

CS FOR HOUSE BILL NO. 57(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/4/03

Referred: Rules

Sponsor(s): REPRESENTATIVES CHENAULT, Whitaker, Crawford, Heinze, Lynn

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, for a contract that is entered into on or after the effective date of this Act, to**
11 **use or accept a price for the gas established in the contract between the lessee and**
12 **a manufacturer of agricultural chemicals, as appropriate,** as the value of the state's
13 royalty share of gas production sold by the lessee under the contract

14 (1) but only if

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

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

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

23 **(A) for a contract entered into for a circumstance described**
 24 **in (1)(A) of this subsection**

25 **(i)** the contract price is unreasonably low;

26 **(ii)** [(B)] the prospective reduction in royalty receipts
 27 would not be balanced by increased benefits to in-state gas and electric
 28 consumers;

29 **(iii)** [(C)] the lessee and the utility are related in
 30 management, ownership, or other aspect; and

31 **(iv)** [(D)] the contract price is not in the best interest of

1 the state;

2 **(B) for a contract entered into under (1)(B) of this**
 3 **subsection between a lessee and a manufacturer of agricultural chemicals,**

4 **(i) the contract price is unreasonably low;**

5 **(ii) the prospective reduction in royalty receipts**
 6 **would not be balanced by employment opportunities or other**
 7 **tangible benefits to the state;**

8 **(iii) the lessee and the manufacturer are related in**
 9 **management, ownership, or other aspect; or**

10 **(iv) the contract price is not in the best interest of**
 11 **the state.**

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

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

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

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

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

24 **APPLICABILITY.** The provisions of this Act apply to determine the price received
 25 by the state on royalty gas production as it relates to the sale of the gas to a manufacturer of
 26 agricultural chemicals based on contracts under AS 38.05.180(aa) that are entered into on or
 27 after the effective date of this Act.