

INITIATIVE PETITION BILL LANGUAGE

by Petition Sponsors

Petition ID: 01GSLN

The All-Alaskan Gasline Initiative: An Act establishing the Alaska Natural Gas Development Authority, to maximize revenues for Alaska and jobs and gas for Alaskans

Posted 9/20/01

Proposed Bill:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

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

FINDINGS AND INTENT. (a) The people find that

1. The Phillips-Marathon liquefaction facility at Nikiski has been supplying Cook Inlet natural gas to Japan and Southcentral Alaska at great profit and without interruption since 1969;
2. Cook Inlet gas supplies are dwindling rapidly with shortfalls anticipated as early as the winter of 2003;
3. Alaska's North Slope contains vast proven reserves of natural gas that have been known for at least 25 years but have never been developed;
4. these gas resources have never been offered for sale, because there has been no way to transport them to market;
5. multiple markets in North America and Asia have recently expressed an interest in receiving a proposal from Alaska for the purchase of Alaska gas;
6. if developed, these natural gas resources could represent substantial economic benefits to Alaskans in jobs, state revenue, and gas for Alaska citizens and businesses;
7. the major North slope leaseholders have competing gas reserves in other parts of the world vying for the same markets, creating a conflict of interest for them in advancing the sales of Alaska gas;
8. the North slope Producers agreed in 1991 to strand North Slope gas until at least 2005;
9. given the producer's conflicts of interest and their historic refusal to make North Slope natural gas available it may be necessary to take the gas back;
10. the permits necessary for an Alaskan gasline project have been pledged to the Alaska Natural Gas Development Authority, operating as a port authority, to facilitate the development of the project;
11. there is sufficient gas for an all-Alaskan gasline project;
12. the Alaska Natural Gas Development Authority offers substantial tax benefits that improve the economics of a gasline project;
13. state ownership of the pipeline and associated facilities has the potential to provide substantial revenues to the state and the Alaska Permanent Fund; and
14. Alaska's constitution requires that Alaska's resources are developed, utilized, and conserved for the maximum benefit of Alaska's people.
15. an all-Alaskan gasline maximizes jobs for Alaskans, revenues for the Alaskan treasury, and access

to gas for Alaskans.

(b) It is the intent of this Act to create the All-Alaskan Natural Gas Development Authority for the purpose of developing, constructing, managing, and operating a gas pipeline from the North Slope of Alaska and a spur line to the Southcentral Alaska natural gas distribution grid.

***Sec. 2.** AS 41 is amended by adding a new chapter to read:

Chapter 41. Alaskan Natural Gas Development Authority.

Article 1. Establishment of the Authority.

Sec. 41.41.010. Establishment of the authority. (a) There is established the Alaska Natural Gas Development Authority, the purpose of which is to provide one or more of the following services and functions in order to bring natural gas from the North Slope to market, including

1. the acquisition and conditioning of North Slope natural gas;
2. the design and construction of the pipeline system;
3. the operation and maintenance of the pipeline system;
4. the design, construction, operation, of other facilities necessary for delivering the gas to market and to Southcentral Alaska; and
5. the acquisition of natural gas market share sufficient to ensure the long-term feasibility of the pipeline system project.

(b) The authority is a public corporation and an instrumentality of the state within the Department of Revenue.

(c) The authority has a legal existence independent of and separate from the state.

(d) The acquisition of natural gas from the North Slope and its delivery to tidewater for shipment to market by the authority is an essential government function of the state.

(e) The authority may not be terminated as long as it has bonds, notes, or other obligations outstanding.

Sec. 41.41.020. Authority governing body. (a) The authority shall be governed by a board of directors consisting of seven members from the general public appointed by the Governor and confirmed by the legislature.

(b) The board shall annually elect a chair, and may elect other officers, from among its members.

Sec. 41.41.030. Term of office. (a) The members of the board shall be appointed for terms of three years, and they may be reappointed.

(b) The terms of the members shall be staggered.

Sec. 41.41.040. Removal and vacancies. (a) The governor may remove a member of the board from office. A removal must be in writing and must state the reason for the removal. A member who is removed may not participate in board business and may not be counted for purposes of establishing a quorum after the member receives written notice of removal. A member who is removed is not entitled to honoraria, per diem, or travel expenses authorized under AS 41.41.060 for work performed after the member receives the written notice of removal.

(b) The governor shall promptly fill a vacancy on the board by appointment. An appointee to a vacancy shall hold office for the balance of the term for which the appointee's predecessor on the board was appointed.

(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board.

Sec. 41.41.050. Quorum and voting. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. Action may be taken only upon the affirmative vote of a majority of the full membership of the board.

Sec. 41.41.060. Compensation of board members; per diem and travel expenses. Members of the board are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 41.41.070. Authority staff. (a) The board may employ and determine the salary of a chief executive officer.

(b) The chief executive officer may, with the approval of the board, select and employ additional staff as necessary.

(c) An employee of the authority, including the chief executive officer, may not be a member of the board. The chief executive officer and the other employees of the board are in the exempt service under AS 39.25.110.

(d) In addition to its employees, the authority may contract for and engage the services of bond counsel, consultants, experts, and financial advisors the corporation considers necessary for the purpose of developing information, furnishing advice, or conducting studies, investigations, hearings, or other proceedings.

Sec. 41.41.080. Legal counsel. The attorney general

1. is the legal counsel for the authority;
2. shall advise the authority in legal matters; and
3. shall represent the authority in legal actions.

Sec. 41.41.090. Conflicts of interest. (a) Members of the board and the chief executive officer of the authority are subject to the provisions of AS 39.50.

(b) If a member of the board or an employee of the authority acquires, owns, or controls an interest, direct or indirect, in an entity or project in which assets of the authority are invested, the member shall immediately disclose the interest to the board. The disclosure is a matter of public record and shall be included in the minutes of the first board meeting following the disclosure.

Sec. 41.41.100. Budget. The revenue earned by operations of the authority must be identified as the source of the operating budget of the authority in the state's operating budget under AS 37.07 (Executive Budget Act).

Sec. 41.41.110. Audits. The Legislative Budget and Audit Committee may provide for an annual post audit and annual operational and performance evaluations of the authority's operations and

budget.

Sec. 41.41.120. Reports and publications. (a) By September 30 of each year, the board shall publish a report of the authority for distribution to the governor and the public. The board shall notify the legislature that the report is available.

(b) The report must include financial statements audited by independent outside auditors and a statement of the amount of money received by the authority from its operations during the period covered.

Sec. 41.41.130. Tax exemption. The security instruments issued by the authority, the transfer of the security instruments, and the income on the security instruments are exempt from all taxes and assessments in the state.

Sec. 41.41.140. Political activities. The resources of the authority may not be used to finance or influence political activities.

Sec 41.41.150. Public access to information. (a) Information in the possession of the authority is a public record, except that information that discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding.

(b) The restrictions of (a) of this section do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Article 2. Powers of the Authority.

Sec. 41.41.200. Powers of the authority. In furtherance of its corporate purposes, in addition to its other powers, the authority may

1. sue and be sued;
2. adopt a seal;
3. adopt, amend, and repeal bylaws and regulations;
4. make and execute contracts and other instruments;
5. in its own name acquire property, lease, rent, convey, or acquire real and personal property; a project site or part of a project site may be acquired by eminent domain;
6. acquire natural gas supplies;
7. issue bonds and otherwise incur indebtedness in accordance with AS 41.41.300 - 41.41.410 in order to pay the cost of a project;
8. accept gifts, grants, or loans from and enter into contracts or other transactions regarding gifts, grants, or loans with a federal agency or an agency or instrumentality of the state, a municipality, private organization, or other source;
9. enter into contracts or agreements with a federal agency, agency or instrumentality of the state, municipality, or public or private individual or entity, with respect to the exercise of its powers;
10. charge fees or other forms of remuneration for the use of authority properties and facilities;
11. defend and indemnify a current or former member of the board or an employee or agent of the authority against the costs, expenses, judgments, and liabilities as a result of actions taken in good faith on behalf of the authority; and
12. purchase insurance to protect its assets, services, and employees against liabilities that may

arise from authority operations and activities.

Article 3. Revenue Bonds and Notes.

Sec. 41.41.300. Bonds and notes of the authority. (a) The authority, by resolution, may issue revenue bonds and bond anticipation notes in order to provide funds to carry out the purposes set out in AS 41.41.010(a).

(b) The principal and interest on the revenue bonds or notes authorized and issued under (a) of this section are payable from authority funds. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of the sale of other bond anticipation notes or, in the event bond or bond anticipation note proceeds are not available, the notes may be paid from other funds or assets of the authority.

(c) Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government, or a corporation, association, institution, or person, or a pledge of money, income, or revenues of the authority from any source.

(d) Bonds or bond anticipation notes of the authority may be issued in one or more series and shall be dated, bear interest at the rate or rates per year or within the maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration provisions, have the rank or priority, be executed in the manner and form, be payable at the times, from the sources, and in the medium of payment and place or places within or outside the state, be subject to authentication by a trustee or fiscal agent, and be subject to the terms of redemption with or without premium, as the resolution of the authority may provide. Bond anticipation notes shall mature at the time or times that are determined by the authority. Bonds shall mature at a time not exceeding a number of years from their date that is determined by the authority. Before the preparation of definitive bonds or bond anticipation notes, the authority may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

(e) Bonds or bond anticipation notes may be sold in the manner and on the terms the authority determines.

(f) If an officer whose signature or a facsimile of whose signature appears on a bond, note, or coupon attached to them ceases to be an officer before the delivery of the bond, note, or coupon, the signature or facsimile is valid to the same extent as if the officer had remained in office until delivery.

Sec. 41.41.310. Covenants. In a resolution of the authority authorizing or relating to the issuance of bonds or bond anticipation notes, the authority has power by provisions in the resolution that will constitute covenants of the authority and contracts with the holders of the bonds or bond anticipation notes to

1. pledge to a payment or purpose all or a part of its revenues to which its right then exists or may thereafter come into existence, and the money derived from the revenues, and the proceeds of bonds or notes;
2. covenant as to the use and disposition of payments of principal or interest received by the authority on loans or other investments held by the authority;
3. covenant as to establishment of reserves or sinking funds and the making of provision for

- and the regulation and disposition of the reserves or sinking funds;
4. covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;
 5. covenant as to bonds and notes to be issued, and their limitations, terms, and conditions, and as to the custody, application, and disposition of the proceeds of the bonds and notes;
 6. covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds or notes and the incurring of other debts;
 7. covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of the payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;
 8. for the replacement of lost, stolen, destroyed, or mutilated bonds or notes;
 9. covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the authority;
 10. covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves, or other purposes;
 11. establish the procedure, if any, by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;
 12. covenant as to the custody of property or investments, their safekeeping and insurance, and the use and disposition of insurance money;
 13. agree with a corporate trustee that may be a trust company or bank having the powers of a trust company within or outside the state as to the pledging or assigning of revenue or funds to which or in which the authority has rights or an interest; the agreement may further provide for other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of a bond or note of the authority and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the authority;
 14. appoint and provide for the duties and obligations of a paying agent or paying agents or other fiduciaries as the resolution may provide within or outside the state;
 15. limit the rights of the holders of a bond or note to enforce a pledge or covenant securing the bonds or notes;
 16. make covenants other than and in addition to the covenants expressly authorized in this section of like or different character, and to make covenants to do or refrain from doing acts and things as may be necessary or convenient and desirable in order to better secure bonds or notes or that, in the absolute discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts, or things may not be enumerated in this section.

Sec. 41.41.320. Limitations of issuance of bonds. (a) The authority may not issue bonds in an amount that exceeds the amount of bonds authorized to be issued by the legislature.

(b) This section does not apply to the issuance by the authority of refunding bonds or to the issuance by the authority of bonds the proceeds of which are intended to be used to refinance the loans held by the authority.

Sec. 41.41.330. Independent financial advisor. In negotiating the private sale of bonds or bond anticipation notes to an underwriter, the authority may retain a financial advisor. A financial advisor retained under this section must be independent from the underwriter.

Sec. 41.41.340. Validity of pledge. (a) The pledge of assets or revenue of the authority to the payment of the principal or interest on an obligation of the authority is valid and binding from the time the pledge is made, and the assets or revenue become immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims in tort, contract, or otherwise against the authority, irrespective of whether those parties have notice of the lien of the pledge.

(b) This section does not prohibit the authority from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the obligations.

Sec. 41.41.350. Capital reserve funds. (a) For the purpose of securing one or more issues of its obligations, the authority may establish one or more special funds, called "capital reserve funds," and shall pay into those capital reserve funds (1) money appropriated and made available by the state for the purpose of those funds, (2) proceeds of the sale of its obligations, to the extent provided in the resolution or resolutions of the authority authorizing their issuance, and (3) other money that may be made available to the authority for the purpose of those funds from another source. All money held in a capital reserve fund, except as provided in this section, shall, subject to appropriation, be used as required solely for the payment of the principal of obligations or of the sinking fund payments with respect to those obligations; the purchase or redemption of obligations; the payment of interest on obligations; or the payment of a redemption premium required to be paid when those obligations are redeemed before maturity. However, money in a fund may not be withdrawn from that fund at any time in an amount that would reduce the amount of that fund to less than the capital reserve requirement set out in (b) of this section, except for the purpose of making, with respect to those obligations, payment, when due, of principal, interest, redemption premiums, and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by, or increment to, a capital reserve fund due to the investment of the fund or other amounts in it may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the authority decides to issue obligations secured by a capital reserve fund, the obligations may not be issued if the amount in the capital reserve fund is less than a percent, not exceeding 10 percent, of the principal amount of all of those obligations secured by that capital reserve fund then to be issued and then outstanding in accordance with their terms, as may be established by resolution of the authority, called the "capital reserve fund requirement," unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources an amount that, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued at par or, if purchased at less than par, at amortized costs as the term is defined by resolution of the authority authorizing the issue of the obligations or by some other reasonable method established by the authority by resolution. Valuation on a particular date must include the amount of interest earned or accrued to that date.

(d) To assure the continued operation and solvency of the authority for the carrying out of its corporate purposes, provision is made in (a) of this section for the accumulation in capital reserve funds of an amount equal to their capital reserve fund requirement.

(e) The chair of the authority shall annually, not later than January 2, make and deliver to the

governor and chairs of the house and senate finance committees a certificate stating the sum, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate that sum, and all sums appropriated during the current fiscal year by the legislature for the restoration shall be deposited by the authority in the appropriate capital reserve fund.

(f) This section does not create a debt or liability of the state.

Sec. 41.41.360. Remedies. A holder of obligations or coupons attached to them issued under the provisions of this chapter, and a trustee under a trust agreement or resolution authorizing the issuance of the obligations, except as restricted by a trust agreement or resolution, either at law or in equity, may enforce all rights granted hereunder or under the trust agreement or resolution, or under another contract executed by the authority under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the authority or by an officer of it.

Sec. 41.41.370. Negotiable instruments. All obligations and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to applicable provisions for registration.

Sec. 41.41.380. Obligations eligible for investment. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with a state or municipal officer of an agency or political subdivision of the state for a purpose for which the deposit of bonds, notes, or obligations of the state is authorized by law.

Sec. 41.41.390. Refunding bonds. (a) The authority may provide for the issuance of refunding bonds for the purpose of refunding an obligation then outstanding that has been issued under the provisions of this chapter, including the payment of redemption premium on them and interest accrued or to accrue to the date of redemption of the obligations. The issuance of the bonds, the maturities and other details of them, the rights of the holders of them, and the rights, duties, and obligations of the authority in respect of them are governed by the provisions of this chapter that relate to the issuance of obligations insofar as those provisions may be appropriate.

(b) Refunding bonds may be sold or exchanged for outstanding bonds issued under this chapter, and, if sold, the proceeds may be applied, subject to appropriation and in addition to another authorized purpose, to the purchase, redemption, or payment of the outstanding obligations. Pending the application of the proceeds of refunding bonds, with any other available funds, to the payment of the principal, accrued interest, and redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding bonds or in the trust agreement securing them, to the payment of any interest on the refunding bonds and expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States that mature or that will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 41.41.400. Credit of state not pledged. (a) Obligations issued under the provisions of this chapter do not constitute a debt, liability, or obligation of the state or of a political subdivision of

the state or a pledge of the faith and credit of the state or of a political subdivision of the state but are payable solely from the revenue or assets of the authority. Each obligation issued under this chapter must contain on its face a statement that the authority is not obligated to pay it or the interest on it except from the revenue or assets of the authority and that neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of the principal of or the interest on the obligation.

(b) Expenses incurred by the authority in carrying out the provisions of this chapter are payable from funds provided under this chapter, and liability may not be incurred by the authority in excess of these funds.

Sec. 41.41.410. Officers not liable. A member or other officer of the authority is not subject to personal liability or accountability by reason of having executed or issued an obligation.

Article 4. Property of the Authority.

Sec. 41.41.450. Property of the authority. The authority may acquire, by purchase, lease, or gift, upon terms that it considers proper, land, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in land it considers necessary or convenient for the financing of the project or a part of the project.

Article 5. Project Construction.

Sec. 41.41.500. Contract terms relating to use of Alaska resources. (a) The authority shall enter into one or more prehire project term agreements with labor organizations that (1) contain no-strike clauses; and (2) secure timely completion of the project and maximum employment opportunities for state residents.

(b) To maximize the economic benefits of the project to Alaskan businesses, the authority shall use Alaska contractors and suppliers to the maximum extent possible to take advantage of the Alaska experience in Arctic engineering and construction.

Article 6. General Provisions.

Sec. 41.41.900. Tax exemption. All obligations issued under this chapter are declared to be issued by a body corporate and public of the state and for an essential public and governmental purpose, and the obligations, and the interest and income on and from the obligations, and all fees, charges, funds, revenues, income, and other money pledged or available to pay or secure the payment of the obligations, or interest on the obligations, are exempt from state taxation except for transfer, inheritance, and estate taxes.

Sec. 41.41.990. Definitions. In this chapter,

1. "authority" means the Alaska Natural Gas Development Authority;
2. "board" means the board of directors of the Alaska Natural Gas Development Authority;
3. "project" means the gas transmission pipeline, together with all related property and facilities, to extend from the Prudhoe Bay area on the North Slope of Alaska to tidewater at a point on Prince William Sound and the spur line from Glennallen to the Southcentral gas distribution grid, and includes planning, design, and construction of the pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

***Sec. 3.** AS 39.25.110(11) is amended by adding a new subparagraph to read:

(G) Alaska Natural Gas Development Authority;

***Sec. 4.** AS 39.50.200(b) is amended by adding a new paragraph to read:

(57) the board of directors and chief executive officer of the Alaska Natural Gas Development Authority (AS 41.41.020).

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

DEVELOPMENT OF PROJECT PLAN. Not later than one year after the first meeting of the board of directors of the Alaska Natural Gas Development Authority, the board shall produce a development plan. The development plan must include

1. estimates of construction costs and timelines;
2. gas procurement prices;
3. use of the state's royalty gas;
4. estimates of revenue to the general fund and the Alaska permanent fund;
5. a revenue sharing plan with municipal governments;
6. a plan for delivery and pricing of natural gas to communities along the pipeline route and to Southcentral Alaska through a spur line;
7. a plan for delivery and pricing of LNG to Yukon River and coastal communities;
8. a payment schedule to companies providing permits or other valuable assets;
9. a marketing plan to approach potential buyers;
10. a plan to maximize Alaskan hire, including project labor agreements; and
11. a plan to ensure meeting the highest environmental and safety standards, including a citizens advisory council.
12. The goal of the authority is to have the Alaskan gas line in full production by 2007.

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

INITIAL APPOINTMENTS OF MEMBERS OF ALASKA NATURAL GAS DEVELOPMENT AUTHORITY BOARD OF DIRECTORS. Of the members first appointed under AS 41.41.020(a), enacted by sec. 2 of this Act,

1. three members shall be appointed to three-year terms;
2. two members shall be appointed to two-year terms; and
3. two members shall be appointed to one-year terms.