

AMENDMENT #1

OFFERED IN THE HOUSE  
TO: CSHB 71(FIN)

BY REPRESENTATIVE SAMUELS

1 Page 1, line 1, following "An Act":

2 Insert "providing standards for the interpretation of certain terms in state oil and  
3 gas leases and unit agreements, requiring development, production, processing, and  
4 marketing of gas that is determined to meet those standards, and setting a maximum  
5 time limit on that activity;"

6

7 Page 1, following line 6:

8 Insert new bill sections to read:

9 "\*\* Section 1. The uncodified law of the State of Alaska is amended by adding a new  
10 section to read:

11 LEGISLATIVE FINDINGS REGARDING AMENDMENT OF AS 38.05.180. The  
12 legislature finds that

13 (1) oil and gas leases issued by the state grant to the lessee certain rights in  
14 state land and resources for the purposes of exploration, development, production, processing,  
15 and marketing oil and gas from state land;

16 (2) those oil and gas leases require the reasonable development of state land  
17 for oil and gas as the facts may justify;

18 (3) those oil and gas leases further mandate reasonable diligence in producing  
19 oil and gas from state land;

20 (4) those leases also obligate the lessee to act with due regard for the interests  
21 of not only the lessee but also the state as lessor;

22 (5) many of those leases have been extended beyond their primary terms by  
23 commitment to an oil and gas unit agreement;

1 (6) unit agreements may vary from unit to unit and so do not contain uniform  
2 language but generally reinforce the obligations of lessees to timely develop oil and gas  
3 resources and to act to protect not only their own interests but also the interests of the state as  
4 lessor;

5 (7) unit agreements also require that lessees periodically file their proposed  
6 plans for future development of a unit and allow the state, as lessor, to determine the rate of  
7 development of the unit and rate and quantity of production from the unit in acting on  
8 proposed plans or otherwise;

9 (8) oil and gas leases are interpreted by courts sitting in oil-and-gas-producing  
10 states to require that lessees develop and market oil and gas when those lessees could do so  
11 for a reasonable profit;

12 (9) the executive branch of state government, under the authority of AS 43.82  
13 (Alaska Stranded Gas Development Act) and with the assistance of outside experts,  
14 consultants, and counsel, has developed a sophisticated model that forecasts future gas prices  
15 based on the best information currently available to the state;

16 (10) that model incorporates the costs estimated by the state's largest oil and  
17 gas producers and others for the construction of an Alaska natural gas pipeline and for  
18 upstream facilities required to produce and treat natural gas from the Prudhoe Bay and Point  
19 Thomson Units for transportation through an Alaska natural gas pipeline to markets inside  
20 and outside the state;

21 (11) the model calculates estimated rates of return on capital invested for the  
22 total project, and for separate elements of the project, such as production from the Prudhoe  
23 Bay Unit, production from the Point Thomson Unit, and the pipeline itself;

24 (12) the model calculates estimated rates of return on capital invested under a  
25 wide range of future gas prices, including a price considered a stress gas price, the mean  
26 estimated gas price, and prices considered to have as low as a 10 percent probability and as  
27 high as a 90 percent probability;

28 (13) rates of return from the model can be compared to various measures of  
29 profitability, including, without limitation, rates of return historically allowed by the Federal  
30 Energy Regulatory Commission on gas pipelines, the cost of capital, rates of return on  
31 shareholder equity and capital employed for natural gas pipeline companies, and rates of

1 return on shareholder equity and capital employed for oil and gas companies;

2 (14) the oil and gas resources of the state are to be developed for the  
3 maximum benefit of the people of the state; and

4 (15) the state's best interests require the earliest reasonable date for  
5 construction of an Alaska natural gas pipeline on terms that are both in the best interests of the  
6 state and estimated to be reasonably profitable to the state's oil and gas lessees.

7 \* **Sec. 2.** AS 38.05.180 is amended by adding a new subsection to read:

8 (hh) The provisions of this subsection clarify and interpret the obligations of  
9 an oil and gas lessee or unit operator where an explicit or implied term of a state oil  
10 and gas lease or unit agreement requires the development, production, processing, or  
11 marketing of gas meeting economic standards such as "reasonable profit,"  
12 "economically recoverable," "reasonable development as the facts may justify,"  
13 "reasonable diligence," "covenant to develop as a reasonably prudent operator in a  
14 reasonably prudent manner," "good and diligent oil and gas production practices,"  
15 "economically feasible," or "having due regard for the interests of lessor as well as the  
16 interests of lessee." If the terms of the lease or unit agreement so provide,

17 (1) the standards shall be interpreted to require, at a minimum,  
18 development, production, processing, and marketing of gas from the lease or unit area  
19 as part of a project placing gas into one or more commercial markets if the  
20 commissioner determines, after review of relevant information then available to and in  
21 the possession of the department, that the estimated revenue from the project, based on  
22 the department's mean gas price forecast for that project, minus the currently estimated  
23 new costs of that project, appears sufficient to allow for a rate of return on new capital  
24 invested

25 (A) in the portions of the project regulated as to tariffs by either  
26 the Federal Energy Regulatory Commission or the Regulatory Commission of  
27 Alaska; the rate of return allowed under this subparagraph must be equal to or  
28 greater than the department's estimate of the rate of return that would be  
29 approved by the governing regulatory body; and

30 (B) in the portions of the project that are not subject to tariff  
31 regulation; the rate of return allowed under this subparagraph must be equal to

1 or greater than the most recent 10-year simple average of overall company  
 2 returns on capital employed for a sample group of oil and gas companies; in  
 3 this subparagraph, the sample group of oil and gas companies may include,  
 4 without limitation and subject to the availability of publicly reported  
 5 information, the four largest international petroleum companies and the parent  
 6 companies of the three largest petroleum companies operating in the state;

7 (2) whenever the commissioner determines that development,  
 8 production, processing, or marketing of gas is required from a lease or unit area, the  
 9 lessee or unit operator shall develop, produce, process, or market the gas, as  
 10 determined by the commissioner, from the lease or unit area by a date determined by  
 11 the commissioner, but in no event may that compliance date be later than seven years  
 12 after the commissioner's initial determination; if a lessee or unit operator fails to  
 13 comply with the commissioner's order, approval, decision, or determination, the  
 14 remedies for the failure shall be as provided for in the controlling lease, unit  
 15 agreement, other agreement, or operative document, or as provided by law."  
 16

17 Page 1, line 7:

18 Delete "**Section 1**"

19 Insert "**Sec. 3**"

20  
 21 Renumber the following bill sections accordingly.