

114TH CONGRESS  
2D SESSION

# S. 3202

To facilitate the transport of additional hydrocarbons to extend the life of the trans-Alaska oil pipeline, to further American energy security, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 13, 2016

Ms. MURKOWSKI (for herself and Mr. SULLIVAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To facilitate the transport of additional hydrocarbons to extend the life of the trans-Alaska oil pipeline, to further American energy security, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Alaska Rails for Re-  
5       sources Act of 2016” or the “AR4RA Act of 2016”.

6       **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

1           (1) to facilitate the transport of additional hydrocarbons to extend the life the trans-Alaska oil  
2 pipeline; and  
3

4           (2) to further the energy security of the United  
5 States.

6 **SEC. 3. DEFINITIONS.**

7       In this Act:

8           (1) **FEDERAL COORDINATOR.**—The term “Federal Coordinator” means the head of the Office of  
9 the Federal Coordinator established by section 6.  
10

11          (2) **RAILS FOR RESOURCES PROJECT.**—The  
12 term “Rails for Resources project” means the construction of either a single- or double-tracked railroad line that runs from—  
13  
14

15               (A) a terminal in Canada; to

16               (B) a terminal near Delta Junction, Alaska or Glennallen, Alaska.  
17

18          (3) **SECRETARY.**—The term “Secretary” means  
19 the Secretary of the Interior.

20          (4) **STATE.**—The term “State” means the State  
21 of Alaska.

22 **SEC. 4. AUTHORIZATION OF RAILROAD CONSTRUCTION IN**  
23 **ALASKA.**

24          (a) **CERTIFICATE OF PUBLIC CONVENIENCE AND NE-**  
25 **CESSITY.**—

1           (1) IN GENERAL.—Subject to subsections (b)  
2           and (c) and section 10901 of title 49, United States  
3           Code, the Surface Transportation Board shall issue  
4           or deny a certificate to an applicant requesting au-  
5           thorization to complete the Rails for Resources  
6           project not later than 60 days after the date of  
7           issuance of the final environmental impact statement  
8           under section 102(2)(C) of the National Environ-  
9           mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

10           (2) MODIFICATIONS.—The certificate issued  
11           pursuant to paragraph (1) may—

12                   (A) approve the application as filed or with  
13                   modifications; and

14                   (B) require compliance with conditions  
15                   (other than labor protection conditions) the  
16                   Board finds necessary in the public interest.

17           (b) CONSIDERATIONS.—In considering an application  
18           under subsection (a), the Surface Transportation Board  
19           shall presume that—

20                   (1) a public need exists to construct and oper-  
21                   ate the proposed Rails for Resources project; and

22                   (2) sufficient downstream capacity will exist to  
23                   transport the bitumen moving through the project to  
24                   a termination processing site in Alaska.

1 (c) AUTHORIZATION TO TRANSPORT.—The railroad  
2 constructed by the Rails for Resources project shall be au-  
3 thorized to transport bitumen and other types of freight.

4 **SEC. 5. ENVIRONMENTAL REVIEWS.**

5 (a) COMPLIANCE WITH NEPA.—The issuance of a  
6 certificate under section 4 shall be treated as a major Fed-  
7 eral action significantly affecting the quality of the human  
8 environment within the meaning of section 102(2)(C) of  
9 the National Environmental Policy Act of 1969 (42 U.S.C.  
10 4332(2)(C)).

11 (b) DESIGNATION OF LEAD AGENCY.—

12 (1) IN GENERAL.—The Surface Transportation  
13 Board shall be the lead agency for purposes of com-  
14 pliance with the National Environmental Policy Act  
15 of 1969 (42 U.S.C. 4321 et seq.).

16 (c) ENVIRONMENTAL IMPACT STATEMENT.—

17 (1) IN GENERAL.—The Surface Transportation  
18 Board shall prepare the environmental impact state-  
19 ment or similar analysis required under the National  
20 Environmental Policy Act of 1969 (42 U.S.C. 4321  
21 et seq.) with respect to the Rails for Resources  
22 project.

23 (2) ENVIRONMENTAL REVIEWS BY FEDERAL  
24 AGENCIES.—In carrying out paragraph (1), the Sur-  
25 face Transportation Board shall incorporate in the

1 environmental impact statement or similar analysis  
2 required under the National Environmental Policy  
3 Act of 1969 (42 U.S.C. 4321 et seq.) the environ-  
4 mental review of each Federal agency that is consid-  
5 ering an aspect of the construction and operation of  
6 the Rails for Resources project that is covered by  
7 the environmental impact statement or similar anal-  
8 ysis for that project.

9 (3) COOPERATION WITH THE SURFACE TRANS-  
10 PORTATION BOARD.—The head of each Federal  
11 agency referred to in paragraph (2) shall—

12 (A) cooperate with the Surface Transpor-  
13 tation Board; and

14 (B) comply with any deadline established  
15 by the Surface Transportation Board in the  
16 preparation of the environmental impact state-  
17 ment or similar analysis required under the Na-  
18 tional Environmental Policy Act of 1969 (42  
19 U.S.C. 4321 et seq.).

20 (4) SATISFACTION OF NEPA REQUIREMENTS.—  
21 The head of each Federal agency referred to in  
22 paragraph (2) shall adopt the environmental impact  
23 statement or similar analysis required under the Na-  
24 tional Environmental Policy Act of 1969 (42 U.S.C.  
25 4321 et seq.) prepared by the Surface Transpor-

1       tation Board under paragraph (1) in satisfaction of  
2       the responsibilities of the Federal agency under sec-  
3       tion 102(2)(C) of the National Environmental Policy  
4       Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to  
5       the Rails for Resources project covered by the envi-  
6       ronmental impact statement or similar analysis.

7               (5) EXPEDITED PROCESS.—The Surface Trans-  
8       portation Board shall—

9               (A) not later than 1 year after the date on  
10       which the Surface Transportation Board deter-  
11       mines that the application for a certificate of  
12       public convenience and necessity submitted  
13       under section 4 is complete, issue a draft envi-  
14       ronmental impact statement or similar analysis  
15       required under the National Environmental Pol-  
16       icy Act of 1969 (42 U.S.C. 4321 et seq.); and

17              (B) not later than 180 days after the date  
18       on which the Surface Transportation Board  
19       issues the draft environmental impact state-  
20       ment or similar analysis referred to in subpara-  
21       graph (A), issue a final environmental impact  
22       statement or similar analysis, unless the Sur-  
23       face Transportation Board, for good cause, de-  
24       termines that the Surface Transportation  
25       Board requires additional time.

1 **SEC. 6. OFFICE OF THE FEDERAL COORDINATOR.**

2 (a) ESTABLISHMENT.—There is established in the ex-  
3 ecutive branch an independent office to be known as the  
4 “Office of the Federal Coordinator”.

5 (b) FEDERAL COORDINATOR.—

6 (1) APPOINTMENT.—The Office of the Federal  
7 Coordinator shall be headed by a Federal Coordi-  
8 nator, who shall be appointed by the President by  
9 and with the advice and consent of the Senate.

10 (2) PERIOD OF APPOINTMENT.—The Federal  
11 Coordinator shall be appointed for the period that  
12 ends on the date that is 1 year following the date  
13 on which the Rails for Resources project is com-  
14 pleted.

15 (3) COMPENSATION.—The Federal Coordinator  
16 shall be compensated at the rate provided for level  
17 III of the Executive Schedule under section 5314 of  
18 title 5, United States Code.

19 (c) DUTIES.—

20 (1) IN GENERAL.—The Federal Coordinator  
21 shall be responsible for—

22 (A) coordinating the expeditious discharge  
23 of all activities by Federal agencies with respect  
24 to the Rails for Resources project; and

25 (B) ensuring the compliance of Federal  
26 agencies with this Act.

1           (2) LIMITATION.—The Federal Coordinator  
2 may not—

3           (A) override—

4                 (i) the implementation or enforcement  
5 of regulations issued by the Surface Trans-  
6 portation Board under section 4; or

7                 (ii) an order by the Surface Transpor-  
8 tation Board to expand the project under  
9 that section; or

10           (B) impose any term, condition, or require-  
11 ment in addition to those terms, conditions, or  
12 requirements imposed by the Surface Transpor-  
13 tation Board or any agency with respect to the  
14 construction, operation, or expansion of the  
15 Rails for Resources project.

16           (d) TEMPORARY AUTHORITIES.—The authorities and  
17 duties of the Federal Coordinator under this section shall  
18 be vested in the Secretary until the later of the date—

19                 (1) on which the Federal Coordinator is ap-  
20 pointed under subsection (b)(1); or

21                 (2) that is 18 months after the date of enact-  
22 ment of this Act.

23           (e) ADMINISTRATION.—

24                 (1) PERSONNEL APPOINTMENTS.—



1           (A) IN GENERAL.—The Federal Coordi-  
2 nator may appoint and terminate such per-  
3 sonnel as the Federal Coordinator determines  
4 to be appropriate.

5           (B) AUTHORITY OF FEDERAL COORDI-  
6 NATOR.—Personnel appointed by the Federal  
7 Coordinator under subparagraph (A) shall be  
8 appointed without regard to the provisions of  
9 title 5, United States Code, governing appoint-  
10 ments in the competitive service.

11 (2) COMPENSATION.—

12           (A) IN GENERAL.—Subject to subpara-  
13 graph (B), personnel appointed by the Federal  
14 Coordinator under paragraph (1)(A) shall be  
15 paid without regard to the provisions of chapter  
16 51 and subchapter III of chapter 53 of title 5,  
17 United States Code (relating to classification  
18 and General Schedule pay rates).

19           (B) MAXIMUM LEVEL OF COMPENSA-  
20 TION.—The rate of pay for personnel appointed  
21 by the Federal Coordinator under paragraph  
22 (1)(A) shall not exceed the rate of basic pay  
23 payable for level III of the Executive Schedule  
24 under section 5314 of title 5, United States  
25 Code.

1           (C) ALLOWANCES.—Section 5941 of title  
2           5, United States Code, shall apply to personnel  
3           appointed by the Federal Coordinator under  
4           paragraph (1)(A).

5           (3) TEMPORARY SERVICES.—

6           (A) IN GENERAL.—The Federal Coordi-  
7           nator may procure temporary and intermittent  
8           services in accordance with section 3109(b) of  
9           title 5, United States Code.

10          (B) MAXIMUM LEVEL OF COMPENSA-  
11          TION.—The rate of pay for an individual em-  
12          ployed on a temporary or intermittent basis  
13          under subparagraph (A) shall not exceed the  
14          daily equivalent of the annual rate of basic pay  
15          payable for level III of the Executive Schedule  
16          under section 5314 of title 5, United States  
17          Code.

18          (f) REVIEWS AND ACTIONS OF OTHER FEDERAL  
19          AGENCIES.—

20          (1) EXPEDITED REVIEWS AND ACTIONS.—To  
21          the maximum extent practicable, each applicable  
22          Federal agency shall expedite all reviews conducted  
23          and actions taken by the Federal agency with re-  
24          spect to the Rails for Resources project.

1           (2) PROHIBITION OF CERTAIN TERMS AND CON-  
2           DITIONS.—Notwithstanding any other provision of  
3           law, a Federal agency may not include in any certifi-  
4           cate, right-of-way, permit, lease, or other authoriza-  
5           tion issued with respect to the Rails for Resources  
6           project any term or condition that the Federal Coor-  
7           dinator determines would prevent or impair in any  
8           significant respect the expeditious construction, op-  
9           eration, or expansion of the Rails for Resources  
10          project.

11          (3) PROHIBITION OF CERTAIN ACTIONS.—Ex-  
12          cept as required by Federal law, a Federal agency  
13          shall not add to, amend, or abrogate any certificate,  
14          right-of-way, permit, lease, or other authorization  
15          issued with respect to the Rails for Resources  
16          project if the Federal Coordinator determines that  
17          the action would prevent or impair in any significant  
18          respect the expeditious construction, operation, or  
19          expansion of the Rails for Resources project.

20          (g) STATE COORDINATION.—

21          (1) IN GENERAL.—The Federal Coordinator  
22          shall offer to enter into a joint surveillance and mon-  
23          itoring agreement with the Governor of the State  
24          similar to the agreement in effect during construc-  
25          tion of the trans-Alaska oil pipeline, to be approved

1 by the President, for the purpose of monitoring the  
2 construction of the Rails for Resources project.

3 (2) PRIMARY RESPONSIBILITY.—The agreement  
4 entered into under paragraph (1) shall provide  
5 that—

6 (A) the Federal Government shall have pri-  
7 mary surveillance and monitoring responsibility  
8 in areas in which the Rails for Resources  
9 project crosses Federal land or private land;  
10 and

11 (B) the State government shall have pri-  
12 mary surveillance and monitoring responsibility  
13 in areas in which the Rails for Resources  
14 project crosses State land.

15 (h) FEES, CHARGES, AND COMMISSIONS.—

16 (1) IN GENERAL.—The Federal Coordinator  
17 may establish, change, and abolish reasonable filing,  
18 license, and service fees, charges, and commissions,  
19 require deposits of payments, and provide refunds in  
20 accordance with section 304 of the Federal Land  
21 Policy and Management Act of 1976 (43 U.S.C.  
22 1734), except that the authority provided to the Sec-  
23 retary under that section shall be considered to be  
24 authority provided to Federal Coordinator for pur-  
25 poses of this section.

1           (2) **AUTHORITY OF SECRETARY.**—Nothing in  
2           subparagraph (A) affects the authority of the Sec-  
3           retary under section 304 of the Federal Land Policy  
4           and Management Act of 1976 (43 U.S.C. 1734).

5           (3) **USE OF FUNDS.**—The Federal Coordinator  
6           may use, without further appropriation, the amounts  
7           collected under paragraph (1) to carry out this sec-  
8           tion.

9           **SEC. 7. JUDICIAL REVIEW.**

10          (a) **EXCLUSIVE JURISDICTION.**—Except for review by  
11          the Supreme Court on writ of certiorari, the United States  
12          Court of Appeals for the District of Columbia Circuit shall  
13          have original and exclusive jurisdiction to determine—

14                 (1) the validity of any final order or action (in-  
15                 cluding a failure to act) of any Federal agency or of-  
16                 ficer under this Act;

17                 (2) the constitutionality of—

18                         (A) any provision of this Act or

19                         (B) any decision made or action taken  
20                         under this Act; or

21                 (3) the adequacy of any environmental impact  
22                 statement prepared under the National Environ-  
23                 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
24                 with respect to any action under this Act.

1 (b) DEADLINE FOR FILING CLAIM.—A claim arising  
2 under this Act shall be brought not later than 60 days  
3 after the date of the decision or action giving rise to the  
4 claim.

5 (c) EXPEDITED CONSIDERATION.—The United  
6 States Court of Appeals for the District of Columbia Cir-  
7 cuit shall set any action brought under subsection (a) for  
8 expedited consideration, taking into account the national  
9 interest of enhancing national energy security by providing  
10 access to the significant oil and mineral reserves to be  
11 brought to market by the Rails for Resources project.

12 **SEC. 8. SENSE OF THE SENATE.**

13 It is the sense of the Senate that the President shall  
14 appoint members for the United States membership for  
15 the United States-Canada Bilateral Commission estab-  
16 lished under the Rails to Resources Act of 2000 (49  
17 U.S.C. note prec. 28101; Public Law 106–570) to study  
18 the feasibility and advisability of linking the rail system  
19 in the State with the North American continental rail sys-  
20 tem.

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