

SENATE CS FOR CS FOR HOUSE BILL NO. 100(FIN) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/17/16

Offered: 4/16/16

Sponsor(s): REPRESENTATIVES CHENAULT, Olson, Neuman, Wilson, Saddler, Tilton, Johnson

SENATOR Micciche

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 (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, ammonia, or gas-to-
 2 liquid products to third parties in arm's length transactions, not to exceed the amount
 3 that would otherwise be due under the lease. The commissioner may enter into an
 4 agreement under this 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;

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

21 (3) the agreement requires, to the maximum extent permitted by law,
 22 the lessee to

23 (A) hire qualified residents from throughout the state for
 24 management, engineering, construction, operation, maintenance, and other
 25 positions;

26 (B) establish hiring facilities in the state or use existing hiring
 27 facilities in the state; and

28 (C) use, as far as practicable, the job centers and associated
 29 services operated by the Department of Labor and Workforce Development
 30 and an Internet-based labor exchange system operated by the state.

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

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

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

15 (c) To claim a credit under this section, the taxpayer shall

16 (1) report to the department the name of each lessee delivering natural
 17 gas for use at the in-state processing facility, the identification and quantity of natural
 18 gas from each state lease that is the source of the natural gas, the ownership
 19 percentage of the taxpayer in the in-state processing facility, and the price for the
 20 natural gas established in a contract between the in-state processing facility and the
 21 lessee delivering the natural gas; and

22 (2) demonstrate to the department that the taxpayer, to the maximum
 23 extent possible,

24 (A) hires qualified residents from throughout the state for the
 25 management, engineering, construction, operation, and maintenance of, and
 26 other positions for, the in-state processing facility;

27 (B) establishes hiring facilities in the state or uses existing
 28 hiring facilities in the state; and

29 (C) uses, as far as practicable, the job centers and associated
 30 services operated by the Department of Labor and Workforce Development or
 31 an Internet-based labor exchange system operated by the state.

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

3 * **Sec. 3.** AS 43.20.052 is repealed.

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

6 APPLICABILITY. AS 43.20.052, added by sec. 2 of this Act, applies to the amount of
7 royalty paid under AS 38.05.135 on natural gas from a state lease that is delivered for use at
8 an in-state processing facility whose primary function is the manufacturing and sale of urea,
9 ammonia, or gas-to-liquid products to third parties in arm's length transactions on or after
10 July 1, 2017, and before January 1, 2024.

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

12 * **Sec. 6.** Section 3 of this Act takes effect January 1, 2024.