

CS FOR HOUSE BILL NO. 100(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:**Referred:****Sponsor(s): REPRESENTATIVES CHENAULT, Olson****A BILL****FOR AN ACT ENTITLED**

1 "An Act establishing a credit against the net income tax for an in-state processing
2 facility that manufactures urea, ammonia, or gas-to-liquid products; relating to
3 establishing the value of the state's royalty share of gas production based on contracts
4 with certain in-state processing facilities that manufacture urea, ammonia, or gas-to-
5 liquid products; and providing for an effective date."

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

7 * **Section 1.** AS 38.05.180 is amended by adding a new subsection to read:

8 (II) For a contract that is entered into on or after the effective date of this
9 subsection, within 90 days after the written request of a lessee of a lease issued under
10 this section, in order to establish the value of the state's royalty share of gas production
11 sold by the lessee under the contract, the commissioner may enter into an agreement
12 with the lessee to use or accept as a price for the gas an amount that is not less than the
13 price established in the contract between the lessee and an in-state processing facility

whose primary function is the manufacturing and sale of urea, ammonia, or gas-to-liquid products to third parties in arm's length transactions, not to exceed the amount that would otherwise be due under the lease. The commissioner may enter into an agreement under this subsection if

(1) the commissioner makes a written finding that

- (A) it is in the best interest of the state; and
- (B) based on clear and convincing evidence, the contract price is unreasonably low; and

(2) the primary function of the in-state processing facility is to engage in the production of urea, ammonia, or gas-to-liquid products, and the lessee is not affiliated with either an owner of the in-state processing facility or with a subsequent purchaser of more than 10 percent of the urea, ammonia, or gas-to-liquid products produced by the processing facility; for purposes of this paragraph, the parties are affiliated if, in the judgment of the commissioner, one of the parties exercises substantial influence over the policies and actions of the other as evidenced by a relationship based on common ownership or family interest or by action taken in concert without regard to whether that influence is based on stockholdings, stockholders, officers, or directors; in this subsection, "gas-to-liquid product" means a liquid produced by a processing facility that combines, breaks up, or rearranges atoms present in natural gas, but does not include liquefied natural gas.

* **Sec. 2.** AS 43.20 is amended by adding a new section to read:

Sec. 43.20.052. Credit for the in-state manufacture of urea, ammonia, or gas-to-liquid products. (a) A taxpayer that owns an interest, either directly or through a partnership or limited liability company, in an in-state processing facility whose primary function is the manufacturing and sale of urea, ammonia, or gas-to-liquid products to third parties in arm's length transactions is entitled to receive a credit under this section against the tax due under this chapter. The credit under this section is equal to the percentage of the amount of royalty paid under AS 38.05.135 on natural gas from a state lease that is delivered in the taxable year of the taxpayer for use at the in-state processing facility equal to the percentage of the ownership interest held by the taxpayer in the in-state processing facility.

(b) A tax credit or portion of a tax credit under this section may not be used to reduce a taxpayer's tax liability under this chapter below zero. An unused tax credit or portion of a tax credit received under this section may not be carried forward for use in a taxable year of the taxpayer after the taxable year in which the credit is earned.

(c) To claim a credit under this section, the taxpayer shall report to the department the name of each lessee delivering natural gas for use at the in-state processing facility, the identification and quantity of natural gas from each state lease that is the source of the natural gas, the ownership percentage of the taxpayer in the in-state processing facility, and the price for the natural gas established in a contract between the in-state processing facility and the lessee delivering the natural gas.

(d) In this section, "gas-to-liquid product" has the meaning given in AS 38.05.180(*ii*).

* Sec. 3. AS 43.20.052 is repealed.

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

APPLICABILITY. AS 43.20.052, added by sec. 2 of this Act, applies to the amount of royalty paid under AS 38.05.135 on natural gas from a state lease that is delivered for use at an in-state processing facility whose primary function is the manufacturing and sale of urea, ammonia, or gas-to-liquid products to third parties in arm's length transactions on or after July 1, 2017, and before January 1, 2022.

* **Sec. 5.** Sections 1, 2, and 4 of this Act take effect July 1, 2017.

* **Sec. 6.** Section 3 of this Act takes effect January 1, 2022.