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Nauman
3/31/15

CS FOR HOUSE BILL NO. 100()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

**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 or ammonia; relating to establishing the value of the**
3 **state's royalty share of gas production based on contracts with certain in-state**
4 **processing facilities that manufacture urea or ammonia; and providing for an effective**
5 **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 (ll) 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

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

5 (1) the commissioner makes a written finding that

6 (A) it is in the best interest of the state; and

7 (B) based on clear and convincing evidence, the contract price
8 is not unreasonably low; and

9 (2) the primary function of the in-state processing facility is to engage
10 in the production of urea or ammonia, and the lessee is not affiliated with either an
11 owner of the in-state processing facility or with a subsequent purchaser of more than
12 10 percent of the urea or ammonia produced by the processing facility; for purposes of
13 this paragraph, the parties are affiliated if, in the judgment of the commissioner, one of
14 the parties exercises substantial influence over the policies and actions of the other as
15 evidenced by a relationship based on common ownership or family interest or by
16 action taken in concert without regard to whether that influence is based on
17 stockholdings, stockholders, officers, or directors.

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

19 **Sec. 43.20.052. Credit for the in-state manufacture of urea or ammonia.**

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

28 (b) A tax credit or portion of a tax credit under this section may not be used to
29 reduce a taxpayer's tax liability under this chapter below zero. An unused tax credit or
30 portion of a tax credit received under this section may not be carried forward for use in
31 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.

* **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 or ammonia to third parties in arm's length transactions on or after July 1, 2017, and before January 1, 2027.

* **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, 2027.