allowable project components receiving exemptions should be narrowed.

HB 519(FIN) has one definition of "project" that applies to project phasing, expedited treatment, and property, sales and use tax exemptions. While the project definition for phasing should be broad to achieve its purposes, for the other two purposes we believe a

narrow definition better protects the state's interests. Consequently, we recommend at least two definitions of the "project;" one in the Right of Way Leasing Act (AS 38.35) and a second in the oil and gas property tax statutes (AS 43.56).

A narrower definition than the one contained in the bill is recommended to ensure that existing facilities and new facilities not directly related to gas development are not inadvertently swept into the property tax exemption.

3) Tax exemptions should be limited to construction phase only.

HB 519(FIN) extends tax exemptions for the period of construction and two years after production begins. The length of this exemption—up to six years—seems excessive and is counter to the incentive philosophy that tax relief is most needed during construction prior to production and the project revenues. Once production begins the project should be prepared to pay normal tax obligations. This exemption length also puts added burden on local governments who face added service costs, particularly during the construction phase.

We recommend that the tax exemption be limited to the construction phase only.

4) Municipal impacts should be addressed.

As discussed above, local governments face added impacts and costs of a project of this size, particularly during construction. It is at least during this time when this bill proposes to remove the possibility of added local revenues through property taxes. Consideration should be given to municipalities, which are being asked to forgo property taxes.

The Stranded Gas Development Act provided a formalized role for affected municipalities and contemplated considering tax repayment methods or impact assistance as part of a negotiated contract in lieu of certain taxes. HB 519(FIN) does authorize an impact fund for providing grants to affected communities. But, this fund is currently a "hollow vessel," and to be effective a dependable fund source is needed.

5) Project labor agreement, Alaska hire and use of Alaskan businesses language should be strengthened.

HB 519(FIN) addresses these issues but could go further. Recognizing limitations under law, we recommend stronger language that has been used in other legislation, including the language relating to ANWR in the recent US House version of the energy bill.

April 30, 2002  
Representative Pete Kott  
Page 3

We think these amendments will better meet the goals of providing prudent incentives to advance gasline construction and ensuring benefits for Alaskans. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Pourchot". The signature is fluid and cursive, with a large initial "P" and a checkmark at the end.

Pat Pourchot, Commissioner  
Chair, Governor's Gas Cabinet

Cc: Representatives;  
Eldon Mulder  
Brian Porter  
Hugh Fate  
Beverly Masek  
John Davies  
Scott Ogan  
Eric Croft  
Beth Kerttula  
Mary Kapsner  
Ethan Berkowitz  
Reggie Joule

**Proposed Amendment to HB 519(FIN) Addressing Sunset  
and Coverage of Property Tax Exemption**

Make the following changes to Section 7., subsection (7) on Pages 7-8:

- (7) an interest in taxable property that is part of an Alaska North Slope natural gas project, whether or not, under AS 43.82, the project has been determined by the commissioner of revenue to meet the requirements of AS 43.82.100, from the project's construction commencement date, as determined by the commissioner, until [24 full calendar months after] the project is placed in service, but not later than July 1, 2008 [December 31, 2012, but the commissioner shall extend this date after project construction has commenced if that construction is delayed due to litigation or to shortages of supplies for construction that are not due to or under the control of a taxpayer who is a producer, as that term is defined in AS 31.05.170, or not due to or under the control of a project sponsor]; for purposes of this paragraph, "Alaska North Slope natural gas project" has the meaning given in [AS 38.35.240] AS 43.56.210.

**Proposed Amendment to HB 519(FIN) Limiting Tax Exemptions to the Pipeline  
and Portions of the Conditioning Plant**

\* Sec. \_\_\_\_\_. AS 43.56.210 is amended by adding a new paragraph to read:

(9) "Alaska North Slope natural gas project" means a natural gas pipeline that originates in the Prudhoe Bay area of the North Slope of Alaska and that generally follows a route parallel to the Trans Alaska Pipeline System and the Alaska Highway to the Canadian border or, for liquefied natural gas, to tidewater; "Alaska North Slope natural gas project"

(A) includes those portions of any gas processing plant immediately adjacent to the pipeline described in this paragraph that are dedicated to the removal of carbon dioxide and other non-hydrocarbon impurities, or to boosting pressure, for the purpose of conditioning gas for immediate shipment in the pipeline described in this paragraph;

(B) does not include facilities, equipment, or other property to the extent or in the proportion they are used for the purpose of manufacturing natural gas liquids or miscible injectant, or for preparing gas or other fluids, for injection into a reservoir;

(C) does not include facilities, equipment, or other property that was subject to the tax imposed by this chapter before the effective date of this paragraph.

Substitute references to AS 38.35.240 with references to AS 43.56.210(9) in the following locations: page 8, line 3; page 10, line 16; page 10, line 25; page 11, line 8.

Delete "the exploration for, production of, or" from page 10, lines 22-23.

Administration 5-4-02

**HB 519(FIN) AMENDMENT  
MUNICIPAL REIMBURSEMENT AND IMPACT FUNDING**

- The Amendment would exempt an Alaskan gasline project from the current 20 mill property tax during construction;
- A new temporary 3 mill state property tax would be instituted during the construction period; This would raise approximately \$68 million over the construction period;
- Revenue from this tax would be placed in a natural gas pipeline impact assistance account and used for meeting emergency financial assistance for gasline-related impacts. The grant program currently in the Finance CS would be expanded to include statewide assistance in addition to municipal grants;
- A severance, or production, tax surcharge of \$.06 per Mcf on gas produced for a natural gas project would be levied after the period of construction for the payment of property taxes exempted during the period of construction;
- The surcharge would not take effect unless natural gas prices equalled or exceeded a base price of \$4.88 at the AECO hub in Alberta adjusted for inflation. This parallels the same repayment system contained in the price commodity tax credit provision in the US energy bill pending in the Congress;
- State and local property taxes exempted under this bill would be accounted for and repaid on a pro rata basis from the surcharge tax collected taking into account impact funding received during the time of construction;
- Repayment of \$385 million of exempted property taxes during the period of construction would take approximately five years with prices above the base price;

Administration 5-4-02

**HB 519 (FIN) A M E N D M E N T on**  
**Municipal Reimbursement and Impact Funding**

1 Page 1, lines 6 - 10:

2 Delete all material and insert "relating to state and municipal property taxes for an  
3 Alaska North Slope natural gas project during construction; establishing the natural gas  
4 pipeline impact assistance account and authorizing the uses of the account to respond to  
5 the needs of the state that are impacted by natural gas development; relating to the  
6 property tax repayment surcharge on gas and the distribution of that surcharge;  
7 establishing the repayment surcharge account for the deposit of that surcharge; relating to  
8 the levy of taxes under AS 43.56 for development of that project and the accounting for  
9 foregone tax revenue under AS 43.56;"

10

11 Page 4, line 19:

12 Delete "15"

13 Insert "18"

14

15 Page 5, line 3:

16 Delete "15"

17 Insert "18"

18

19 Page 5, line 7:

20 Delete "15"

21 Insert "18"

22

1 Page 5, line 11:

2 Delete "15"

3 Insert "18"

4

5 Page 7, line 13, through Page 8, line 13:

6 Delete all material and insert:

7 **\*\* Sec. 7. AS 43.55 is amended by adding new sections to read:**

8 **Article 2B. Property Tax Repayment Surcharge on Gas.**

9 **Sec. 43.55.401. Property tax repayment surcharge on gas.** (a) Except as  
10 provided in AS 43.55.405, a producer of gas from a lease or property in the state shall  
11 pay a property tax repayment surcharge of \$.06 per Mcf of gas that is produced from the  
12 lease or property and that enters any intake or tie-in point of an Alaska North Slope  
13 natural gas project north of 64 degrees North latitude, less any gas the ownership or right  
14 to which is exempt from taxation. All producers under this section are subject to the  
15 surcharge regardless of whether the producer owns or owned property subject to the tax  
16 under AS 43.56.010(e).

17 (b) The surcharge imposed by (a) of this section is in addition to and shall be paid  
18 in the same manner as the tax imposed by AS 43.55.011 - 43.55.150.

19 (c) A producer of gas shall make reports of production in the same manner and  
20 under the same penalties as required under AS 43.55.011 - 43.55.150.

21 (d) Imposition and collection of the surcharge levied under (a) of this section is  
22 suspended 90 days after the end of the quarter in which the commissioner finds that the  
23 amount collected under (a) of this section equals or exceeds an amount equal to the sum  
24 of the amount determined under AS 43.56.012(b) plus the amount determined under  
25 AS 43.56.012(c).

26 (e) The property tax repayment surcharge account is established in the general  
27 fund. The surcharge collected under this section shall be deposited in the property tax  
28 repayment surcharge account.

29 **Sec. 43.55.405. Surcharge not imposed.** The surcharge authorized by  
30 AS 43.55.401 is not levied in any month in which the average monthly price at the AECO  
31 C Hub in Alberta, Canada, for Alaska natural gas is less than the base price. The base

1 price is \$4.88 per Mcf of gas adjusted for inflation as provided in this section. For any  
2 year beginning after January 1, 2010, \$4.88 shall be multiplied by the inflation  
3 adjustment factor for that calendar year, determined under 26 U.S.C. 43(b)(3)(B)  
4 (Internal Revenue Code), as amended, substituting the "calendar year ending before the  
5 later of January 1, 2010 or the initial date for the transportation of Alaska natural gas" for  
6 "1990."

7 **Sec. 43.55.410. Distribution of surcharge.** (a) The commissioner shall report  
8 to the legislature each year the total amount of foregone property tax revenue for each  
9 affected municipality and for the state as determined under AS 43.56.012, less any  
10 appropriations to the affected municipality or the state from the account established in  
11 AS 43.55.401(e).

12 (b) Subject to appropriation by the legislature, each fiscal year the commissioner  
13 shall pay to each affected municipality and the general fund a pro rata share of the  
14 amount deposited in the account established in AS 43.55.401(e) in the previous fiscal  
15 year. The pro rata share shall be based on the amount determined under (a) of this  
16 section.

17 **Sec. 43.55.415. Definition.** In AS 43.55.401 - 43.55.415, "Alaska North Slope  
18 natural gas project" has the meaning given in AS 38.35.240.

19 \* **Sec. 8.** AS 43.56.010(a) is amended to read:

20 (a) Except as provided in (e) of this section, an [AN] annual tax of 20 mills is  
21 levied each tax year beginning January 1, 1974, on the full and true value of taxable  
22 property taxable under this chapter.

23 \* **Sec. 9.** AS 43.56.010(b) is amended to read:

24 (b) Except as provided in (e) of this section, a [A] municipality may levy and  
25 collect a tax under AS 29.45.080 at the rate of taxation that applies to other property  
26 taxed by the municipality. The tax shall be levied at a rate no higher than the rate  
27 applicable to other property taxable by the municipality. A municipality may not exempt  
28 from taxation property authorized to be taxed under this chapter. Exemptions shall be  
29 limited to those in AS 29.45.030, 29.45.050, and AS 43.56.020.

30 \* **Sec. 10.** AS 43.56.010 is amended by adding a new subsection to read:

31 (e) Beginning on the construction commencement date of an Alaska North Slope

1 natural gas project and continuing until December 31 of the year in which the Alaska  
2 North Slope natural gas project first delivers gas to market, an annual tax of 3 mills is  
3 levied on the full and true value of taxable property used or committed for use on the  
4 Alaska North Slope natural gas project, if that property was not taxable property taxable  
5 under this chapter before the construction commencement date. The 3 mill tax levied  
6 under this subsection is in place of all other state and municipal property taxes that may  
7 be levied on the property taxed under this subsection. In this subsection, "Alaska North  
8 Slope natural gas project" has the meaning given in AS 38.35.240.

9 \* Sec. 11. AS 43.56 is amended by adding a new a section to read:

10 AS 43.56.012. Accounting for foregone tax revenue. (a) Each year in which  
11 property used or committed for use on the Alaska North Slope natural gas project is taxed  
12 under AS 43.56.010(e), the department shall determine the amount of foregone tax  
13 revenue.

14 (b) For purposes of this section, foregone tax revenue under AS 43.56.010(b) for  
15 a municipality or combination of municipalities occupying the same geographical area in  
16 whole or in part is the lesser of

17 (1) the product of the mill rate levied that year times the full and true  
18 value of the property subject to tax under AS 43.56.010(e); or

19 (2) the product of a 20 mill rate times the full and true value of the  
20 property subject to tax under AS 43.56.010(e).

21 (c) For purposes of this section, the foregone tax revenue under AS 43.56.010(a)  
22 and (d) is the product of a 17 mill rate times the full and true value of the property subject  
23 to tax under AS 43.56.010(e) less the total amount determined under (b) of this section.

24 (d) The department shall include property taxed under AS 43.56.010(e) on the  
25 annual assessment roll as provided in AS 43.56.090, and a taxpayer or a municipality  
26 may appeal from the assessment as provided in AS 43.56.110 - 43.56.130.

27 (e) In this section, "Alaska North Slope natural gas project" has the meaning  
28 given in AS 38.35.240."

29

1 Renumber the following bill sections accordingly.

2

3 Page 8, line 15, following "project, the":

4 Delete "exemptions provided in (a)(7) and (b)(2) of this section do"

5 Insert "reduction in tax provided in AS 43.56.010(c) does"

6

7 Page 12, line 13, following "Assistance":

8 Insert "Account"

9

10 Page 12, line 14, following "assistance"

11 Insert "account"

12

13 Page 12, line 16:

14 Delete "municipalities for the purpose of meeting"

15 Insert "meet"

16

17 Page 12, lines 19 - 20:

18 Delete "municipalities that are related to the effect of"

19 Insert "areas of the state that are impacted by the"

20

21 Page 12, following line 20:

22 Insert the following new material:

23 "(b) There is established in the general fund, the natural gas pipeline impact  
24 assistance account. The proceeds of the tax levied under AS 43.56.101(e) shall be  
25 deposited in the account."

26

27 Page 12, line 21:

28 Delete "(b)"

29 Insert "(c)"

30

31 Following "the purpose,":



1                   Insert "the natural gas pipeline impact assistance account may be used to respond  
2 to the needs of the state that are impacted by natural gas pipeline development. In addition,"

3 Page 12, line 27:

4           Delete "(c)"

5           Insert "(d)"

6

7 Page 12, line 29:

8           Delete "(d)"

9           Insert "(e)"

10

11 Page 13, line 6:

12           Delete "(e)"

13           Insert "(f)"

14

15 Page 13, line 9:

16           Delete "(f)"

17           Insert "(g)"

18

19 Page 13, line 15:

20           Delete "(g)"

21           Insert "(h)"

22

23 Page 14, line 16:

24           Delete "Sections 12 and 13"

25           Insert "Sections 15 and 16"

26

27 Page 14, line 17:

28           Delete "Sections 7 - 11 and 14"

29           Insert "Sections 7 - 14 and 17"

30

- 1 Page 14, line 18:
- 2       Delete "sec. 17"
- 3       Insert "sec. 20"

TESTIMONY OF JOHN ELLWOOD  
BEFORE  
THE ALASKA HOUSE FINANCE COMMITTEE

APRIL 24, 2002

Good afternoon, Mr. Chairman and members of the Committee. For the record, my name is John Ellwood. I am Executive Vice President and Chief Operating Officer of Foothills Pipe Lines Ltd. ("Foothills"). I am testifying on behalf of the Alaskan Northwest Natural Gas Transportation Company ("ANNGTC"). As most of you know, the ANNGTC is a partnership that was formed to obtain the necessary permits and authorizations for, and to build, own and operate, the Alaska Highway Project. I appreciate the opportunity to testify this afternoon on CSHB 519 (FIN).

Because of the size and complexity of an Alaska North Slope natural gas project, issuance of a right-of-way lease for such a project under the Alaska Right-of-Way Leasing Act, AS 38.35, involves unique legal and administrative considerations. As a result, we believe that certain statutory changes are needed or desirable to provide clarity to the process for consideration of a right-of-way lease application for an Alaska North Slope gas project.

In the context of our efforts to finalize a State right-of-way lease for the Alaska Highway Project, certain issues have arisen with respect to obtaining a lease for a gas conditioning facility to condition gas prior to its entering into the linear pipeline. In order to address these issues, Foothills has suggested an amendment to HB 519 that would clarify and confirm the ability of the Commissioner of Natural Resources to phase administrative review, analysis and findings under the Alaska Right-of-Way Leasing Act and that would permit action on our pending lease application at the earliest practicable date. We believe that this change is necessary to add clarity and predictability. We believe that it is in the State's best interest as well.

A lease application for the use of State lands for a gas conditioning facility for the Alaska Highway Project is currently pending under the Right-of-Way Leasing Act. This lease application is separate from the lease application for the linear pipeline.

There are several reasons for pursuing a lease for the conditioning facility separately, both physically and temporally, from a lease for the linear pipeline. The timing of ground-disturbing activities for the conditioning facility differs from that associated with the linear pipeline. Moreover, the stipulations appropriate for the linear pipeline differ significantly from those appropriate for the conditioning facility.

At the present time, considerable uncertainties also remain with respect to the conditioning facility. Until commercial negotiations with the producers are concluded, it will not be known who will construct and/or own the facility; whether custody to the gas would be transferred at the inlet or the outlet of the facility; or to what extent the ANGTS could and/or will utilize a portion of the producers' existing North Slope facilities.

Despite these factors that weigh in favor of prosecuting the application for a gas conditioning facility separately from the application for the linear pipeline, the lack of express authority to phase administrative review, analysis and findings under AS 38.35 for an Alaska North Slope gas project could prevent the Department of Natural Resources ("DNR") from conducting such a phased review, even though it might be in the best interests of the State. Alternatively, in the event DNR was to decide to prosecute the applications separately, under Alaska Supreme Court case law addressing the permissible use of phasing or segmentation in State permitting and land disposal decisions, DNR could be exposed to legal challenge for improper phasing.

In order to address these issues, the amendment we have proposed would provide DNR the necessary authority to limit the scope of its administrative review, analysis and finding for a proposed lease of land that pertains to a discrete phase of an Alaska North Slope natural gas project following a southern route, provided that certain conditions are met. These specified conditions are:

- (i) the only uses to be authorized by the proposed lease are part of that discrete phase;
- (ii) before the next phase of the project may proceed, public notice and the opportunity to comment are provided under regulations adopted by the Commissioner unless the pipeline is subject to a consistency review under AS 46.40 and public notice and the opportunity to comment are provided under AS 46.40.096(c);
- (iii) the Commissioner's approval is required before the next phase of the project may proceed; and
- (iv) the Commissioner describes the reasons for a decision to phase.

These conditions would ensure that the best interests of the State are served by a decision by DNR to phase.

This amendment would not limit the Commissioner's discretion under the Right-of-Way Leasing Act. It does not commit the Commissioner to any particular conclusion. Rather, it simply clarifies the scope of the Commissioner's authority and provides the Commissioner an

important tool to efficiently manage important permitting functions for a very large and complex project.

We appreciate the willingness of the sponsor to incorporate this very important amendment in the committee substitute that is before you today, and we believe that its adoption will provide yet another important indicator of the state's support for providing a clear and expeditious path for permitting a North Slope gas pipeline project.

That concludes my testimony, Mr. Chairman. I would be happy to answer any questions that you or members of the Committee may have.

## ALASKA STATE CHAMBER OF COMMERCE

Testimony on HB 519  
by Pamela LaBolle

Good morning, I am Pam LaBolle, President of the Alaska State Chamber of Commerce. The Alaska State Chamber represents 35 local chambers and 700 businesses, most of whom are small businesses deeply concerned with the economic future of Alaska. As the Voice of Alaska Business and the leading advocate for business headquartered here in Juneau, we always appreciate the opportunity to address bills of importance to the economic development of the state. Our legislative priorities are developed at the grassroots level by our membership through a several month long process of proposal, review and debate. Our top five priorities include urging the legislature and the governor to encourage the producers to proceed with development of a southern gas line route through Alaska.

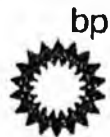
The Chamber speaks in favor of HB 519 and urges its passage. Alaska absolutely needs a gas pipeline. For our members to have their businesses thrive or even just stay viable Alaska's resources must be developed. It sometimes seems that people outside our state have a much greater say in what happens in our state than we do. With the defeat of ANWR in Congress just yesterday, there are no other large developments on the horizon that will spur the growth of our economy in the near term. Our executive committee meets monthly around the state often in smaller communities. As a result, we are very concerned about the state's economy. What is the state doing to encourage economic growth, to try to have a hand in our own destiny.

While the final results of the producers' study haven't been released yet, it should be apparent to everyone that this is a project of enormous cost and risk. The state and local governments would benefit greatly for years to come if we can encourage the producers to take the risks inherent in this huge project and develop the North Slope gas resources by building a project through Alaska. The temporary tax exemption provided by this bill should be looked upon as an investment by the state and municipalities to encourage the producers to go forward with a project that will create jobs, benefit municipalities, spur economic opportunity for businesses and start a whole new industry - a gas industry. By revitalizing the Alaska Stranded Gas Development Act and having it apply to this project, the state and producers can create a contract that will assure tax clarity and certainty and protect vital interests of the state and affected municipalities. How often does the state have an opportunity to take such a bold step to encourage large-scale economic growth. Several states and cities around our nation have offered to businesses tax incentives to encourage them to invest. The state should be less concerned with perhaps giving away too much and more concerned with not missing a significant opportunity for economic growth, perhaps the only one in the next few decades. Thank you.

# Alaska Producer Pipeline Update

for  
[rollout audience]

April, 2002



ExxonMobil



# Outline of Information

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- Overview and Conclusions
- Project Design and Technology
- Updated Project Feasibility
- Wrap-up



# Outline of Information

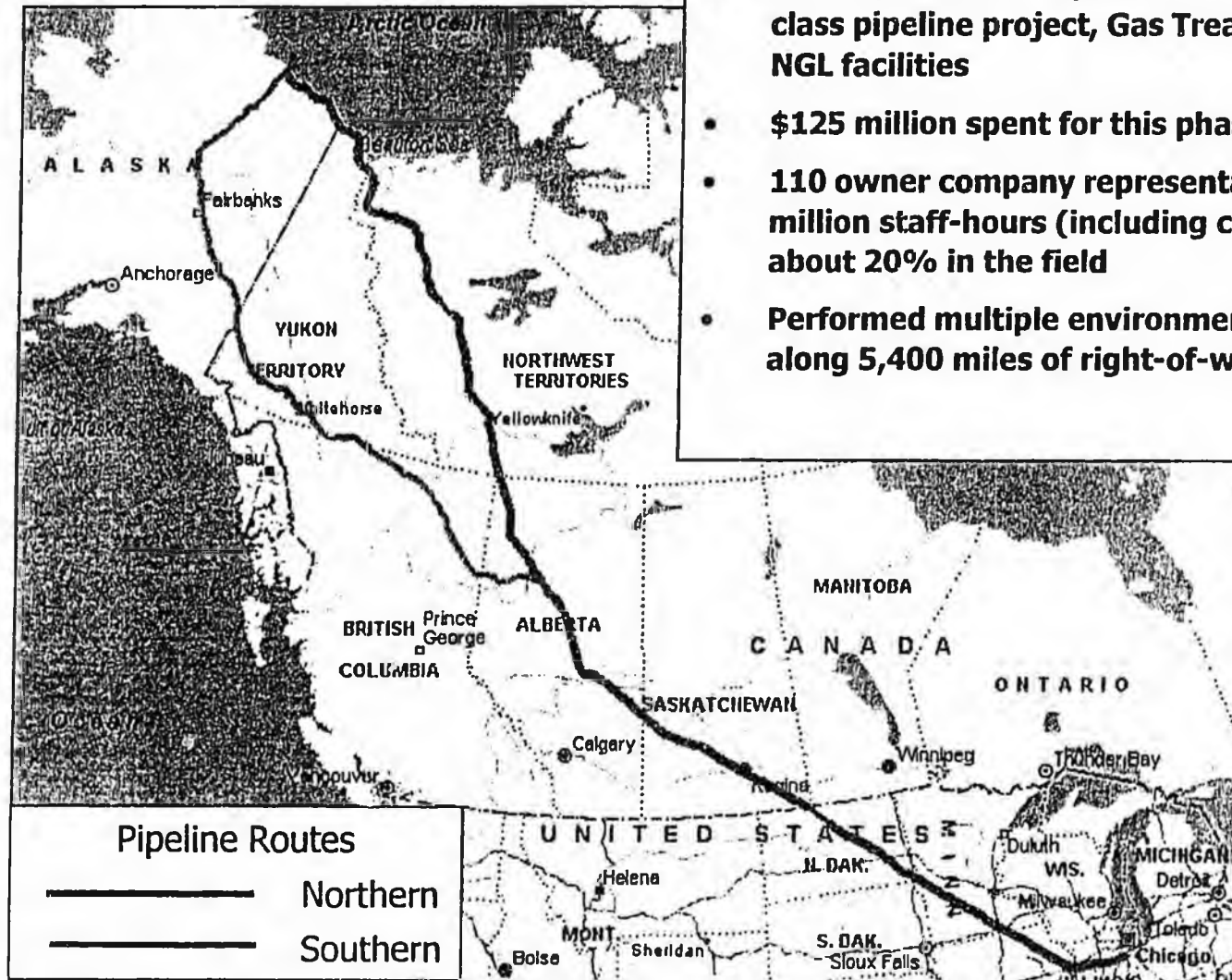
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# Project Overview

- **Developed feasibility cost estimates for a world class pipeline project, Gas Treatment Plant, & NGL facilities**
- **\$125 million spent for this phase of the project**
- **110 owner company representatives and over 1 million staff-hours (including contractors) with about 20% in the field**
- **Performed multiple environmental field studies along 5,400 miles of right-of-way**



# Conclusions

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- Project currently not commercially viable
  - Risks outweigh rewards
  - Substantial additional engineering work not justified at this time
  - Future activity must match progress with governments and commercial viability
- Governments will play a key role in reducing project cost, schedule risk
  - US Federal regulatory enabling legislation
  - NEB/First Nations regulatory process clarity
  - Alaska fiscal certainty



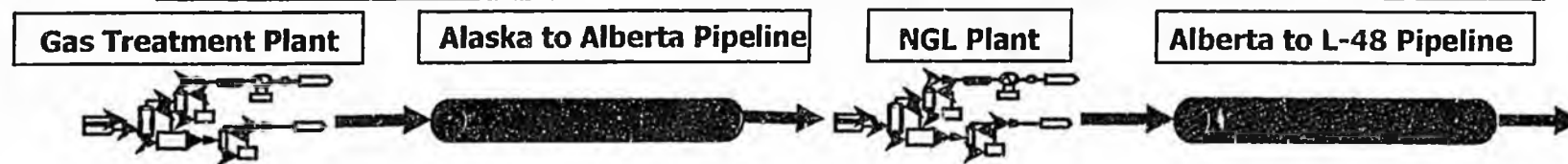
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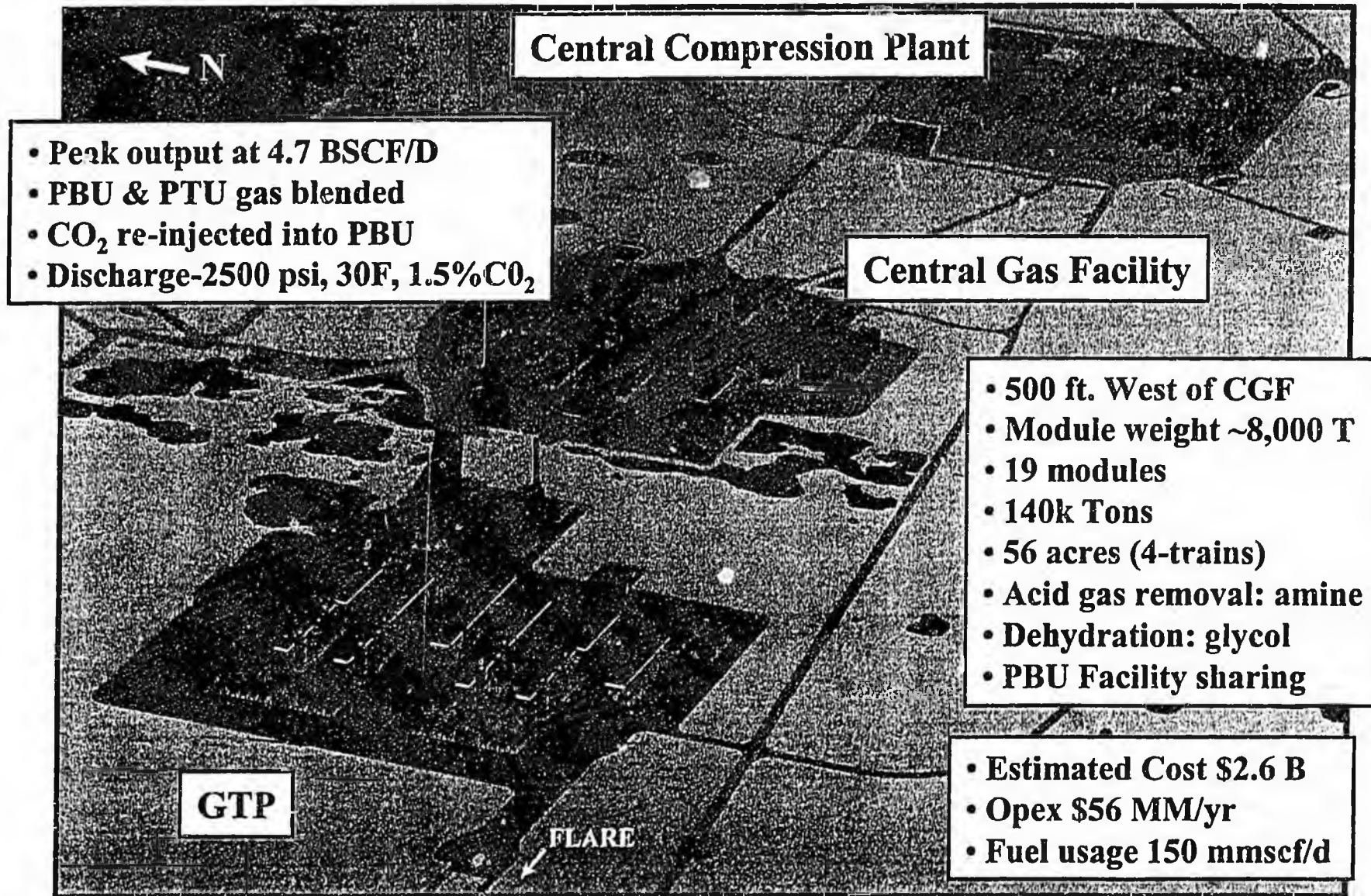


# Statistical Summary (Alaska to L-48)



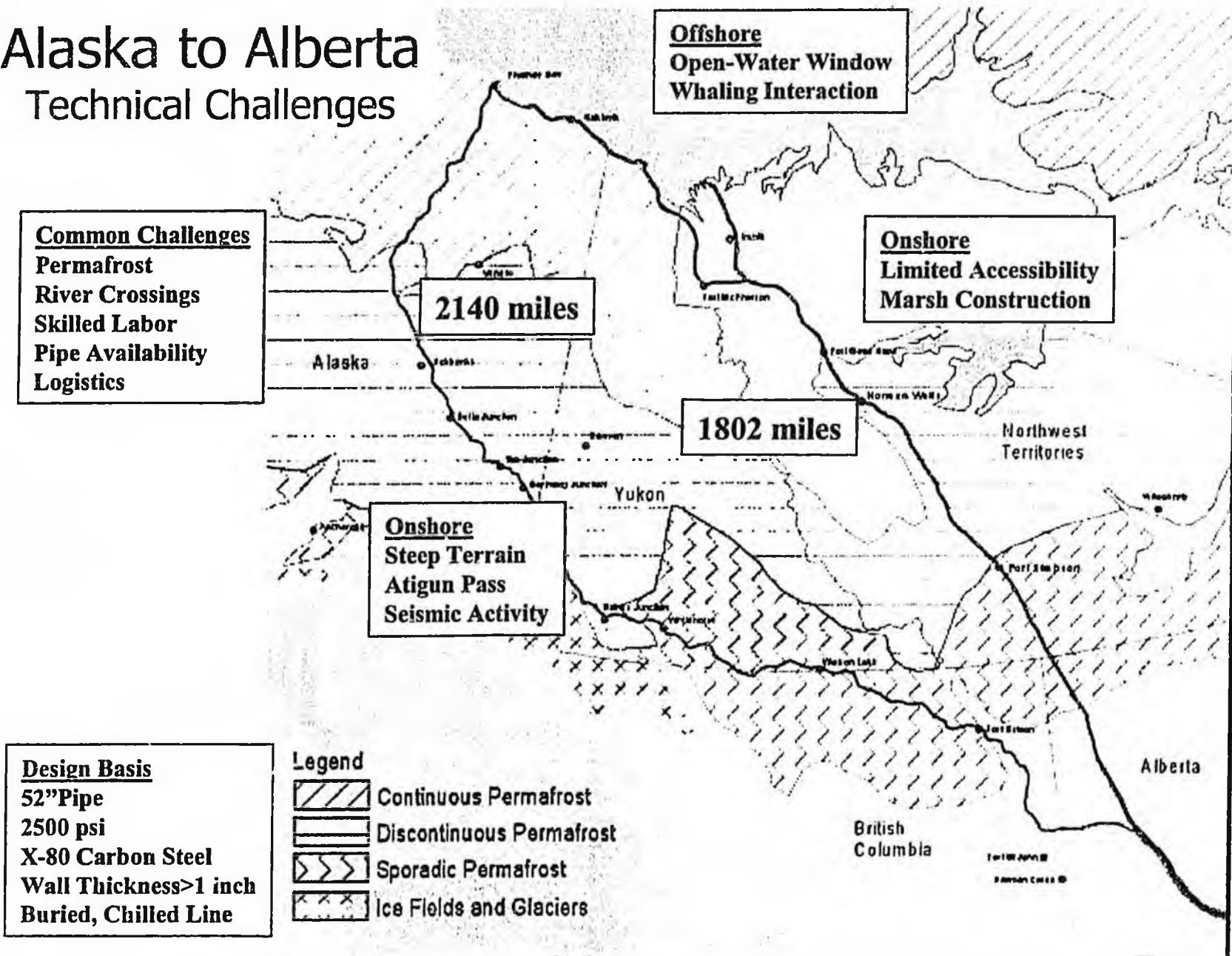
- **Pipeline Design Rate (bcfd) :** **4.5**
- **Expansion Potential (bcfd ) :** **5.6**
- **Compressor Stations :** **24 - 28**
- **Total Pipeline Horsepower :** **1.2 – 1.4 million**
- **Alaska to Alberta (miles) :** **1,800 - 2,100**
- **Alberta to Market (miles) :** **1,500**
- **Pipe Diameter (inches) :** **52**
- **Operating Pressure (psi) :** **2,000 – 2,500**
- **Tons of Steel :** **5 – 6 million**
- **Construction Staff-Hours :** **50 million+**

# Gas Treatment Plant (GTP)

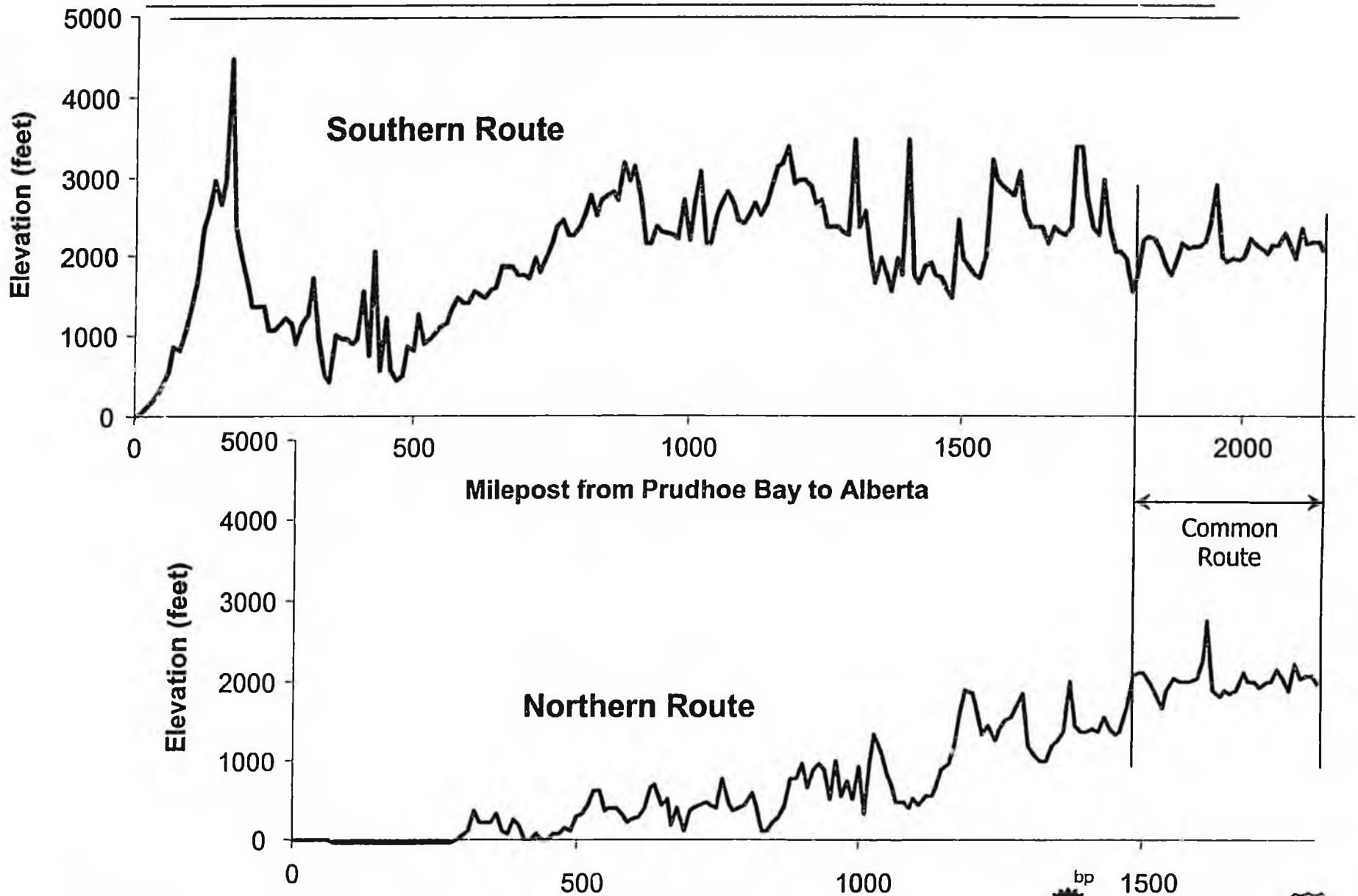


# Alaska to Alberta

## Technical Challenges



# Route Elevation Profiles



April 2002

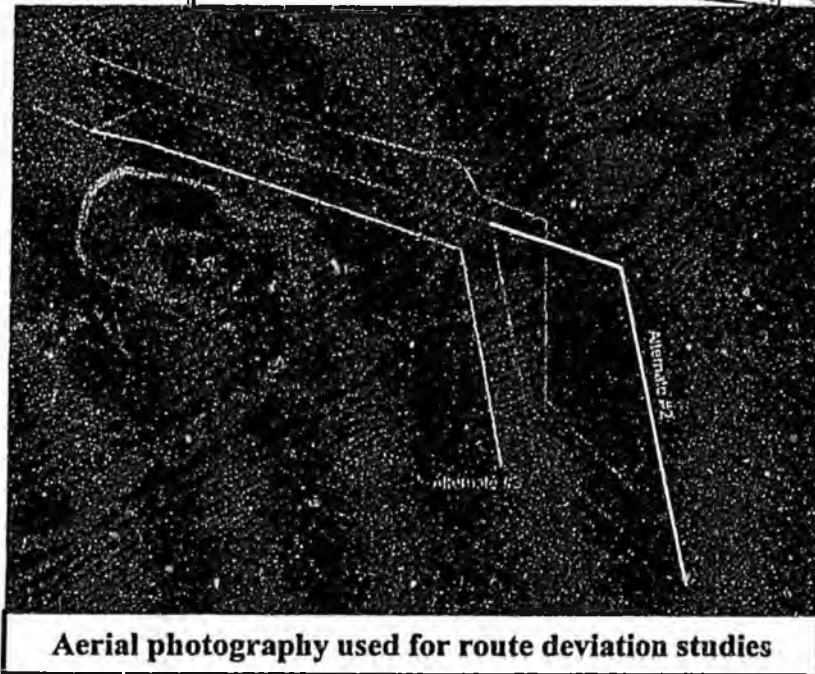
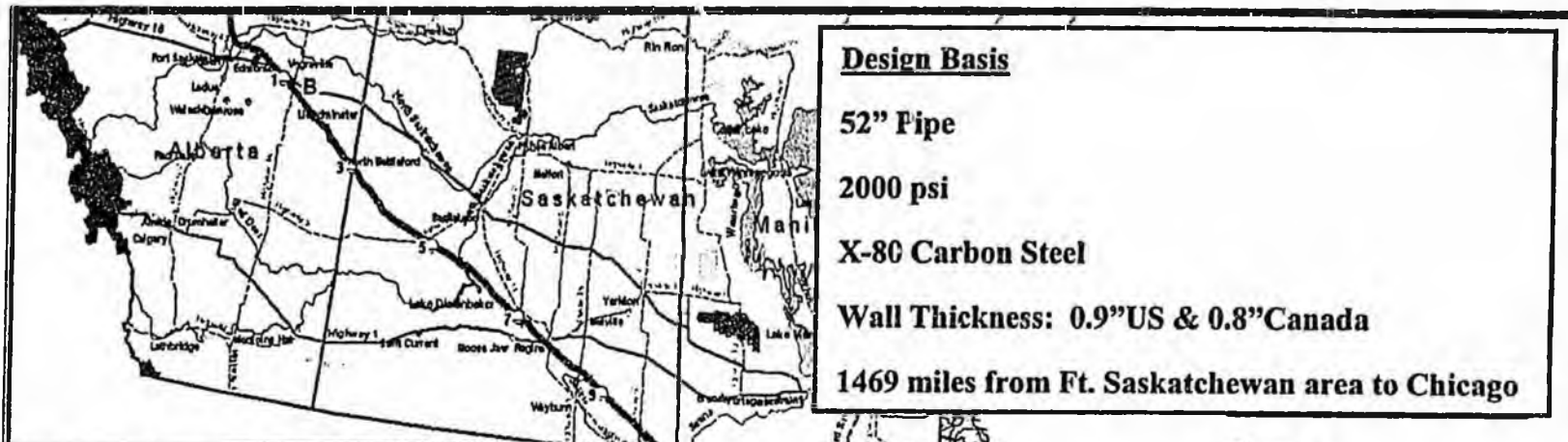
10



1500  
ExxonMobil



# Alberta to Market



# Environmental Field Studies

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- Crews of 2 to 5 people mapping / photographing existing conditions
- Helicopters and fixed wing aircraft used for surveys / access
- Field effort exceeded 200,000 staff hours.



- Vegetation & Soils Surveys
- Wildlife, incl Threatened and Endangered Species
- Wetlands, Fisheries, Hydrology & Water Quality
- Cultural & Archaeology Resources
- Marine Mammal Study
- Traditional Knowledge Consultation

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# Updated Project Feasibility

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- Joint project feasibility work results in significantly improved project definition
  - Better understanding of risks and opportunities
- Updated study results indicate the following:
  - Higher capital costs
  - Increased volumes delivered
  - Lower operating costs
  - Reduced fuel consumption
  - Current capital cost estimates have accuracy to approximately +/- 20%
  - Achieving lower costs and less cost uncertainty will require substantial future investment
- Project continues to have significant risks:
  - Regulatory/political risks
  - Fiscal risks
  - Cost risk
  - Long-term prices / Market volatility

Risk predominantly borne  
by producers, irrespective  
of pipeline ownership

# Capital Costs / Tolls

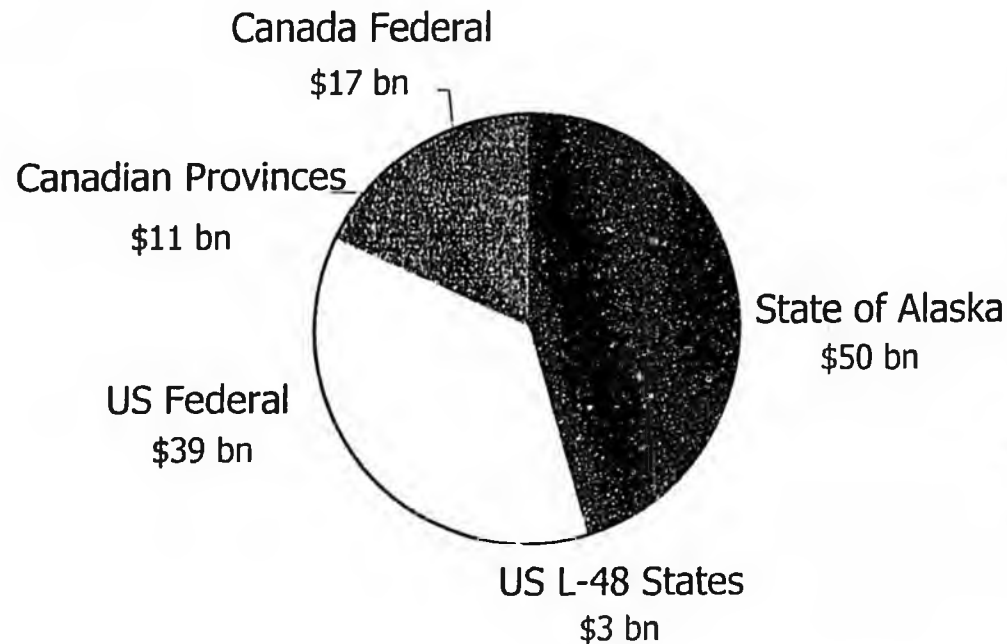
	<b>Southern Route</b>	<b>Northern Route</b>
<b>Capital Cost ('01, \$billion)</b>		
Gas Treatment Plant	2.6	2.6
Alaska to Alberta	11.6	10.8
Alberta to Market	4.6	4.6
NGL Extraction Facilities	0.6	0.6
<b><i>Alaska Project Share</i></b>	<b><i>19.4</i></b>	<b><i>18.6</i></b>
<i>Mackenzie Delta Share</i>	-	1.4
<b><i>Uncertainty</i></b>	<b><i>+/- 20%</i></b>	<b><i>+/- 20%</i></b>
<b>Sales Gas Rate (bcfd)</b>		
Alaska	4.3	4.3
Mackenzie Delta	-	1.0
<b>Total</b>	<b>4.3</b>	<b>5.3</b>
<b>Project Toll (\$/mcf)</b>		
Gas Treatment Plant	0.41	0.41
Alaska to Alberta	1.36	1.28
Alberta to Market	0.62	0.62
<b><i>Toll to Market</i></b>	<b><i>2.39</i></b>	<b><i>2.31</i></b>
<b><i>Range</i></b>	<b><i>1.90 - 2.85</i></b>	<b><i>1.85 - 2.75</i></b>



# Estimated Government Take

## Total Undiscounted Revenue

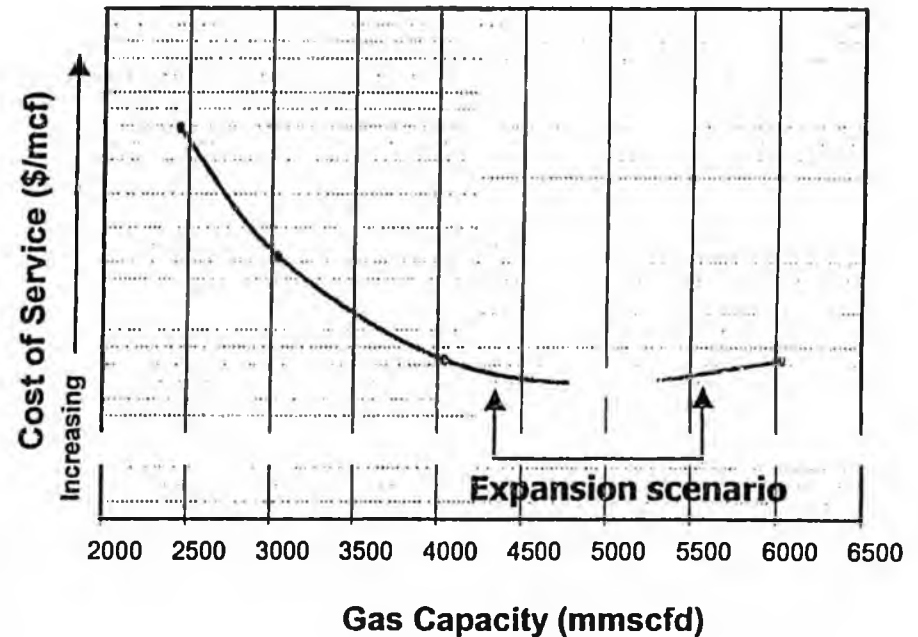
**\$120 bn**



- Revenues are roughly equivalent for Northern and Southern Routes
- Increased government take (vs. Sept. 2001) based on higher system throughput and longer project life
- 51 TCF AK gas reserves produced, including 16 TCF yet-to-be-discovered

# Expansion

- Expandability built into system design
- System debottlenecking likely to yield small volume improvements
- Approximately 1 bcf/d expansion with intermediate compression
- Cost effective expansion facilitated by large diameter pipe
- Expansion will provide access to new gas discoveries



# Viable Government Framework is Essential

- Establish predictable regulatory / fiscal regime.
  - Enact US enabling regulatory legislation
  - Progress predictable fiscal framework in Alaska
  - Progress clear and predictable regulatory process in Canada
- These initiatives require support from investors, governments, First Nations, Native communities, shippers, marketers and consumers.
  - Creates best possible structure for successful Alaska pipeline
- Significant forward expenditure will require predictable government framework.
  - Significant investment required to further reduce cost and reduce cost uncertainty
  - Governments will play a key role in reducing project cost, schedule risk
  - Avoid mandates
- Once government framework is established, commercially viable pipeline project still must be identified.



# U.S. Enabling Regulatory Legislation

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## What is it?

- Language currently contained in Senate Energy Bill
  - Amendments may add risk/costs
- Available to any sponsor
  - New legislation will not preclude ANGTS Group from proceeding under ANGTA
  - ANGTS Group or any other investors can also proceed under this legislation
- Creates market-driven, expedited regulatory process for any viable project(s)
  - Subject to FERC regulation; fair and reasonable terms; open access
  - Subject to all environmental laws / regulations; 18-month EIS completion
- Creates Office in executive branch to coordinate all related federal agency activity

## Why is it needed?

- Provides for federal regulatory certainty
  - Establishes clear process to encourage competitive, market-driven (lowest cost) solutions
  - Allows any number of producer / pipeline partnerships to evolve
  - Current regulatory risk discourages investment
- Expedites environmental review and project authorization
- Provides timely judicial review to reduce uncertainty



# Alaska Fiscal Certainty

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## What is it?

- Provides for certainty in State government take:
  - Predictable disposition of State royalty gas, consistent with firm transportation commitments
  - Clear, simple, predictable gas valuation for royalty / severance tax payments
  - Severance tax rates and Economic Limit Factor (ELF)
  - Ad valorem tax rates and valuation methodology
  - Corporate income taxes
- Ensures stable fiscal terms over life of pipeline project

## Why is it needed?

- Potential for fiscal change creates risk that jeopardizes long payout projects
  - Project already holds significant capital, schedule and market risk
  - Stable fiscal environment encourages long-term investment
  - Avoid future disputes over interpretation



# Predictable NEB / First Nations Regulatory Process

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## What is it?

- Establishes clear regulatory processes between NEB and First Nations.
- Detailed plans for cooperation among Canadian Federal, Provincial, Territorial and First Nations regulatory authorities.
- Predictable, expedited process that fully complies with all environmental and regulatory laws.

## Why is it needed?

- Ensure timely completion of regulatory and environmental assessment process.
- Lack of clear NEB/First Nations permitting process increases project risk.
- Avoid duplication of environmental assessments and conflict among Canadian governmental agencies and First Nations.



# Outline of Information

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# Wrap-up

- **Project currently not commercially viable.**
  - Risk/reward balance
- **Viable government framework is essential.**
  - U.S. enabling regulatory legislation
  - Alaska fiscal certainty
  - Predictable Canadian regulatory process
- **Joint team resources have been redeployed.**
- **Companies will collaborate as appropriate on future work**
  - Trenching trials
  - Input to clear / predictable government framework
  - Cost reduction opportunities



# Seahawks' stadium is Seahawks Stadium

THE ASSOCIATED PRESS

**SEATTLE** — The Seattle Seahawks have picked a temporary name for their new home: Seahawks Stadium.

That name will be used at the new field on the site of the former Kingdome until permanent corporate naming rights are sold, First and Goal Inc. said Friday.

"We are absolutely committed to finding a suitable naming rights partner, but as of yet have not found a satisfactory deal," said Bob Collier, company vice president. "We will launch the stadium this summer with an interim name that can be changed when the naming rights are ultimately sold."

First and Goal was founded by Seahawks owner and Microsoft billionaire Paul Allen in 1997 to manage development and operation of the stadium. When the naming rights are sold, the money will go toward stadium upkeep. Until then, First and Goal will cover the costs.

Taxpayers are paying up to \$300 million of the cost of the \$430 million stadium, scheduled for completion in July. First and Goal has the right to name the stadium, with the deal subject to review by the Public Stadium Authority Board and a legislative advisory committee.

The Seahawks played two seasons at the University of Washington's Husky Stadium while the new stadium was being built.

The team, which improved from a 6-10 record to a 9-7 mark last season, will switch from the AFC West to the NFC West this coming season. Seattle plays its first pre-season game on August 10.

The Voice of Alaska's Capital City Since 1912

# JUNEAU EMPIRE

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Friday  
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No. 10417

## FBI alerted before 9/11 about flight school applicants

Page 5



## Cameron hits four homers to tie record

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