

CS FOR HOUSE BILL NO. 57(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 2/26/03

Referred: Resources

Sponsor(s): REPRESENTATIVES CHENAULT, Whitaker

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the manner of determining the royalty received by the state on gas**
2 **production as it relates to the manufacture of certain value-added products."**

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

4 *** Section 1.** AS 38.05.180(aa) is amended to read:

5 (aa) Within 90 days after the written request of a lessee of a lease issued under
6 this section or of a lessee of federal land from which the state is entitled under
7 applicable federal law to receive a share of the royalty on gas production, the
8 commissioner shall enter into an agreement with the lessee to use or accept the price
9 for the gas established in the contract between the lessee and a gas or electric utility,
10 **or between the lessee and a manufacturer of agricultural chemicals, as**
11 **appropriate,** as the value of the state's royalty share of gas production sold by the
12 lessee under the contract

13 (1) but only if

14 **(A) for a contract between the lessee and a gas or electric**

1 utility, the primary function of the utility with which the lessee has entered
 2 into the contract is to provide, either directly or by selling at wholesale to
 3 another utility, gas or electricity to the general public, including residential
 4 consumers, within the utilities' service areas, and the utility with which the
 5 lessee has entered into the contract is not an affiliated interest, as that term is
 6 defined in AS 42.05.990, with the lessee or with a subsequent purchaser of
 7 more than 10 percent of the utility's gas or electricity; or

8 **(B) for a contract between the lessee and a manufacturer of**
 9 **agricultural chemicals, the primary function of the manufacturer is to**
 10 **engage in the production of a value-added product, and the manufacturer**
 11 **with which the lessee has entered into the contract is not affiliated with the**
 12 **lessee or with a subsequent purchaser of more than 10 percent of the**
 13 **manufacturer's value-added product; for purposes of this subparagraph,**
 14 **the parties to a contract or purchase are affiliated if, in the judgment of**
 15 **the commissioner, one of the parties to the contract or purchase exercises**
 16 **substantial influence over the policies and actions of the other as**
 17 **evidenced by relationship based on common ownership or family interest**
 18 **or by action taken in concert without regard to whether that influence is**
 19 **based upon stockholdings, stockholders, officers, or directors;** and

20 (2) unless the commissioner makes a written finding, based on clear
 21 and convincing evidence, that

22 (A) the contract price is unreasonably low;

23 (B) the prospective reduction in royalty receipts would not be
 24 balanced **in a contract entered into for a circumstance described**

25 **(i) in (1)(A) of this subsection** by increased benefits to
 26 in-state gas and electric consumers; or

27 **(ii) in (1)(B) of this subsection by employment**
 28 **opportunities or other tangible benefits to the state;**

29 (C) the lessee and the utility **or manufacturer of agricultural**
 30 **chemicals, as appropriate,** are related in management, ownership, or other
 31 aspect; and

1 (D) the contract price is not in the best interest of the state.

2 * **Sec. 2.** AS 38.05.180(bb)(2) is amended to read:

3 (2) "price for the gas established in the contract" includes tax
4 reimbursement amounts, deliverability and other charges, and other forms of
5 consideration paid by the gas or electric utility **or by the manufacturer of**
6 **agricultural chemicals, as appropriate,** under the contract;

7 * **Sec. 3.** AS 38.05.180(bb) is amended by adding a new paragraph to read:

8 (4) "manufacturer of agricultural chemicals" means a person that is a
9 business entity primarily engaging in the manufacturing of nitrogenous and phosphatic
10 based fertilizers, mixed fertilizers, pesticides, and similar chemicals for agricultural
11 purposes.