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HOUSE

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Guttenberg

Conceptual Amendment- commit to provide intake points for explorers

On HB177\M

Sec. 43.90.130 Application Requirements

page 8, line 11

add

(12) commit to provide a minimum of three intake points for new discoveries of natural gas in this state;

#2
a. Anderson

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Guttenberg
Conceptual Amendment- exclude lobbying from qualified costs
On HB177M

page 2, line 30 through page 3, line 6

Sec. 43.90.110(a)(1)(C)

(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter, is incurred by the licensee or the licensee's designated affiliate, and is directly and reasonably related to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, for development of the project, but does not include overhead costs, litigation costs, the cost of an asset or work product acquired by the licensee before the license is issued, civil penalties, criminal penalties, lobbying expenses, or fines.

Amendment #1

- 1 **Guttenberg**
- 2 **Conceptual Amendment- remove gas production tax exemption**
- 3
- 4
- 5 **Sec. 43.90.320 Gas production tax exemption**
- 6 **Page 21-22**
- 7 **Delete page 21, line 16 through page 22, line 9.**

Failed

Amendment # 1
withdrawn

1 Guttenberg

2 Conceptual Amendment- Assess community impacts

3 . age 24, line 25

4
5 Add

6 Sec. 43.90.480 Community impacts. The Legislature recognizes that as a result of
7 construction of an Alaska Natural Gas Pipeline, municipalities and communities will be faced
8 with potential increased demand for public services without increased tax revenue to pay for
9 those services. The Department of Commerce, Community and Economic Development shall
10 develop an assessment of the socio-economic impacts of the Natural Gas Pipeline project.
11 The examination of community impacts should include socio-economic impacts, revenue
12 impacts, subsistence and socio-cultural impacts, and cumulative impacts.

13
14 The Department shall review the Stranded Gas Development Act Municipal Impact Analysis,
15 dated November 8, 2004 (corrected) developed by the Municipal Advisory Group as a basis
16 for developing the socio-economic impact assessment.

17
18 The Department shall also make recommendations to the Legislature about the best way to
19 provide assistance, such as Payment in Lieu of Taxes, or other financial assistance, to
20 impacted communities.

21
22 The Department shall deliver a report and recommendations on municipal and community
23 impacts to the Speaker of the House and President of the Senate of the Alaska Legislature
24 within 30 days after the convening of the 2nd Regular Session of the Alaska Legislature after
25 the date a natural gas pipeline project that provides for delivery points in the state receives a
26 license under 43.90.100, as enacted by sec. 1 of this Act.

Jeli.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 177(O&G)

Page 20, line 23, following "by":

Insert "(A)"

Page 20, line 25, following "project":

Insert " ;or

(B) eliminating the ability of the state to take its royalty in kind for gas in the quantity and volume committed to the firm transportation capacity acquired during the first binding open season of the project, if the person entitled to this election agrees to provide gas for in-state residential and commercial uses at the delivery points described in the license at the same value as would be received by the state if the state receives its royalty in value under subsection 43.93.10(c) (1) with the corresponding distance-sensitive transportation charges; if the lessee or other person exercising this election fails to adequately supply the in-state gas requirements, after reasonable notice, or if the contract effectively prevents the state from exercising its rights with other lessees to switch between taking its royalty in value or in kind because of various unit agreements among lessees, the election is considered to terminate, and the provisions of the original lease relating to the state's taking its royalty gas in kind or in value apply"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 177(O&G)

1 Page 11, line 19, following "state":

2 Insert ", including the value of state income tax or equivalent payment in lieu of tax,
3 supplemental profit-sharing to the state if contractually stipulated, and supplemental profit-
4 sharing to municipalities if contractually stipulated and equitably distributed to all
5 municipalities"

Concept
~~# 11A~~

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 177(O&G)

1 Page 11, line 19, following "state":

2 **Insert** ", including the value of state income tax or equivalent payment in lieu of tax,
3 supplemental profit-sharing to the state if contractually stipulated, ^{11B} and supplemental profit-
4 sharing to ~~municipalities~~ if contractually stipulated and equitably distributed to all
5 municipalities" *Comities*

*Il Wilson ye
New 11A
same 11B*

*11A
11B*

Per person

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12

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 177(O&G)

BY REPRESENTATIVE SEATON

Page 20, line 23, following "by":

Insert "(A)"

Page 20, line 25, following "project":

Insert ";or

(B) eliminating the ability of the state to take its royalty in kind for gas in the quantity and volume committed to the firm transportation capacity acquired during the first binding open season of the project, if the person entitled to this election agrees to provide gas for in-state residential and commercial uses at the delivery points described in the license at the same value as would be received by the state if the state receives its royalty in value under subsection ~~43.93.10~~43.10(c) (1) with the corresponding distance-sensitive transportation charges; if the lessee or other person exercising this election fails to adequately supply the in-state gas requirements, after reasonable notice, or if the contract effectively prevents the state from exercising its rights with other lessees to switch between taking its royalty in value or in kind because of various unit agreements among lessees, the election is considered to terminate, and the provisions of the original lease relating to the state's taking its royalty gas in kind or in value apply"

nh

#13

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 177(O&G)

1 Page 11, line 4, following "section.":

2 Insert "When evaluating each application, the commissioners shall give ^{consider} preference to
3 an application that meets all of the requirements in AS 43.90.130 and may consider
4 applications that fail to meet the requirements in AS 43.90.130 but that address in-state needs,
5 financing, access, and alternatives for expansion of the project."

all
of
these
can

you set up the
the said agency
not a option

the Commission has the final
decision

As a legislator I need to have a
responsibility to my constituents to look at
all proposed

AMENDMENT

14

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 177(O&G)

1 Page 10, line 2, following "applicant.":

2 Insert "However, the commissioner shall first make the information available to the
3 legislature under AS 43.90.170(d)."

4

5 Page 12, following line 6:

6 Insert "(d) After the evaluation of each application under this section, a copy of the
7 application, evaluation, and all information submitted by the applicant, including proprietary
8 information and trade secrets, shall be submitted to each house of the legislature for its
9 review. The legislature shall maintain the confidentiality of information that the applicant
10 claims is proprietary or a trade secret under AS 43.90.150."

11

12 Reletter the following subsection accordingly.

25-GH1060M
4/22/07

AMENDMENT



OFFERED IN THE HOUSE
TO:CSHB177(O&G)

BY REPRESENTATIVE ROSES

Sec. 43.90.140
Pg. 9 Line 14

Delete "**shall**"
Insert "**may**"

AMENDMENT

Handwritten initials/signature

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 5, following line 11:

2 Insert a new subparagraph to read:

3 "(E) if the project proposed by the applicant requires the
4 discovery of additional gas, a timeline for the discovery and development of
5 new gas reserves and a cost estimate for the exploration and development;"

3rd party pipeline

Mid America

Trans Canada

*2-6
No*

AMENDMENT

27 16

OFFERED IN THE HOUSE
TO: CSHB 177(O&G)

BY REPRESENTATIVE GATTO

1 Page 5, following line 11:

2 Insert a new subparagraph to read:

3 "(E) an analysis of how the proposed project may affect the
4 production of oil on the North Slope, including the effect on the rate of
5 production and the affect on the total volume of oil that may be produced;"

Handwritten scribble

yes

Handwritten note in a circle: "aaoc" and "Res. by"

AMENDMENT

17

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&J)

1 Page 8, following line 30:

2 Insert a new paragraph to read:

3 "(19) state whether the project will make gas liquids available in the
4 state for value-added processing;"

5

6 Renumber the following paragraphs accordingly.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 177(O&G)

1 Page 20, line 23, following "by":

2 Insert "(A)"

3

4 Page 20, line 25, following "project":

5 Insert "; or

6 (B) eliminating the ability of the state to switch between taking
7 its royalty in value or in kind for gas in the quantity and volume committed to
8 the firm transportation capacity acquired during the first binding open season
9 of the project, if the person entitled to this election agrees to provide gas for in-
10 state residential and commercial uses at the delivery points described in the
11 license at the same value as would be received by the state if the state receives
12 its royalty in value with the corresponding distance-sensitive transportation
13 charges; if the lessee or other person exercising this election fails to adequately
14 supply the in-state gas requirements, after reasonable notice, the election is
15 considered to terminate, and the provisions of the original lease relating to the
16 state's taking its royalty gas in kind or in value apply"

ALASKA STATE LEGISLATURE
House Resources Committee

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COMMITTEE MEMBER
AMENDMENTS

CSHB 177(O&G)

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 177(O&G)

1 Page 30, following line 21:

2 Insert a new bill section to read:

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

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

11

12 Renumber the following bill sections accordingly.

13

14 Page 31, line 4:

15 Delete "sec. 9"

16 Insert "sec. 10"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 9, line 7:

2 Delete "and"

3

4 Page 9, following line 7:

5 Insert a new paragraph to read:

6 "(20) commit to establish an interest-bearing trust account to hold
7 funds required by a regulatory agency having jurisdiction over the project for the cost
8 of dismantlement, removal, surrender, or abandonment of the project, or for the
9 restoration of the right-of-way in conjunction with the dismantlement, removal,
10 surrender, or abandonment of the project; and"

11

12 Renumber the following paragraph accordingly.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 14, lines 13 - 15:

2 Delete "are necessary as a result of changed circumstances outside the licensee's
3 control and not reasonably foreseeable before the license was issued"

4 Insert "maintain or improve the net present value to the state of the project or the
5 project's likelihood of success"

6

7 Page 14, lines 16 - 17:

8 Delete "and may not diminish the net present value to the state of the project or the
9 likelihood of success for the project"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 3, line 25, following "requirements.":

2 Insert "(a)"

3

4 Page 5, line 24:

5 Delete "section"

6 Insert "subsection"

7

8 Page 6, line 10:

9 Delete "section"

10 Insert "subsection"

11

12 Page 9, following line 10:

13 Insert a new subsection to read:

14 "(b) If an applicant requires an initial rate of natural gas production from an
15 area on the North Slope that is greater than that authorized by the Alaska Oil and Gas
16 Conservation Commission at the time the commissioners issue a request for
17 applications under AS 43.90.120, the applicant is required to file a request with Alaska
18 Oil and Gas Commission for an increase in the rate of production from that area before
19 filing the application."

20

21 Page 11, line 17:

22 Delete "AS 43.90.130(9)"

23 Insert "AS 43.90.130(a)(9)"

1

2 Page 20, line 31:

3 Delete "AS 43.90.130(7)"

4 Insert "AS 43.90.130(a)(7)"

5

6 Page 21, line 5:

7 Delete "AS 43.90.130(7)"

8 Insert "AS 43.90.130(a)(7)"

9

10 Page 22, line 3:

11 Delete "AS 43.90.130(7)"

12 Insert "AS 43.90.130(a)(7)"

13

14 Page 22, line 9:

15 Delete "AS 43.90.130(7)"

16 Insert "AS 43.90.130(a)(9)"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 5, following line 11:

2 Insert a new subparagraph to read:

3 "(E) if the project proposed by the applicant requires the
4 discovery of additional gas, a timeline for the discovery and development of
5 new gas reserves and a cost estimate for the exploration and development;"

*Not to be copied or
reproduced without
the express written
consent of the
Legislative Council*

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 5, following line 11:

2 Insert a new subparagraph to read:

3 "(E) an analysis of how the proposed project may affect the
4 production of oil on the North Slope, including the effect on the rate of
5 production and the affect on the total volume of oil that may be produced;"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GATTO

TO: CSHB 177(O&G)

1 Page 8, following line 30:

2 Insert a new paragraph to read:

3 "(19) state whether the project will make gas liquids available in the
4 state for value-added processing;"

5

6 Renumber the following paragraphs accordingly.

1 **Guttenberg**
2 **Conceptual Amendment- commit to provide intake points for explorers**
3 **On HB177M**

4
5

6 **Sec. 43.90.130 Application Requirements**

7 page 8, line 11

8

9 add

10

11 (12) commit to provide a minimum of three intake points for new
12 discoveries of natural gas in this state;

13

Fixed

10

3/5

AMENDMENT# _____

OFFERED IN THE HOUSE

BY REPRESENTATIVE KAWASAKI

TO: CSHB 177(O&G)

1 Page 30, following line 26:

2 Insert a new bill section to read:

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

5 **CONSEQUENCES FOR A LACK OF FIRM TRANSPORTATION**
6 **COMMITMENTS.** It is the intent of the legislature, that in the event insufficient firm
7 transportation commitments are made during the first binding open season, the State of
8 Alaska will act to secure additional firm transportation commitments, including the
9 consideration of

10 (1) A gas reserves tax; and *ca*

11 (2) Enforcement of oil and gas lease terms

3) other methods to secure our natural resources

4-4
#G

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE KAWASAKI

TO: CSHB 177(O&G)

1 Page 30, following line 21:

2 Insert a new bill section to read:

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

5 CONSISTENCY WITH THE ALASKA NATURAL GAS PIPELINE ACT. It is the
6 intent of the legislature that ~~that~~ the licensed project the commissioners submit to the
7 presiding officer of each house of the legislature under AS 43.90.180, as enacted in sec. 1 of
8 this Act, conforms as closely as possible with 15 U.S.C. 720a et seq. (Alaska Natural Gas
9 Pipeline Act)."

10

11 Renumber the following bill sections accordingly.

12

13 Page 31, line 4:

14 Delete "sec. 9"

15 Insert "sec. 10"

25-GH1060M
4/22/07

AMENDMENT

OFFERED IN THE HOUSE
TO:CSHB177(O&G)

BY REPRESENTATIVE ROSES

Sec. 43.90.140
Pg. 9 Line 14

Delete "shall"
Insert "may"

7 Concept

25-GH1060M
4/22/07

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB177(O&G)

BY REPRESENTATIVE ROSES

Sec. 43.90.130

Pg. 8 Line 31 - Pg. 9 Line 1

Following "applicant"

Delete: "; the affiliates of the applicant; all partners, members of a
joint venture,"

Passed

advised

*Conceptual
#6 amended?*

25-GH1060\M
4/22/07

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB177(O&G)

BY REPRESENTATIVE ROSES

Sec. 43.90.170 130
Pg. 12 Line 8
3 31

*Pipe diam will be
(18" to 30")*

Following "success"

Insert: "which may include multiple design proposals that may include different pipe sizes and capacities"

Approved

#5 #1 #2

25-GH1060\M
4/22/07

AMENDMENT

OFFERED IN THE HOUSE
TO:CSHB177(O&G)

BY REPRESENTATIVE ROSES

Sec. 43.90.250

Sec. 43.90.250 is amended by adding a new title

Commissioner of Alaska Gasline Inducement Act

Pg. 17 Line 27

Following "of"
Insert "commissioner of"

Pg. 17 Line 28

Delete "coordinator"

Pg. 17 Line 31

Following "of"
Insert "commissioner of"

Pg. 18 Line 1

Delete "coordinator"

Pg. 18 Line 6

Following "The"
Insert "commissioner of"

Pg. 18 Line 6

Delete "coordinator"

Pg. 24 Line 31

Following "(2)"
Insert "Commissioner of"

Pg. 24 Line 31

Delete "coordinator and "coordinator""

AMENDMENT

OFFERED IN THE HOUSE
TO:CSHB177(O&G)

BY REPRESENTATIVE ROSES

Sec. 43.90.110
Pg. 3 Line 7

Delete **“an”**

Insert **“the”**

Delete **“coordinator”**

Following **“the”**

Insert **“commissioner of”**

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 177(O&G)

1 Page 10, line 2, following "applicant.":

2 Insert "However, the commissioner shall first make the information available to the
3 legislature under AS 43.90.170(d)."

4

5 Page 12, following line 6:

6 Insert "(d) After the evaluation of each application under this section, a copy of the
7 application, evaluation, and all information submitted by the applicant, including proprietary
8 information and trade secrets, shall be submitted to each house of the legislature for its
9 review. The legislature shall maintain the confidentiality of information that the applicant
10 claims is proprietary or a trade secret under AS 43.90.150."

11

12 Reletter the following subsection accordingly.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 177(O&G)

1 Page 11, line 4, following "section.":

2 Insert "When evaluating each application, the commissioners shall give a preference to
3 an application that meets all of the requirements in AS 43.90.130 and may consider
4 applications that fail to meet the requirements in AS 43.90.130 but that address in-state needs,
5 financing, access, and alternatives for expansion of the project."

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE JOHNSON

TO: CSHB 177(O&G)

1 Page 3, line 25:

2 Delete "requirements"

3

4 Page 3, line 27:

5 Delete "shall"

6 Insert "may"

7

8 Page 9, lines 13 - 15:

9 Delete "the requirements in AS 43.90.130"

10 Insert "review the information provided by the applicant under AS 43.90.130"

11

12 Page 11, line 17, following "(B)":

13 Insert "if"

14

15 Page 11, line 23:

16 Delete "required to"

17 Insert "that may"

18

19 Page 14, lines 15 - 16:

20 Delete "must be consistent with the requirements in AS 43.90.130 and"

21

22 Page 20, lines 30 - 31:

23 Delete "that is required in"

- 1 Insert "to which an applicant has committed under"
- 2
- 3 Page 21, line 5:
- 4 Delete "is not required"
- 5 Insert "did not commit"
- 6
- 7 Page 22, line 3:
- 8 Delete "is required "
- 9 Insert "committed"
- 10
- 11 Page 22, line 8:
- 12 Delete "is not required"
- 13 Insert "did not commit"



National Right to Work Committee

A COALITION OF EMPLOYEES AND EMPLOYERS
NATIONAL HEADQUARTERS BUILDING

April 23, 2007

Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: House Bill 177
Senate Bill 104

POSITION: Oppose

Dear Legislator:

On behalf of the thousands of members and supporters of the National Right to Work Committee in Alaska, I urge you to oppose House Bill 177 and its Senate companion, Senate Bill 104.

H.B. 177 and S.B. 104 would mandate the use of so-called union-only "project labor agreements" which allow only contractors who hand control over their employees to union bosses -- or who are willing to work under rules set up by union officials -- to bid and work on the natural gas pipeline.

If either of these bills passes, open or merit shop contractors will be forced to obey restrictive union work rules, and job classification and arbitration procedures.

The state of Alaska will be telling contractors they must force union-boss "representation" on their employees or they cannot be hired for public projects -- even if they are the lowest bidder.

Workers who, for whatever reason, choose not to support a union in their workplace would be denied the opportunity to work on the very projects their taxes finance.

These discriminatory practices will result in workers being forced to join a union in order to get a job.

This is state-assisted forced unionization, pure and simple.

And because Alaska does not have a Right to Work law, the workers who decide to sacrifice their freedom for employment can then be forced to pay for the unwanted "representation."

"Project labor agreements" are just attempts by union officials to get more workers to pay dues.

By passing H.B. 177 or S.B. 104, not only would you be seriously infringing on the rights of Alaska employees but also you would be allowing union officials to pick the pocketbooks of Alaska taxpayers.

Bidding on state construction projects should be awarded on the basis of merit, or to the lowest bidder, not just on the basis of whether the company's employees pay dues to a union boss.

No Alaska workers should be denied access to projects simply because they choose not to join a union.

So-called "project labor agreements" don't do anything to ensure state construction projects are finished more quickly or efficiently -- if anything, the reverse is true. All they do is allow union officials to force their unwanted monopoly "representation" on more Alaska workers and to fill their coffers with more union dues.

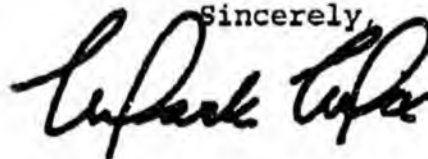
Only Big Labor would gain from these bills. Non-union workers and contractors, taxpayers, and government in Alaska would all lose out.

No employer should be forced by the state government to accept unionization or work under union boss rules, and no Alaska worker should be forced to accept the unwanted "representation" of a union official just to work on a job.

By passing H.B. 177 or S.B. 104, you would be taking away the right of all non-union Alaska workers to work on this important public works project.

I, therefore, urge you once again to reject the union officials' monopoly bargaining power grab by defeating H.B. 177, S.B. 104 or any other bill of this kind at every opportunity.

Sincerely,



Mark Mix
President

MAM/mgt

VIA FAX

TO: Alaska House of Representatives

FROM:

ATTN: Craig W. Johnson
The Honorable Representative

TO: FAX PHONE#: 9074653872

Job Number: 88946316-007-21-0020

TIME: Mon Apr 23 16:37:05 2007

3 pages including cover sheet

CS FOR HOUSE BILL NO. 177(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 4/4/07

Referred: Resources, Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act: providing inducements for the**
2 **construction of a natural gas pipeline and shippers that commit to use that pipeline;**
3 **establishing the Alaska Gasline Inducement Act matching contribution fund; providing**
4 **for an Alaska Gasline Inducement Act coordinator; establishing the gas utility revolving**
5 **loan fund; making conforming amendments; and providing for an effective date."**

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

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

8 **Chapter 90. Alaska Gasline Inducement Act.**

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

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

12 (1) facilitates commercialization of North Slope gas resources of the
13 state; 17

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

3 (3) maximizes benefits to the people of the state ^{of} [from the] development
4 of oil and gas resources in the state; and

5 (4) encourages ^{state} oil and gas lessees and other persons [in the state] to
6 commit natural gas from the North Slope to a gas pipeline system for transportation to
7 markets in this state or elsewhere.

8 Article 2. Alaska Gasline Inducement Act License.

9 Sec. 43.90.100. Gas project. The commissioner of revenue and the
10 commissioner of natural resources, acting jointly, may award an Alaska Gasline
11 Inducement Act license as provided in this chapter. The person awarded a license
12 under this chapter is entitled to the inducement set out in AS 43.90.110.

13 Sec. 43.90.110. Natural gas pipeline project construction inducement. (a)

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

16 (1) subject to appropriation, state matching contributions in ^{an} [a total]
17 amount not to exceed \$500,000,000, paid ^{in total} to the licensee ^{over a} [during the] five-year period;
18 ^{insert} [immediately following the date the license is awarded;] a payment under this paragraph
19 shall be made according to the following:

20 (A) on or before the close of the first binding open season, the
21 state shall ^{match} [contribute the amount of] the licensee's qualified expenditures at ^{the} [a]
22 level specified in the license; however, the state's ^{matching} contribution may not ^{be more than} [exceed]
23 50 percent of the qualified expenditures incurred before the ^{close} [end] of the first
24 binding open season;

25 (B) after the close of the first binding open season, the state ^{shall}
26 ^{match} [may contribute an amount for] the licensee's qualified expenditures at ^a [the] level
27 specified in the license; however, the state's ^{contribution is} contribution may not be greater
28 than 80 percent of the qualified expenditures incurred after the close of the first
29 binding open season;

30 (C) ^{are} [a] qualified expenditure ^{is a} [is] cost that is incurred after the
31 license is issued under this chapter, ^{is incurred} [is incurred] by the licensee or the licensee's

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

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

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

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

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

after this chapter

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

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

amend 7

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

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

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

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

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

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

(D) an economically and technically viable work plan, timeline, and associated budget for developing the proposed project and work associated with the project that includes field work, environmental studies, design and engineering, ^{inserts} and ~~(complying)~~ with all applicable state, federal, and international regulatory requirements that affect the proposed project; the applicant shall provide the following:

insert #8

through Canada

LNG

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (7) commit to

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

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

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

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

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

31 (9) propose a percentage and total dollar amount, to be specified in the

1 license, that will define the level of the state's contribution under
2 AS 43.90.110(a)(1)(A) and (B);

3 (10) commit to propose and support rates for the proposed project and
4 for any North Slope gas treatment plant that the applicant may own, in whole or in
5 part, that are based on a capital structure for rate-making that consists of not less than
6 70 percent debt;

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

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

11 (13) commit to offer firm transportation service to delivery points in
12 this state as part of the tariff regardless of whether any shippers bid successfully in a
13 binding open season for firm transportation service to delivery points in this state, and
14 commit to offer distance-sensitive rates to delivery points in this state consistent with
15 18 C.F.R. 157.34(c)(8);

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

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

22 (16) waive the right to appeal the award to another applicant or the
23 determination under AS 43.90.180(b) that no application merits the issuance of a
24 license; *(require*

25 (17) commit to negotiate, ^{before} ~~prior to~~ construction, a project labor
26 agreement, to assure expedited construction and labor stability for the project by
27 qualified residents of the state;

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

31 (19) provide a detailed description of the applicant; the affiliates of the

1 applicant; all partners, members of a joint venture, and other entities participating with
 2 the applicant in the application and the project proposed by the applicant; and persons
 3 the applicant intends to involve in the construction and operation of the proposed
 4 project; the description must include the nature of the affiliation for each person, the
 5 commitments by the person to the applicant, and other information relevant to the
 6 commissioners' evaluation of the readiness and ability of the applicant to complete the
 7 project presented in the application; and

8 (20) otherwise demonstrate the readiness and ability to perform the
 9 activities specified in the application, including following the detailed work plan,
 10 timeline, and operation within the associated budget.

11 **Sec. 43.90.140. Initial application review; additional information requests;**
 12 **complete applications.** (a) The commissioners shall review each application to
 13 determine whether it meets the requirements in the request for applications and the
 14 requirements in AS 43.90.130. The commissioners shall reject an application that does
 15 not meet the requirements.

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

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

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

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

31 (b) If the commissioners determine that the information submitted by the

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1 applicant is not proprietary or is not a trade secret, the commissioners shall notify the
2 applicant and return the information at the request of the applicant.

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

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

12 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall
13 publish notice and provide a 60-day period for public review and comment on all
14 applications determined complete under AS 43.90.140.

15 (b) Applications received under this chapter are not public records and are not
16 subject to public disclosure under AS 40.25 until the commissioners publish notice
17 under this section. However, information that the commissioners have determined is
18 confidential under AS 43.90.150 may not be made public even after the notice is
19 published under (a) of this section, except as provided in AS 43.90.150. If information
20 is held confidential under this subsection, the applicant shall provide a summary of the
21 information satisfactory to the commissioners and the commissioners shall make the
22 summary available to the public.

23 (c) Information provided by an applicant to the commissioners under this
24 chapter, including information determined by the commissioners to be confidential
25 under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal analyst who
26 serves as head of the legislative finance division, agents and contractors of the
27 legislative auditor and the fiscal analyst, and members of the legislature, upon request
28 and after the individual making the request signs a confidentiality agreement prepared
29 by the commissioners.

30 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners
31 shall evaluate all applications determined to be complete under AS 43.90.150 and rank

1 each application according to the net present value of the anticipated cash flow to the
2 state from the applicant's project proposal using the factors in (b) of this section and
3 weighted by the project's likelihood of success based on the commissioners'
4 assessment of the factors listed in (c) of this section. *

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

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

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

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

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

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

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

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

22 (1) the reasonableness, specificity, and feasibility of the applicant's
23 work plan, timeline, and budget required to be submitted under AS 43.90.130,
24 including the applicant's plan to manage cost overruns, the degree to which the
25 applicant intends to insulate shippers from the effect of cost overruns, and the plan for
26 encouraging shippers to participate in the first binding open season;

27 (2) the financial resources of the applicant;

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

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

1 ability to obtain the necessary equipment;

2 (5) the applicant's record of

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

4 (B) integrity and good business ethics; and

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

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

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

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

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

20 (3) submit the determination along with the findings, supporting
21 documentation, and a copy of the notice published under (2) of this subsection to the
22 presiding officer of each house of the legislature for action as provided in
23 AS 43.90.190.

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

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

30 (d) Within 90 days after a determination under (b) of this section, the
31 commissioners may issue a new request for applications for a license under

1 AS 43.90.120.

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

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

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

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

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

18 (b) If the licensee has the ability at the time the certificate is awarded to
19 finance construction of the project through ownership of rights to produce and market
20 gas resources, firm transportation commitments, or government financing, the licensee
21 shall sanction the project within one year after the effective date of the certificate of
22 public convenience and necessity issued by the regulatory agency with jurisdiction
23 over the project.

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

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

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

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

6 (e) The transfer of any certificate of public convenience and necessity or
7 transfer under (d) of this section as a result of failure to comply with (a), (b), or (c) of
8 this section is at no cost to the state or the state's designee.

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

11 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
12 to the approval of the commissioners, a licensee may amend or modify its project plan
13 if the amendments or modifications are necessary as a result of changed circumstances
14 outside the licensee's control and not reasonably foreseeable before the license was
15 issued. An amendment or modification approved under this section must be consistent
16 with the requirements in AS 43.90.130 and may not diminish the net present value to
17 the state of the project or the likelihood of success for the project.

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

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

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

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

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

31 (c) After a license has been issued and so long as the terms of the license

1 continue to apply, the licensee shall allow the commissioners to

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

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

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

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

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

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

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

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

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

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

23 (c) The commissioners shall provide a written notice to the licensee that
24 identifies a license violation. The commissioners and the licensee shall have 90 days
25 after the date the notice is issued to informally resolve the violation.

26 (c) The commissioners may suspend disbursement of state contributions on
27 the date the notice in (b) of this section is sent to the licensee. The commissioners may
28 resume disbursement on the date that the commissioners determine that the license
29 violation is cured.

30 (d) If the commissioners and the licensee are unable under (b) of this section
31 to resolve the issue of whether a violation has occurred, the commissioners shall

1 provide the licensee with notice that the violation has not been cured and provide the
 2 opportunity for the licensee to be heard. If after notice and hearing the commissioners
 3 determine that the violation has not been cured, the commissioners shall issue a
 4 written decision that is a final administrative action for purposes of appeal to the
 5 superior court.

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

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

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

13 (3) license revocation;

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

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

18 (f) If the license is revoked under (e) of this section, the licensee

19 (1) may not submit an application for the license in the event a request
 20 for applications is issued under AS 43.90.120 after the date of revocation; and

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

24 **Sec. 43.90.240. Abandonment of project.** (a) If the commissioners and the
 25 licensee agree that the project is uneconomic, the project shall be abandoned, the
 26 entitlement provided for in AS 43.90.110 terminated and the state and the licensee no
 27 longer have an obligation under this chapter with respect to the license, except for
 28 requirements imposed on the licensee under (d) of this section and AS 43.90.220.

29 (b) If the commissioners and the licensee do not agree that the project is
 30 uneconomic, the disagreement shall be settled by arbitration administered by the
 31 American Arbitration Association under its Commercial Arbitration Rules, and

1 judgment on the award rendered by the arbitrators may be entered in any court of
 2 competent jurisdiction. In the event of arbitration, each party shall select an arbitrator
 3 and the two arbitrators shall appoint a third arbitrator from the American Arbitration
 4 Association's National Roster who shall serve as the chair of the three member
 5 arbitration panel. If the arbitration panel determines that the project is

6 (1) uneconomical, the project shall be abandoned and the state and the
 7 licensee no longer have an obligation under this chapter with respect to the license,
 8 except for requirements imposed on the licensee under (d) of this section and
 9 AS 43.90.220; or

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

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

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

19 (2) requirements of AS 43.90.440.

20 (d) If the commissioners and the licensee agree that the project is uneconomic
 21 or an arbitration panel makes a final determination that the project is uneconomic, the
 22 licensee shall deliver to the state or the state's designee all project data, engineering
 23 designs, contracts, and permits related to the licensed project on reimbursement by the
 24 state of the net amount of expenditures incurred and paid by the licensee that are
 25 qualified expenditures for the purposes of AS 43.90.110.

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

31 (b) The governor shall appoint a person to the position of Alaska Gasline

1 Inducement Act coordinator. The initial appointment is subject to confirmation by the
 2 legislature and an appointment is subject to reconfirmation by the legislature during
 3 the first regular legislative session after a general election at which a governor is
 4 elected. The person may be removed from the position at the discretion of the
 5 governor.

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

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

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

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

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

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

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

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

31 **Article 3. Resource Inducement.**

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

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

15 (b) The regulations must

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

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

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

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

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

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

31 (3) establish terms under which the state will exercise its authority to

1 switch between taking its royalty gas in value and in kind to ensure that the state's
2 actions do not unreasonably

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

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

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

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

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

26 (d) To claim the inducement under (c) of this section, a lessee or other
27 qualified person shall agree, on an application form provided by the Department of
28 Natural Resources, that the lessee or qualified person, and the affiliates, successors,
29 assigns, and agents of the lessee or qualified person, will not protest or appeal a filing
30 by the licensee to roll in expansion costs of the mainline up to a level that is required
31 in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not have a

1 policy in effect that presumes that rolled-in rates apply to the recovery of expansion
2 costs for the project; the agreement not to protest may not preclude the lessee or other
3 qualified person, or the affiliates, successors, assigns, and agents of the lessee or other
4 qualified person, from protesting a filing to roll in mainline expansion costs that
5 licensee is not required to propose and support under AS 43.90.130(7).

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

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

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

24 (b) The exemption under this section shall be issued by the commissioner of
25 revenue in a certificate signed by the person and the commissioner, and the certificate
26 shall constitute a contract between the person and the state; the certificated exemption
27 may be applied within 10 years immediately following commencement of commercial
28 operations of the project only to production taxes that are levied on North Slope gas
29 shipped through firm transportation capacity the person acquired during the first
30 binding open season.

31 (c) The exemption issued under (b) of this section must contain a contractual

1 commitment that the person and the person's affiliates, successors, assigns, or agents
2 will not protest or appeal a filing by the licensee to roll in mainline expansion costs up
3 to the level that the licensee is required to propose and support under AS 43.90.130(7)
4 if the Federal Energy Regulatory Commission does not have a policy in effect that
5 presumes that rolled-in rates apply to the recovery of expansion costs for the project;
6 the contractual commitment required under this subsection may not preclude the
7 person or the person's affiliates, successors, assigns, and agents, from protesting a
8 filing to roll in mainline expansion costs that the licensee is not required to propose
9 and support under AS 43.90.130(7).

10 **Article 4. Miscellaneous Provisions.**

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

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

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

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

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

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

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

13 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise
14 provided in this chapter, the state grants a licensee assurances that the licensee has
15 exclusive enjoyment of the inducement provided under this chapter before the
16 commencement of commercial operations. If, before the commencement of
17 commercial operations, the state extends to another person preferential royalty, tax, or
18 monetary treatment for the purpose of facilitating the construction of a competing
19 natural gas pipeline project in this state and if the licensee is in compliance with the
20 requirements of the license and with the requirements of state and federal statutes and
21 regulations relevant to the project, the licensee is entitled to payment from the state of
22 an amount equal to three times the total amount of the expenditures incurred and paid
23 by the licensee that are qualified expenditures for the purposes of AS 43.90.110 that
24 the licensee incurred in developing the licensee's project before the date that the state
25 first extended preferential treatment to another person. Upon payment by the state of
26 the amount owed under this section, the licensee shall, at no additional cost to the
27 state, assign to the state or the state's designee all project data, engineering designs,
28 contracts, and permits related to the project that are owned or were acquired by the
29 licensee during the term of the license.

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

1 day.

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

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

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

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

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

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

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

25 **Article 5. General Provisions.**

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

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

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

1 means the person appointed under AS 43.90.250;

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

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

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

10 (6) "equity holder" means the

11 (A) stockholders of a corporation;

12 (B) members of a limited liability company;

13 (C) partners of a partnership;

14 (D) joint venturers of a joint venture;

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

16 or

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

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

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

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

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

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

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

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

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

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

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

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

13 (18) "sanction" means financial commitments to go forward with the
14 project as evidenced by entering into financial commitments of at least
15 \$1,000,000,000 with third parties;

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

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

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

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

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

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

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

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

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

- 1 (1) records of vital statistics and adoption proceedings, which shall be
2 treated in the manner required by AS 18.50;
- 3 (2) records pertaining to juveniles unless disclosure is authorized by
4 law;
- 5 (3) medical and related public health records;
- 6 (4) records required to be kept confidential by a federal law or
7 regulation or by state law;
- 8 (5) to the extent the records are required to be kept confidential under
9 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
10 or retain federal assistance;
- 11 (6) records or information compiled for law enforcement purposes, but
12 only to the extent that the production of the law enforcement records or information
- 13 (A) could reasonably be expected to interfere with enforcement
14 proceedings;
- 15 (B) would deprive a person of a right to a fair trial or an
16 impartial adjudication;
- 17 (C) could reasonably be expected to constitute an unwarranted
18 invasion of the personal privacy of a suspect, defendant, victim, or witness;
- 19 (D) could reasonably be expected to disclose the identity of a
20 confidential source;
- 21 (E) would disclose confidential techniques and procedures for
22 law enforcement investigations or prosecutions;
- 23 (F) would disclose guidelines for law enforcement
24 investigations or prosecutions if the disclosure could reasonably be expected to
25 risk circumvention of the law; or
- 26 (G) could reasonably be expected to endanger the life or
27 physical safety of an individual;
- 28 (7) names, addresses, and other information identifying a person as a
29 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
30 advance college tuition savings program under AS 14.40.803 - 14.40.817;
- 31 (8) public records containing information that would disclose or might

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

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

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

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

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

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

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

22 **(12) records that are**

23 **(A) proprietary or a trade secret in accordance with**
24 **AS 43.90.150;**

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

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

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

30 (1) appropriations made to the fund; and

31 (2) repayments of principal and interest on loans made under this

1 section.

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

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

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

13 (1) in addition to the rates that it is authorized to charge, charge the
14 consumers served by the gas service constructed or extended with the loan proceeds an
15 amount sufficient to pay the interest costs of the loan;

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

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

18 and

19 (B) payments on the unpaid balance of the principal of the loan
20 for each new consumer served by the gas service constructed or extended with
21 the loan proceeds; payments on the unpaid balance of the principal of the loan
22 shall be made at a rate equal to the difference between the actual cost of
23 making the service connection to the consumers and the minimum investment
24 for each consumer required of the utility before a loan is made under (b) of this
25 section.

26 (e) The authority shall

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

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

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

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

4 (h) In this section,

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

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

10 (3) "governmental agency" includes, with respect to the state or federal
11 government or a municipal government, a legislative body, board of regents,
12 administrative body, board, commission, committee, subcommittee, authority, council,
13 agency, public corporation, school board, department, division, bureau, or other
14 subordinate unit, whether advisory or otherwise, of the state, federal, or municipal
15 government.

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

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

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

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

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

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

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

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

HB

177

ADMIN.

AMEND.

BILL SECTION	CORRESPONDING ADMIN. AMENDMENTS
Title	Amendment 1
43.90.010	Amendments 2 & 3 (lines 1-3)
43.90.100	Amendment 3a
43.90.110	Amendment 3 (lines 7-38), 4, and 5
43.90.120	Amendment 6 (lines 1-7)
43.90.130	Amendment 6 (lines 9-16), 7, 8, 9a, 9b, 9c, 10, 11, 11a, 12, 13, 14, 15 (lines 1-10)
43.90.140	Amendment 15 (lines 12-42)
43.90.150	Amendment 15a, 16 (lines 1-12)
43.90.160	Amendment 16 (lines 14-25)
43.90.170	Amendment 17, 18, 19, 20
43.90.180	Amendment 21
43.90.190	Amendment 22
43.90.200	Amendment 23, 24, 25 (lines 1-10), 26 (lines 1-6)
43.90.210	Amendment 25 (lines 12-21)
43.90.220	Amendment 26 (lines 8-29), 27 (lines 1-19)
43.90.230	Amendment 27 (lines 20-41), 28, 29 (lines 1-25), 30 (line 1)
43.90.240	Amendment 29 (lines 27-37), 30 (lines 3-4), 31, 32
43.90.250	Amendment 33 (lines 1-7), 34
43.90.260	Amendment 33 (lines 9-18)
43.90.300	Amendment 35 (lines 1-8), 36, 37 (lines 1-8)
43.90.310	Amendment 35 (lines 11-16), 37 (lines 10-29), 38, 39, 40 (lines 1-20)
43.90.320	Amendment 40 (lines 22-28), 41, 42, 43, 44 (line 1)
43.90.330	Amendment 44 (lines 3-24), 44a (lines 1-15)
43.90.400	Amendment 44 (lines 26-34)
43.90.410	Amendment 44a (lines 17-27)
43.90.420	Amendment 45 (lines 1-5)
43.90.440	Amendment 45 (lines 7-25), 46, 47 (lines 14-27)
43.90.450	Amendment 47 (lines 1-13), 48 (lines 1-5)
43.90.900	Amendment 48 (lines 7-9), 49, 50
43.90.990	Amendment 51
42.45.025	Amendment 52
Uncodified Law	Amendment 53, 54

AMENDMENTS THAT ARE RED-FLAGGED. PRESUMPTION IS THAT THESE ARE THE ONES THAT NEED FURTHER DISCUSSION, EXPLANATION.

marked up version

WORK DRAFT

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25-GH1060\K
Bullock
4/24/07

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

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

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

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

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

8 **Chapter 90. Alaska Gasline Inducement Act.**

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

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

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

L

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

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

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

8 **Article 2. Alaska Gasline Inducement Act License.**

9 **Sec. 43.90.100. Gas project.** (a) The commissioner of revenue and the
10 commissioner of natural resources, acting jointly, may award an Alaska Gasline
11 Inducement Act license as provided in this chapter. The person awarded a license
12 under this chapter is entitled to the inducement set out in AS 43.90.110.

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

15 **Sec. 43.90.110. Natural gas pipeline project construction inducement.** (a)
16 Subject to the limitations of this chapter, a license issued under this chapter entitles the
17 licensee or its designated affiliate to receive

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

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

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

1 binding open season;

2 (C) a qualified expenditure is a cost that is incurred after the
3 license is issued under this chapter, is incurred by the licensee or the licensee's
4 designated affiliate, and is directly and reasonably related to obtaining a
5 certificate ^{or amended} of public convenience and necessity from the Federal Energy
6 Regulatory Commission or the Regulatory Commission of Alaska, as
7 appropriate, for development of the project; "qualified expenditure" does not
8 include overhead costs, litigation costs, the cost of an asset or work product
9 acquired by the licensee before the license is issued, civil penalties, criminal
10 penalties, or fines;

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

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

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

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

22 (b) The commissioners may use independent contractors to assist them in
23 developing the application and in evaluating the applications received.

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

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

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

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

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1 project for transporting natural gas from the North Slope to market, which may
2 include multiple design proposals, including different proposals for pipe diameter,
3 wall thickness, and transportation capacity, and which shall include

4 (A) the route proposed for the natural gas pipeline;

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

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9 (C) an analysis demonstrating the economic and technical
10 viability of the project;

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

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

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

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

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

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

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

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

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

30 (A) conclude, by a date certain that is not later than 36 months
31 after the date the license is issued, a binding open season that is consistent with

1 the requirements of AS 42.06; and

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

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

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

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

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

22 (7) make a commitment that the applicant

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

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

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

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

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

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

30 (D) may, for the recovery of mainline capacity expansion costs,
31 including fuel costs, that, under rolled-in rate treatment, would result in rates

1 that exceed the level in (B) of this paragraph, propose and support the recovery
 2 of those costs through any combination of incremental and rolled-in rates;
 3 (E) will not enter into a negotiated rate agreement that would
 4 preclude the applicant from collecting from any shipper, including a shipper
 5 with a negotiated rate agreement, the rolled-in rates that are required to be
 6 proposed and supported by the applicant under (B) of this paragraph or the
 7 partial rolled-in rates that are required to be proposed and supported by the
 8 applicant under (C) of this paragraph;

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

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

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

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

31 (12) commit to provide a minimum of five delivery points of natural

1 gas in this state;

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

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

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

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

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

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

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

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

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

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

30 (19) provide a detailed description of the applicant and other entities
31 participating with the applicant in the application and the project proposed by the

1 applicant; and persons the applicant intends to involve in the construction and
2 operation of the proposed project; the description must include the nature of the
3 affiliation for each person, the commitments by the person to the applicant, and other
4 information relevant to the commissioners' evaluation of the readiness and ability of
5 the applicant to complete the project presented in the application; and

6 (20) otherwise demonstrate the readiness and ability to perform the
7 activities specified in the application, including following the detailed work plan,
8 timeline, and operation within the associated budget.

9 **Sec. 43.90.140. Initial application review; additional information requests;**
10 **complete applications.** (a) The commissioners shall review each application filed
11 under AS 43.90.130 to determine whether it is consistent with the terms of the request
12 for applications and meets the requirements in AS 43.90.130. The commissioners shall
13 reject an application that does not meet the terms of the request for applications or the
14 requirements in AS 43.90.130.

15 (b) The commissioners may request additional information relating to the
16 application.

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

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

23 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the
24 request of the applicant, information submitted under this chapter that the applicant
25 identifies and demonstrates is proprietary or is a trade secret is confidential and not
26 subject to public disclosure under AS 40.25, unless the applicant is granted a license
27 under this chapter. After a license is awarded, all information submitted by the
28 licensee under this chapter, and retained for the purposes of this chapter, shall be made
29 public.

30 (b) If the commissioners determine that the information submitted by the
31 applicant is not proprietary or is not a trade secret, the commissioners shall notify the

applicant and return the information at the request of the applicant.

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

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

Sec. 43.90.160. Notice, review, and comment. (a) The commissioners shall publish notice and provide a 60-day period for public review and comment on all applications determined complete under AS 43.90.140.

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

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

Sec. 43.90.170. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.140, consider public comments received under AS 43.90.160(a); and rank each application according to the net present value of the anticipated cash flow to the state from the

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1 applicant's project proposal using the factors in (b) of this section and weighted by the
2 project's likelihood of success based on the commissioners' assessment of the factors
3 listed in (c) of this section.

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

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

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

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

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

15 (5) other factors found by the commissioners to be relevant to the
16 evaluation of the net present value of the anticipated cash flow to the state, including
17 the value of state income tax or equivalent payment in lieu of tax and supplemental
18 profit-sharing to the state if contractually stipulated.

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

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

26 (2) the financial resources of the applicant;

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

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