

Original sponsor: Parr

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1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 257 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating natural gas: establishing the  
7 Alaska Natural Gas Industrial Development Authority,  
8 and authorizing the authority to issue revenue bonds  
9 to finance construction of a plan to condition natural  
10 gas; and repealing provisions of law establishing the  
11 Alaska Gas Pipeline Financing Authority."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 \* Section 1. AS 44.82 is amended by adding a new section to read:

14 Sec. 44.82.011. CREATION OF AUTHORITY. There is created the  
15 Alaska Natural Gas Industrial Development Authority. The authority is  
16 a public corporation of the state. It is an instrumentality of the  
17 state in the Department of Revenue, but has a legal existence indepen-  
18 dent of and separate from the state. Exercise by the authority of the  
19 powers conferred by this chapter is an essential governmental function  
20 of the state.

21 \* Sec. 2. AS 44.82.060 is amended to read:

22 Sec. 44.82.060. LEGAL COUNSEL. The attorney general is the legal  
23 counsel for the authority [CORPORATION]. He shall advise the authority  
24 [CORPORATION] in legal matters and represent it in legal actions.

25 \* Sec. 3. AS 44.82 is amended by adding new sections to read:

26 Sec. 44.82.083. BONDS OF THE AUTHORITY. The authority may borrow  
27 money and issue revenue bonds, in one or more series, the interest on  
28 which is exempt from federal income tax except when held by a substan-  
29 tial user or related person as defined in sec. 103 of the Internal

1 Revenue Code of 1954 as amended, up to the principal amount authorized  
2 by AS 37.15.600 including amounts required for fund reserves, capi-  
3 talized interest, and costs of issuance of the bonds or notes and  
4 excluding refunding bonds. Bonds of the authority may be issued for  
5 the purpose of purchasing or otherwise acquiring any obligation issued  
6 with respect to the project in any form which is fixed and certain as  
7 to terms of repayment and for the establishment of reserves to secure  
8 or to pay bonds or notes or interest on bonds or notes and all other  
9 costs of the authority incident to and necessary for issuance of bonds  
10 or notes. The principal and interest on the bonds are payable from the  
11 income and receipts or other money derived by the authority with respect  
12 to the project, except to the extent payable out of money attributable  
13 to the proceeds of the sale of the bonds or out of income from the  
14 temporary investment of those proceeds.

15 Sec. 44.82.085. CONSTRUCTION FUND. (a) There is a special fund  
16 of the state known as the "gas conditioning plant construction fund"  
17 into which shall be paid the proceeds of the sale of the bonds (except  
18 accrued interest paid on them, which shall be paid into the bond redemp-  
19 tion fund) and other money which is legally provided for the same pur-  
20 poses for which the bonds are authorized. The money in the construction  
21 fund shall be used to pay the costs of the project and for incidental  
22 costs, including costs of the authorization, issuance and sale of the  
23 bonds. To the extent provided in the bond resolution, money in the  
24 construction fund may also be used for the payment of interest on the  
25 bonds during the period of actual construction, and for a further  
26 period, not exceeding one year after the period of construction, as may  
27 be provided in the bond resolution. Money in the construction fund may  
28 also be transferred to the bond redemption fund, to the extent provided  
29 in the bond resolution, to establish a reserve for the payment of the

1 principal of and interest on the bonds.

2 (b) The bond resolution may provide for the investment of money  
3 in the construction fund as the committee may determine. The interest  
4 earned on or any profits derived from the sale of these investments  
5 shall be deposited in and become a part of the construction fund.

6 Sec. 44.82.087. REVENUE FUND. (a) There is a special fund of  
7 the state, known as the "gas conditioning plant revenue fund", which  
8 shall be completely segregated and set apart from all other funds of  
9 the state, which is a trust fund for the uses and purposes provided in  
10 this chapter, and into which shall be paid all revenues, fees, charges,  
11 and rentals derived by the state from the ownership, lease, use, and  
12 operation of the gas conditioning plant and all of the facilities and  
13 improvements used in connection with it. These revenues, charges,  
14 fees, and rentals may not include the proceeds of a state tax or  
15 license. The money in the revenue fund shall only be used for the pur-  
16 pose of

17 (1) paying or securing the payment of the principal of and  
18 interest on the bonds and any other revenue bonds issued by authoriza-  
19 tion of the legislature to provide funds to acquire, equip, construct,  
20 and install additions and improvements to the gas conditioning plant  
21 and payable out of the revenue fund;

22 (2) paying the costs of renewals, replacements, and extra-  
23 ordinary repairs to the gas conditioning plant and its improvements and  
24 facilities;

25 (3) redeeming before their fixed maturities any and all  
26 revenue bonds issued for the purposes of the gas conditioning plant;  
27 and

28 (4) providing money to acquire, construct, and install  
29 necessary additions and improvements to the gas conditioning plant.

1 (b) The investment of money in the revenue fund may be made as  
2 the committee may determine. The interest earned on or any profits  
3 derived from the sale of these investments shall be deposited in and  
4 become a part of the revenue fund.

5 Sec. 44.82.089. REDEMPTION FUND. There is a special fund of the  
6 state, known as the "gas conditioning plant revenue bond redemption  
7 fund", which is a trust fund for paying and securing the payment of the  
8 principal of and interest and redemption premium, if any, on the bonds  
9 and which shall be at all times completely segregated and set apart  
10 from all other funds of the state. The committee, on behalf of the  
11 state, shall obligate and bind the state to set aside and pay into the  
12 bond redemption fund any part or parts of, or all of, or a fixed propor-  
13 tion of, or a fixed amount of the money in the revenue fund sufficient  
14 to pay the principal of and interest and redemption premium, if any, on  
15 the bonds as the payments become due and, if it considers it necessary,  
16 to set aside and maintain reserves for this purpose. The bond redemp-  
17 tion fund shall be drawn upon for the purpose of paying the principal  
18 of and interest and redemption premium, if any, on the bonds, and the  
19 bonds do not constitute a general obligation of the state.

20 Sec. 44.82.091. BOND TERMS. (a) The bonds shall be sold in the  
21 amounts or series and at the time or times determined by the committee.  
22 Before selling a series of bonds, the committee shall give notice  
23 inviting sealed bids in the manner it may prescribe. If satisfactory  
24 bids are received, the bonds offered for sale shall be awarded to the  
25 highest responsible bidder. If the committee determines that the bids  
26 received are not satisfactory as to price or responsibility of the  
27 bidders, it may reject all bids received. The bonds, or each series of  
28 them, shall be sold at such a price that the effective interest rate  
29 over the life of the bonds does not exceed 10 percent a year. Interest

1 shall be payable annually or semiannually.

2 (b) The bonds shall mature at the time or times fixed by the  
3 committee. The bonds may be subject to redemption before their fixed  
4 maturities as determined by the committee and with the premium or pre-  
5 miums fixed by the committee, but a bond may not be subject to re-  
6 demption before its fixed maturity date unless the right to redeem that  
7 bond is expressly mentioned on the face of the bond. The bonds may be  
8 in denominations determined by the committee; may be issued in coupon  
9 form or in fully registered form, and may be registrable as to principal  
10 or both principal and interest, all under the regulations and conditions  
11 the committee provides. The bonds shall be payable as to principal and  
12 interest at a place or places determined by the committee; shall be  
13 signed on behalf of the state by the governor; and shall be attested by  
14 the lieutenant governor. Both of the signatures may be facsimile sig-  
15 natures, and the bonds shall have the seal of the state impressed,  
16 printed, or lithographed on them. Each of the interest coupons attached  
17 to the bonds shall be signed by the facsimile signatures of the governor  
18 and lieutenant governor. The bonds shall be issued under and subject  
19 to the terms, conditions, and covenants providing for payment of the  
20 principal of them and interest on them and other terms, conditions,  
21 covenants, and protective features safeguarding the payment that relate  
22 to the maintenance, operation, and improvement of the gas conditioning  
23 plant and that are found necessary by the committee. The covenants may  
24 include a provision requiring the setting aside and maintenance of  
25 reserves to secure the payment of principal of and interest on the  
26 bonds.

27 (c) If found reasonably necessary, the committee may select a  
28 trustee or trustees for the holders of the bonds or any series of them,  
29 for the safeguarding and disbursement of money in a fund created by

1 AS 44.82.085 - 44.82.089, or for duties relating to authentication,  
2 delivery, and registration of the bonds as determined by the committee.  
3 The committee shall fix the powers and duties of the trustee or trustees

4 (d) In its determination of matters relating to the issuance and  
5 sale of the bonds and the fixing of the maturities, terms, conditions,  
6 and covenants of them as provided in (a), (b) and (c) of this section,  
7 the decisions of the committee shall be those found to be reasonably  
8 necessary for the best interests of the state and its inhabitants, and  
9 those which will accomplish the most advantageous sale of the bonds,  
10 with due regard to necessary or normal costs of renewals and replace-  
11 ments of and repairs to the gas conditioning plant and to improvements  
12 to it, the facilities which are owned, used, operated, or leased in  
13 connection with it, and the future growth and expansion of the gas  
14 conditioning plant and all of its facilities. These decisions of the  
15 committee, as expressed in a bond resolution, are final and conclusive  
16 when bonds have been issued in accordance with the bond resolution.

17 (e) A bond resolution may provide that the bonds issued shall  
18 contain a recital that they are issued under this chapter, and bonds  
19 containing this recital shall be conclusively considered to be valid  
20 and to have been issued in conformity with this chapter.

21 (f) The validity of the authorization and issuance of bonds is  
22 not affected by proceedings for the acquisition or construction of the  
23 improvement of facilities for which the bonds have been issued, or by  
24 any contracts in connection with the acquisition or construction.

25 Sec. 44.82.093. BOND RESOLUTION. The committee shall adopt the  
26 bond resolution and prepare all other documents necessary for the  
27 issuance, sale, and delivery of the bonds or any part or series of  
28 them. The bond resolution shall fix the principal amount, denomination,  
29 date, maturities, place or places of payment, rights of redemption, if

1 any, terms, form, conditions, and covenants of the bonds or each series  
2 of them. The committee shall also determine and provide for the date  
3 and manner of sale of the bonds, and shall provide whether the notice  
4 of sale is to be published elsewhere in addition to the publication re-  
5 quired by AS 44.82.091.

6 Sec. 44.82.095. ENFORCEMENT BY HOLDER. The holder of bonds or  
7 the trustee for the holders of the bonds or any series of them may by  
8 appropriate proceedings in the courts of record of the state, require  
9 and compel the transfer, setting aside, and payment of money and the  
10 enforcement of all of the terms, conditions, and covenants as required  
11 and provided in this chapter and in the bond resolution.

12 Sec. 44.82.096. AMOUNTS REQUIRED FOR PAYMENTS. The committee  
13 shall, before December 31 of each year, beginning with the year in  
14 which the bonds are issued, certify to the commissioners of revenue and  
15 natural resources the amounts required in the next calendar year by the  
16 bond resolution or resolutions to be paid out of the revenue fund into  
17 the bond redemption fund and to be paid into and maintained in any  
18 reserve fund or account or any other fund or account created by the  
19 bond resolution or resolutions, and shall also certify to the commis-  
20 sioners the last date or dates upon which payments may be made.

21 Sec. 44.82.097. BOND NEGOTIABILITY. The bonds and the coupons  
22 attached to them are fully negotiable instruments under the laws of the  
23 state.

24 Sec. 44.82.098. LIMITATION ON ISSUANCE OF BONDS. Bonds may not  
25 be authorized or sold under this chapter until a site determined under  
26 AS 31.35.010 - 31.35.030 has been approved by the legislature by law.

27 Sec. 44.82.099. REFUNDING. (a) The bonds or any part of them  
28 may be refunded at or before their maturity by the issuance of refunding  
29 revenue bonds of the state if, in the opinion of the committee, refund-

1 ing is advantageous to and in the best interests of the state and its  
2 inhabitants.

3 (b) The issuance of refunding bonds need not be authorized by the  
4 legislature, and the committee is authorized and directed to adopt the  
5 resolution or resolutions and prepare all other documents and pro-  
6 ceedings necessary for the issuance, exchange or sale, and delivery of  
7 the bonds. The provisions of this chapter applicable to revenue bonds  
8 apply to refunding bonds and to the issuance, sale, or exchange of  
9 them, except as otherwise provided in this section.

10 (c) Refunding bonds may be issued in a principal amount sufficient  
11 to provide funds for the payment of all bonds to be refunded by them,  
12 and, in addition, for the payment of all expenses incident to the call-  
13 ing, retiring, or paying of the outstanding bonds, and the issuance of  
14 the refunding bonds. These expenses include the difference in amount  
15 between the par value of the refunding bonds and any amount less than  
16 par for which the refunding bonds are sold, any amount necessary to be  
17 made available for the payment of interest upon the refunding bonds  
18 from the date of sale of them to the date of payment of the bonds to be  
19 refunded or to the date upon which the bonds to be refunded will be  
20 paid pursuant to the call of them or agreement with the holders of  
21 them, and the premium, if any, necessary to be paid in order to call or  
22 retire the outstanding bonds and the interest accruing on them to the  
23 date of the call or retirement.

24 \* Sec. 4. AS 44.82.100 is amended to read:

25 Sec. 44.82.100. SUBMISSION OF FINANCIAL AND ALASKA IMPACT PLAN.  
26 With respect to the bonds of the authority and the project, the author-  
27 ity shall submit to the legislature [BY THE FIRST DAY OF THE SECOND  
28 SESSION OF THE ELEVENTH LEGISLATURE] a financial and Alaska impact plan  
29 for the project. The financial and Alaska impact plan shall be a

1 general description of the status of the project with respect to  
2 engineering, technical, financial and regulatory matters relating to  
3 the project. In addition, the plan shall include the following specific  
4 items as well as findings and recommendations on each item:

5 (1) the proposed methods and procedures by which the project  
6 will be financed including the amounts and times of issuance of bonds  
7 by the authority;

8 (2) the method of securing the bonds;

9 (3) projected debt service requirements of the bonds; [AND]

10 (4) projected revenues for the period of time during which  
11 reasonable projections can be made, which will be available to the  
12 authority to meet debt service requirement;

13 (5) the extent to which the state's right to withdraw its  
14 royalty share of the natural gas stream as described in section 13(b)  
15 of the Alaska Natural Gas Transportation Act (P.L. 94-586) is protected  
16 and assured;

17 (6) the amount and type of financial support which the  
18 Prudhoe Bay natural gas producers have committed in support of the  
19 project;

20 (7) documentation that the project sponsors and contractors  
21 have entered into all contracts, including those with the state and  
22 appropriate labor organizations necessary to guarantee that

23 (A) to the extent that qualified workers are available,  
24 all workers employed for the construction, operation and main-  
25 tenance of the project will be drawn from the existing and resident  
26 Alaska work force;

27 (B) to the extent qualified contractors or firms are  
28 available, all vendor, material, labor and professional service  
29 contracts and subcontracts related to the project will be awarded

1 to existing resident Alaska contractors or firms;

2 (C) quarterly audits of the performance of the project  
3 sponsors under (A) and (B) of this paragraph shall be conducted,  
4 and the results of these audits transmitted to the legislature and  
5 other interested state officials in a timely manner;

6 (8) the estimated number of Alaska workers who will be  
7 employed under the provisions of the contract described in (7)(A) of  
8 this section, the estimated total number of workers to be employed on  
9 the project during construction, the estimated dollar volume of con-  
10 tracts which will be let to Alaska contractors or firms under the  
11 provisions of the contract described in (7)(B) of this section, and the  
12 estimated total dollar volume of contracts which will be let for the  
13 project during construction;

14 (9) documentation that a minimum capital pool of debt and  
15 equity funds equal to at least 150 percent of the estimated project  
16 cost has been committed to the project, in order to provide sufficient  
17 capital to insure timely project completion;

18 (10) documentation that the project sponsors have supported  
19 and, when appropriate, have filed the necessary documents and exhibits  
20 before the appropriate federal or regulatory agencies to provide:

21 (A) an intrastate natural gas tariff based on a zone  
22 tariff concept, with as many zones as state officials believe to  
23 be in the state's best interest;

24 (B) the minimum average wellhead price for Prudhoe Bay  
25 natural gas sales that is the higher of \$1.48 per mcf (or such  
26 escalated price as may be provided for by federal law or regula-  
27 tion) or the BTU-equivalent price for Prudhoe Bay oil if the  
28 higher BTU-equivalent price is permissible under applicable federal  
29 laws and regulations;

1 (C) that treatment and conditioning costs shall be  
2 added onto, and not included in, the minimum average wellhead  
3 price contained in (B) of this paragraph;

4 (D) that the minimum average wellhead price described  
5 in (10)(B) of this section shall apply only to Prudhoe Bay natural  
6 gas;

7 (E) that rolled-in pricing shall be used with respect  
8 to marketing Alaskan natural gas in contiguous United States or  
9 Canadian markets;

10 (F) that payment to or reimbursement of the state for  
11 items contained in (13) of this section shall be included in the  
12 rate base;

13 (11) documentation that the appropriate state agencies have  
14 considered the study described in (13)(B) of this section, and a deter-  
15 mination by these agencies with respect to the extent, if any, that  
16 production of Prudhoe Bay natural gas in volumes sufficient to meet  
17 project requirements would be in the state's best interest;

18 (12) the preliminary financial plan for the entire transmis-  
19 sion system, as prepared for submission to the Federal Energy Regulatory  
20 Commission;

21 (13) documentation that the partnership has entered into a  
22 contract with the State of Alaska, approved by the appropriate federal  
23 regulatory agencies, to pay for or reimburse the state for expenses  
24 associated with the following state activities:

25 (A) provision of in-state off-take facilities at loca-  
26 tions to be determined by the state;

27 (B) design and development of a computerized three-  
28 dimensional Prudhoe Bay reservoir simulation model;

29 (C) study and determination of the state's bond capacity

1 and bond rating, with respect to both the authority bonds and  
2 potential state equity-related investment;

3 (D) provision of state personnel and equipment required  
4 to carry out the state's supervisory and regulatory functions with  
5 respect to construction and operation of the pipeline project; and

6 (E) provision of local impact information and planning  
7 assistance for communities affected by the pipeline project.

8 \* Sec. 5. AS 44.82.160 is repealed and reenacted to read:

9 Sec. 44.82.160. BONDS AS LEGAL INVESTMENTS. The bonds are legal  
10 investments for all banks, trust companies, savings banks, savings and  
11 loan associations and other persons carrying on a banking business, all  
12 insurance companies and other persons carrying on an insurance business,  
13 and all executors, administrators, trustees, and other fiduciaries.  
14 The bonds may be accepted as security for deposits of all funds of the  
15 state and its political subdivisions.

16 \* Sec. 6. AS 44.82 is amended by adding a new section to read:

17 Sec. 44.82.195. STATUTORY CONSTRUCTION. The provisions of this  
18 chapter shall be liberally construed to carry out the purposes for  
19 which they were enacted, and all existing laws in conflict with any of  
20 these sections are superseded insofar as necessary to accomplish the  
21 purposes of and carry out the provisions of these sections.

22 \* Sec. 7. AS 44.82.200(1) is repealed and reenacted to read:

23 (1) "authority" means the Alaska Natural Gas Industrial  
24 Development Authority, established under this chapter;

25 \* Sec. 8. AS 44.82.200(2) is repealed and reenacted to read:

26 (2) "bonds" means the gas conditioning plant revenue bonds  
27 authorized by this chapter;

28 \* Sec. 9. AS 44.82.200(4) is repealed and reenacted to read:

29 (4) "project" means the acquisition, equipping, construction,

1 and installation of additions and improvements to a gas conditioning  
2 plant and related facilities;

3 \* Sec. 10. AS 44.82.200 is amended by adding new paragraphs to read:

4 (9) "bond redemption fund" means the gas conditioning plant  
5 revenue bond redemption fund created by AS 44.82.089, including any  
6 accounts which are created in that fund after the effective date of  
7 this Act;

8 (10) "bond resolution" means the resolution or resolutions  
9 authorizing the issuance of bonds, adopted by the committee under  
10 AS 44.82.093;

11 (11) "committee" means the state bond committee created by  
12 AS 37.15.110, or any other committee, body, department, or officer of  
13 the state which or who succeeds to the rights, powers, duties, and  
14 obligations of the state bond committee by Act of the legislature;

15 (12) "construction fund" means the gas conditioning plant  
16 construction fund created by AS 44.82.085;

17 (13) "gas conditioning plant" or "plant" means the facility  
18 designed to remove water, carbon dioxide, gas liquids, and other by-  
19 products and impurities from the natural gas produced from the Prudhoe  
20 Bay oil and gas production unit and other oil and gas production units  
21 or wells, if any, in the vicinity of Prudhoe Bay; and

22 (14) "revenue fund" means the gas conditioning plant revenue  
23 fund created by AS 44.82.087.

24 \* Sec. 11. AS 37.15 is amended by adding a new section to read:

25 **ARTICLE 4. NATURAL GAS CONDITIONING PLANT REVENUE BONDS.**

26 **Sec. 37.15.600. BOND AUTHORIZATION.** The issuance and sale of  
27 revenue bonds of the state in the total principal sum of not more than  
28 \$2,000,000,000 are authorized to provide money to acquire, construct,  
29 equip, and install additions and improvements to the gas conditioning

1 plant authorized in AS 31.35.010. The principal of and interest on  
2 these bonds shall be paid out of and secured by the gross revenues  
3 derived by the state from the ownership, lease, use, and operation of  
4 the gas conditioning plant, and of all the facilities associated with  
5 it and out of other revenues or money which the state legislature may  
6 provide (except for a state tax or license).

7 \* Sec. 12. AS 31 is amended by adding a new chapter to read:

8 CHAPTER 35. NATURAL GAS CONDITIONING PLANT.

9 Sec. 31.35.010. GAS CONDITIONING PLANT. (a) The state is autho-  
10 rized to acquire, construct, equip, and install additions and improve-  
11 ments to the gas conditioning plant and any facilities associated with  
12 it.

13 (b) The commissioner of transportation and public facilities has  
14 the responsibility to design and construct the plant and improvements  
15 to it.

16 Sec. 31.35.020. LEASE AND OPERATION OF GAS CONDITIONING PLANT.  
17 After the bonds authorized under AS 37.15.600 have been sold, the  
18 commissioner of natural resources shall lease the gas conditioning  
19 plant, by competitive bid, to a qualified operator. Bids may be on the  
20 basis of a percentage of revenue produced by the plant or a fixed  
21 annual rental payment, as determined by the commissioner of natural  
22 resources. The minimum acceptable bid must be sufficient to pay the  
23 debt service on the bonds issued under this chapter and to provide the  
24 state with a reasonable return on its investment.

25 Sec. 31.35.030. DEFINITION. In this chapter, "gas conditioning  
26 plant" or "plant" means the facility designed to remove water, carbon  
27 dioxide, gas liquids, and other by-products and impurities from the  
28 natural gas produced from the Prudhoe Bay oil and gas production unit  
29 and other oil and gas production units or wells, if any, in the vicinity

1 of Prudhoe Bay to be constructed by the Alaska Natural Gas Industrial  
2 Development Authority under AS 44.82.

3 \* Sec. 13. AS 39.25.110(21) is repealed and reenacted to read:

4 (21) employees of the Alaska Natural Gas Industrial Develop-  
5 ment Authority;

6 \* Sec. 14. The following laws are repealed: AS 44.82.010, 44.82.090,  
7 44.82.170, 44.82.200(3) and (5) - (8); and sec. 1, ch. 90, SLA 1978.

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