

**HB**

**286**

Senate Resources Committee

May 4, 2005

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Attached is:

WORK DRAFT

SENATE CS FOR HB 286(RES) version \F dated 5/3/05

24-LS0931\F  
Chenoweth  
5/3/05

**SENATE CS FOR HOUSE BILL NO. 286(RES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES SAMUELS, Dahlstrom, McGuire, Anderson**

**A BILL**  
**FOR AN ACT ENTITLED**

1 "An Act amending the manner of determining the royalty received by the state on gas  
2 production by directing the commissioner of natural resources to accept, under certain  
3 circumstances, the transfer price of the gas if established by transfer price order of the  
4 Regulatory Commission of Alaska; extending and amending the requirements  
5 applicable to the credit that may be claimed for certain oil and gas exploration expenses  
6 incurred in Cook Inlet against oil and gas properties production (severance) taxes, and  
7 amending the credit against those taxes for certain exploration expenditures from leases  
8 or properties in the state; and providing for an effective date."

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

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

11 (aa) Within 90 days after the written request of a lessee of a lease issued under  
12 this section or of a lessee of federal land from which the state is entitled under

1 applicable federal law to receive a share of the royalty on gas production, the  
2 commissioner shall enter into an agreement with the lessee to use or accept, as the  
3 value of the state's royalty share of gas production, the price for the gas established  
4 in the contract between the lessee and a gas or electric utility [AS THE VALUE OF  
5 THE STATE'S ROYALTY SHARE OF GAS PRODUCTION] sold by the lessee  
6 under the contract or the transfer price between the lessee and a gas or electric  
7 utility for a transfer by the lessee under an order establishing the transfer price

8 (1) but only if the primary function of the utility with which the lessee  
9 has entered into the contract or transfer is to provide, either directly or by selling at  
10 wholesale to another utility, gas or electricity to the general public, including  
11 residential consumers, within the utilities' service areas, and the utility with which the  
12 lessee has entered into

13 (A) the contract is not an affiliated interest, as that term is  
14 defined in AS 42.05.990, with the lessee or with a subsequent purchaser of  
15 more than 10 percent of the utility's gas or electricity; or

16 (B) the transfer is an affiliated interest, as that term is  
17 defined in AS 42.05.990, and the transfer price between the lessee and the  
18 utility is established by an order of the Regulatory Commission of Alaska;  
19 and

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

22 (A) the contract price or transfer price is unreasonably low;

23 (B) the prospective reduction in royalty receipts would not be  
24 balanced by increased benefits to in-state gas and electric consumers;

25 (C) the lessee and the utility are related in management,  
26 ownership, or other aspect and, in the case of a transfer price, that  
27 relationship is not regulated under AS 42.05; and

28 (D) the contract price or transfer price is not in the best  
29 interest of the state.

30 \* Sec. 2. AS 43.55.025(a) is amended to read:

31 (a) Subject to the terms and conditions of this section, on oil and gas produced

1 on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas  
2 only lease, [ON OR AFTER JULY 1, 2004,] a credit against the production tax due  
3 under this chapter is allowed for exploration expenditures that qualify under (b) of  
4 this section in an amount equal to one of the following:

5 (1) 20 percent of the total exploration expenditures that qualify only  
6 under (b) and (c) of this section;

7 (2) [,] 20 percent of the total exploration expenditures for work  
8 performed before July 1, 2007, and that qualify only unde (b) and (d) of this section  
9 [, OR BOTH, FOR A TOTAL CREDIT THAT DOES NOT EXCEED 40 PERCENT  
10 OF THE TOTAL EXPLORATION EXPENDITURES];

11 (3) 40 percent of the total exploration expenditures that qualify  
12 under (b), (c), and (d) of this section; or

13 (4) [(2)] 40 percent of the total exploration expenditures that qualify  
14 only under (b) and (e) of this section [, FOR A TOTAL PRODUCTION TAX  
15 CREDIT THAT DOES NOT EXCEED 40 PERCENT OF THE TOTAL QUALIFIED  
16 EXPLORATION EXPENDITURES].

17 \* Sec. 3. AS 43.55.025(b) is amended to read:

18 (b) To qualify for the production tax credit under (a) of this section, an  
19 exploration expenditure must be incurred for work performed on or after July 1, 2003,  
20 and before July 1, 2007, except that an exploration expenditure for a Cook Inlet  
21 prospect must be incurred for work performed on or after July 1, 2005, and  
22 before July 1, 2010, and except that an exploration expenditure, in whole or in  
23 part, south of 68 degrees, 15 minutes, North latitude, and not part of a Cook Inlet  
24 prospect must be incurred for work performed on or after July 1, 2003, and  
25 before July 1, 2010, and

26 (1) may be for seismic or geophysical exploration costs not connected  
27 with a specific well;

28 (2) if for an exploration well,

29 (A) must be incurred by an explorer that holds an interest in the  
30 exploration well for which the production tax credit is claimed;

31 (B) may be for either an oil or gas discovery well or a dry hole;

1 and

2 (C) must be for goods, services, or rentals of personal property  
3 reasonably required for the surface preparation, drilling, casing, cementing,  
4 and logging of an exploration well, and, in the case of a dry hole, for the  
5 expenses required for abandonment if the well is abandoned within 18 months  
6 after the date the well was spudded;

7 (C) may not be for testing, stimulation, or completion costs;  
8 administration, supervision, engineering, or lease operating costs; geological or  
9 management costs; community relations or environmental costs; bonuses, taxes, or  
10 other payments to governments related to the well; or other costs that are generally  
11 recognized as indirect costs or financing costs; and

12 (4) may not be incurred for an exploration well or seismic exploration  
13 that is included in a plan of exploration or a plan of development for any unit on  
14 May 13, 2003.

15 \* Sec. 4. AS 43.55.025(c) is amended to read:

16 (c) To be eligible for the [A] 20 percent production tax credit authorized by  
17 (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3)  
18 of this section, exploration expenditures must

19 (1) qualify under (b) of this section; and

20 (2) be for an exploration well, subject to the following:

21 (A) for an exploration well other than a well that is  
22 described in (B) of this paragraph, the well must be [THAT IS] located and  
23 drilled in such a manner that the bottom hole is located not less than three  
24 miles away from the bottom hole of a preexisting suspended, completed, or  
25 abandoned oil or gas well; in this subparagraph [PARAGRAPH],  
26 "preexisting" means a well that was spudded more than 150 days but less than  
27 35 years before the exploration well was spudded;

28 (B) for an exploration well that explores a Cook Inlet  
29 prospect, the well must be located at least three miles from any other well  
30 drilled for oil and gas with all distances measured as the horizontal  
31 distance between exploration targets, except that the exploration well that

1 is located within three miles of a well drilled for oil and gas qualifies for  
2 the tax credit authorized by this subsection if the exploration well tests  
3 potential hydrocarbon traps that the commissioner of natural resources  
4 determines, after analyzing evidence submitted by the explorer and from  
5 other information that the commissioner of natural resources determines  
6 relevant, constitute a distinctly separate exploration target.

7 \* Sec. 5. AS 43.55.025(d) is amended to read:

8 (d) To be eligible for ~~the~~ [AN ADDITIONAL] 20 percent production tax  
9 credit authorized by (a)(2) of this section or the 40 percent production tax credit  
10 authorized by (a)(3) of this section, an exploration expenditure must

11 (1) qualify under (b) of this section; and

12 (2) be for an exploration well that is located not less than 25 miles  
13 outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a  
14 plan of development, except that for an exploration well for a Cook Inlet prospect  
15 to qualify under this paragraph, the exploration well must be located not less  
16 than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any  
17 unit that is under a plan of development.

18 \* Sec. 6. AS 43.55.025(e) is amended to read:

19 (e) To be eligible for the 40 percent production tax credit authorized by  
20 (a)(4) [IN (a)] of this section, the exploration expenditure must

21 (1) qualify under (b) of this section;

22 (2) be for seismic exploration; and

23 (3) have been conducted outside the boundaries of a production unit or  
24 an exploration unit; however, the amount of the expenditure that is otherwise eligible  
25 under this subsection is reduced proportionately by the portion of the seismic  
26 exploration activity that crossed into a production unit or an exploration unit.

27 \* Sec. 7. AS 43.55.025(f) is amended to read:

28 (f) For a production tax credit under this section,

29 (1) an explorer shall, in a form prescribed by the department and  
30 within six months of the completion of the exploration activity, claim the credit and  
31 submit information sufficient to demonstrate to the department's satisfaction that the

1 claimed exploration expenditures qualify under this section;

2 (2) an explorer shall agree, in writing,

3 (A) to notify the Department of Natural Resources, within 30  
4 days after completion of seismic or geophysical data processing, completion of  
5 a well, or filing of a claim for credit, whichever is the latest, for which  
6 exploration costs are claimed, of the date of completion and submit a report to  
7 that department describing the processing sequence and providing a list of data  
8 sets available; if, under (c)(2)(B) of this section, an explorer submits a  
9 claim for a credit for expenditures for an exploration well that is located  
10 within three miles of a well already drilled for oil and gas, in addition to  
11 the submissions required under (1) of this subsection, the explorer shall  
12 submit the information necessary for the commissioner of natural  
13 resources to evaluate the validity of the explorer's claim that the well is  
14 directed at a distinctly separate exploration target, and the commissioner  
15 of natural resources shall, upon receipt of all evidence sufficient for the  
16 commissioner to evaluate the explorer's claim, make that determination  
17 within 60 days;

18 (B) to provide to the Department of Natural Resources, within  
19 30 days after the date of a request, specific data sets, ancillary data, and reports  
20 identified in (A) of this paragraph;

21 (C) that, notwithstanding any provision of AS 38, information  
22 provided under this paragraph will be held confidential by the Department of  
23 Natural Resources for 10 years following the completion date, at which time  
24 that department will release the information after 30 days' public notice;

25 (3) if more than one explorer holds an interest in a well or seismic  
26 exploration, each explorer may claim an amount of credit that is proportional to the  
27 explorer's cost incurred;

28 (4) the department may exercise the full extent of its powers as though  
29 the explorer were a taxpayer under this title, in order to verify that the claimed  
30 expenditures are qualified exploration expenditures under this section; and

31 (5) if the department is satisfied that the explorer's claimed

1 expenditures are qualified under this section, the department shall issue to the explorer  
2 a production tax credit certificate for the amount of credit to be allowed against  
3 production taxes due under this chapter; however, notwithstanding any other  
4 provision of this section, the department may not issue to an explorer a  
5 production tax credit certificate if the total of production tax credits submitted  
6 for Cook Inlet production, based on exploration expenditures for work  
7 performed during the period described in (b) of this section for that production,  
8 that have been approved by the department exceeds \$20,000,000.

9 \* Sec. 8. AS 43.55.025(k) is amended to read:

10 (k) In this section,

11 (1) "Cook Inlet production" means oil or gas production from the  
12 Cook Inlet sedimentary basin, as that term is defined by regulation adopted to  
13 implement AS 38.05.180(f)(4);

14 (2) "Cook Inlet prospect" means a location within the Cook Inlet  
15 sedimentary basin, as that term is defined by regulation adopted to implement  
16 AS 38.05.180(f)(4);

17 (3) "explorer" means a person who, in exploring for new oil or gas  
18 reserves, incurs expenditures.

19 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

**Senate Resources Committee**

**May 4, 2005**

**RE: HB 286**

Two fiscal notes were issued for HB 286, but apparently the second note did not catch up on the House side.

One of the fiscal notes, from CCED, dated 4/28/05, was included in the packet that was distributed yesterday. It was a zero fiscal note.

The new fiscal note is dated 4/27/05 from DNR. It is a zero fiscal note.

Both fiscal notes are attached.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 286  
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Value of Royalty on Gas Production RDU Regulatory Commission of Alaska (399)  
 Component Regulatory Commission of Alaska  
 Sponsor Samuels  
 Requester House Oil & Gas Component No. 2417

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone (907) 263-2110  
 Division Regulatory Commission of Alaska Date/Time 4/28/05 12:15 PM  
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2005  
 Agency Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB286-DNR-O&G-04-27  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Value of Royalty on Gas Production RDU: Resource Development  
 Component: Oil and Gas Development  
 Sponsor: Rep. Samuels  
 Requester: House Oil and Gas Component No.: 439

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>***Indeterminate</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends AS 38.05.180(aa), a statute that relates to the royalty value of gas sold to a gas or electric utility that serves the general public. Under the state's oil and gas leases, a producer-lessee must pay the state royalties-in-value (cash) or royalties-in-kind (oil or gas). If the producer pays the gas royalty in-value, meaning that the producer sells the gas to its customer and then tenders a payment to the state, the producer is liable under the lease for a royalty value that is the higher of the producer's actual sales price (less certain allowed deductions) or the average royalty values for other producers in the same area based on their sales.

Under current law, AS 38.05.180(aa) provides that a gas producer can apply to the Commissioner of the Department of Natural Resources (the department) to have its royalty gas valued at its contract sales price

Prepared by: Mark D. Myers, Director Phone: 269-8800  
 Division: Oil and Gas Date/Time: 4/27/2005  
 Approved by: Tom Irwin, Commissioner Date: 4/27/2005  
 Agency: Natural Resources

## FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. HB286-DNR-O&G-0

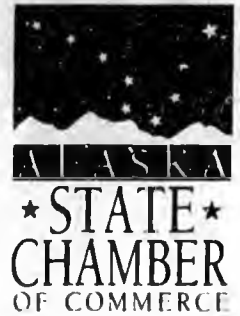
### ANALYSIS CONTINUATION

If the Commissioner approves the application, the state gives up the higher of value under the lease, relating to the average sales prices received by other producers as noted above. To obtain approval under AS 38 05 180(aa), the producer must present a negotiated, third-party arm's length contract for the Commissioner's consideration.

HB 286 would change current law to allow a producer-lessee that transfers its gas to an affiliated utility to apply for AS 38 05 180(aa) treatment. Under the bill, if a producer-lessee has an internal transfer price for gas consumed by its utility approved for ratemaking purposes by the Regulatory Commission of Alaska, it could apply to the department to have its transfer price used as its royalty value. In the absence of HB 286, the department would use the higher of value to determine the royalty value. Since there would be no negotiated, arm's length third-party contract for the producer-lessee's internally consumed gas, the higher of value would be the average of the other producers' royalty values.

\*\*\*Indeterminate. The department is unable to determine whether enacting HB 286 would have a negative or positive fiscal impact on the state. If the transfer price were used for the royalty value, as the bill would permit with department approval, the impact would be negative if the transfer price was lower than the average of other producers' royalty values. However, the fiscal impact would be positive if the transfer price was higher than the average of other producers' royalty values.

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May 4, 2005

Senator Thomas Waggoner, Chair  
Senate Resources Committee  
& Members of the Senate Resources Committee  
State Capital, Room 427  
Juneau, AK 99801-1182

The Honorable Chairman and Members of the Senate Resources Committee,

The Executive Committee of the Board of Directors of the Alaska State Chamber of Commerce supports and endorses passage of HB 71 in its form as CSHB 71(FIN) prior to the adoption of Amendment 1 on April 28, 2005. The bill as originally intended would offer a credit for certain exploration expenses against oil and gas production taxes. This bill in its earliest form had a laudable goal of encouraging oil and gas exploration. Unfortunately, CSHB 71(FIN) was amended on the House floor which has changed the initial intent of the bill.

The State Chamber believes the amendment will have a long-term negative impact on current and future oil & gas leases. We urge you to set the amendment aside and conduct a more complete analysis of how the amendment will affect the oil and gas industry in the future.

The State Chamber has repeatedly supported the notion that the state needs to develop a comprehensive long range fiscal structure or process in order to establish economic certainty for business and industry. CSHB71 as amended would change the rules for gas and oil developers, not only in the future, but for development that has already been done. We don't see that as consistent with a notion of fiscal predictability.

The State of Alaska must be perceived as having a stable and predictable investment climate. We must be able to attract companies from around the world, and we must be able to ensure that once they make the decision to invest here, we don't arbitrarily change the rules of engagement.

The State Chamber supports CSHB 71 without the amendment and we hope the committee can make the necessary changes that will not impede future oil and gas exploration. Your thoughtful consideration and careful attention to this matter is sincerely appreciated.

Yours in economic prosperity,

Wayne A. Stevens  
President  
Alaska State Chamber of Commerce

# REPRESENTATIVE RALPH SAMUELS

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## HOUSE DISTRICT 29

### Sponsor Statement HB 286

**"An Act amending the manner of determining the royalty received by the state on gas production by directing the commissioner of natural resources to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska; and providing for an effective date."**

Anchorage Municipal Light and Power is proposing a housekeeping amendment to AS 38.05.180(aa). The amendment will allow the Department of Natural Resources to use the transfer price for gas set by the Regulatory Commission of Alaska to value the State's share of royalty gas. The amendment reflects language as proposed by ML&P and modified at DNR's request. DNR does not oppose this amendment.

Since 1986, Alaska utilities have been able to use the price set in their long-term gas purchase contracts as the value for royalty gas values.

ML&P has used (aa) for the gas ML&P uses from its share of the Beluga River Field. DNR agreed to let ML&P continue to receive (aa) treatment based on the ML&P/Shell contract even after ML&P bought Shell's interest in the field. But that contract expires at the end of 2005. While ML&P's share in the Beluga River Field will assure ML&P of a supply of gas, in the absence of the proposed legislation, ML&P will not be able to continue to receive (aa) treatment for its gas.

The proposed legislation adds language that allows DNR to use the gas transfer price set by the RCA much like DNR uses the contract price for gas. The transfer price is the rate ML&P is required to charge itself for the Beluga Field gas it uses. The proposed amendment allows DNR to give (aa) treatment not only to an arms-length gas supply contract, but also to RCA-approved orders setting the transfer price when a utility uses its own natural gas.

The proposed amendment is consistent with the purpose of the original law. It will allow ML&P to continue to receive the benefits the Legislature intended to provide to consumers. It assures that rigorous and fair regulatory process will be used to set the price for royalty gas. The fiscal impact will be minimal compared to the (aa) treatment ML&P presently receives. This amendment will help ensure that Anchorage electric consumers have certainty and stability in their electric rates.

Email: [Representative\\_Ralph\\_Samuels@legis.state.ak.us](mailto:Representative_Ralph_Samuels@legis.state.ak.us)

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810  
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# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 286  
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Value of Royalty on Gas Production RDU: Regulatory Commission of Alaska (399)  
 Component: Regulatory Commission of Alaska  
 Sponsor: Samurís  
 Requester: Hous Oil & Gas Component No.: 2417

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently, no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone: (907) 263-2110  
 Division: Regulatory Commission of Alaska Date/Time: 4/28/05 12:15 PM  
 Approved by: Edgar Blatchford, Commissioner Date: 4/28/2005  
 Agency: Commerce, Community, and Economic Development

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 4, 2005

**SUBJECT:** Draft SCS HB 286(RES) (Work Order No. 24-LS0931VF)

**TO:** Senator Tom Wagoner, Chair  
Senate Resources Committee

**FROM:** Jack Chenoweth  
Assistant Revisor

Please extend to Mary Jackson my appreciation for her clear drafting instructions for the preparation of the draft that accompanies this memo.

I just want to sound a note of caution about the choice of vehicle.

The first sentence of article II, section 13 lays down that "Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws." This draft Senate Committee Substitute does not fit any of the three exceptions, so the single subject requirement must be adhered to. This draft combines materials that relate, in section 1, to valuation of royalty on the state's royalty share of gas production and, in the balance of the measure, to alteration and extension of the credits that may be claimed against the severance tax. The court has given the single subject requirement a very deferential, and very generous, interpretation. Its standard is that an

act should embrace some one general subject; and by this is meant, merely that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

*Gellert v. State*, 522 P.2d 1120, 1123 (Alaska 1974). Moreover, the court has also observed that

"what constitutes one subject for purposes of article II, § 13 is broadly construed," and that only a "substantial and plain" violation of the one subject rule will lead us to strike down legislation on this basis.

*Evans v. Wood*, 56 P.3d 1046 (Alaska 2002), at 1069, quoting *State v. First Nat'l Bank of Anchorage*, 660 P.2d 406 (Alaska 1982) at 415.

Under the standard, it is likely that, if the measure is challenged on article II, section 13 grounds, the challenge would be defeated on an understanding on the part of the court that the entirety of the bill relates to gas. However, the court has expressed some

Senator Tom Wagoner  
May 4, 2005  
Page 2

reservations about the breadth of its standard and it could be that, if this measure is challenged, the court could look at the legislative history of House Bill 286, decide that the joining of matter involving severance tax credits and calculation of value for purposes of determining royalties--subjects that are not necessarily connected with or related to each other within the context of the legislation--was an example of "logrolling" of the kind that the single subject rule was intended to guard against, and conclude that the violation was both "substantial" and "plain" and that the constitutional requirement had therefore been violated.

The second sentence of article II, section 14 directs that "[n]o bill may become law unless it has passed three readings in each house on three separate days . . . ." This provision raises questions when the subject matter of a bill is significantly and substantially altered as it proceeds through the legislative process -- most noteworthy, of course, if the bill is "guttled" or "stripped," and its contents changed in the entirety. The constitutional problem with bill stripping is that the practice raises an issue as to whether the stripped bill has been given the requisite three readings in each house. The court has noted that, while a bill may be substantially revised as it works its way through the legislative process, if the subject of the bill is actually changed in the amendment process from the subject of the originally introduced bill, the bill will not have received the required three readings in each house and will be held not to have been validly enacted. *Van Brunt v. State*, 653 P.2d 343 (Alaska App. 1982); *Casey v. Southern Baptist Hospital*, 526 So.2d 1332 (La. 1988). Essentially, a bill may only be safely stripped if its subject is the same as the subject of the replacement material. The court noted in the *Van Brunt* case:

[I]t is difficult to determine at what point a bill has been so substantially amended that the legislature is dealing with a totally new bill which must start the legislative process again and be read three times by the legislature. A certain amount of deference to the legislature is appropriate because of its primary responsibility under the constitution for the conduct of legislative activity.

653 P.2d at 346. Again, the changes made by the draft of SCS HE 286(RES) do not amount to bill gutting or bill stripping in the conventional sense. However, the committee's proposed addition of the new material to the House-passed bill could, nonetheless, be viewed by the court as a bill that has been "substantially amended" beyond that point that the court thought that it saw when it discussed this subject in *Van Brunt*.

I raise these issues as cautions without intending to be definitive about either issue.

JBC:med  
05-340.med

Enclosure

24-LS0931\F  
Chenoweth  
5/3/05

**SENATE CS FOR HOUSE BILL NO. 286(RES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES SAMUELS, Dahlstrom, McGuire, Anderson**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act amending the manner of determining the royalty received by the state on gas**  
2 **production by directing the commissioner of natural resources to accept, under certain**  
3 **circumstances, the transfer price of the gas if established by transfer price order of the**  
4 **Regulatory Commission of Alaska; extending and amending the requirements**  
5 **applicable to the credit that may be claimed for certain oil and gas exploration expenses**  
6 **incurred in Cook Inlet against oil and gas properties production (severance) taxes, and**  
7 **amending the credit against those taxes for certain exploration expenditures from leases**  
8 **or properties in the state; and providing for an effective date."**

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

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

11 **(aa) Within 90 days after the written request of a lessee of a lease issued under**  
12 **this section or of a lessee of federal land from which the state is entitled under**

1 applicable federal law to receive a share of the royalty on gas production, the  
2 commissioner shall enter into an agreement with the lessee to use or accept, as the  
3 value of the state's royalty share of gas production, the price for the gas established  
4 in the contract between the lessee and a gas or electric utility [AS THE VALUE OF  
5 THE STATE'S ROYALTY SHARE OF GAS PRODUCTION] sold by the lessee  
6 under the contract or the transfer price between the lessee and a gas or electric  
7 utility for a transfer by the lessee under an order establishing the transfer price

8 (1) but only if the primary function of the utility with which the lessee  
9 has entered into the contract or transfer is to provide, either directly or by selling at  
10 wholesale to another utility, gas or electricity to the general public, including  
11 residential consumers, within the utilities' service areas, and the utility with which the  
12 lessee has entered into

13 (A) the contract is not an affiliated interest, as that term is  
14 defined in AS 42.05.990, with the lessee or with a subsequent purchaser of  
15 more than 10 percent of the utility's gas or electricity; or

16 (B) the transfer is an affiliated interest, as that term is  
17 defined in AS 42.05.990, and the transfer price between the lessee and the  
18 utility is established by an order of the Regulatory Commission of Alaska;

19 and

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

22 (A) the contract price or transfer price is unreasonably low;

23 (B) the prospective reduction in royalty receipts would not be  
24 balanced by increased benefits to in-state gas and electric consumers;

25 (C) the lessee and the utility are related in management,  
26 ownership, or other aspect and, in the case of a transfer price, that  
27 relationship is not regulated under AS 42.05; and

28 (D) the contract price or transfer price is not in the best  
29 interest of the state.

30 \* Sec. 2. AS 43.55.025(a) is amended to read:

31 (a) Subject to the terms and conditions of this section, on oil and gas produced

1 on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas  
2 only lease, [ON OR AFTER JULY 1, 2004,] a credit against the production tax due  
3 under this chapter is allowed for exploration expenditures that qualify under (b) of  
4 this section in an amount equal to one of the following:

5 (1) 20 percent of the total exploration expenditures that qualify only  
6 under (b) and (c) of this section;

7 (2) [,] 20 percent of the total exploration expenditures for work  
8 performed before July 1, 2007, and that qualify only under (b) and (d) of this section  
9 [, OR BOTH, FOR A TOTAL CREDIT THAT DOES NOT EXCEED 40 PERCENT  
10 OF THE TOTAL EXPLORATION EXPENDITURES];

11 (3) 40 percent of the total exploration expenditures that qualify  
12 under (b), (c), and (d) of this section; or

13 (4) [(2)] 40 percent of the total exploration expenditures that qualify  
14 only under (b) and (e) of this section [, FOR A TOTAL PRODUCTION TAX  
15 CREDIT THAT DOES NOT EXCEED 40 PERCENT OF THE TOTAL QUALIFIED  
16 EXPLORATION EXPENDITURES].

17 \* Sec. 3. AS 43.55.025(b) is amended to read:

18 (b) To qualify for the production tax credit under (a) of this section, an  
19 exploration expenditure must be incurred for work performed on or after July 1, 2003,  
20 and before July 1, 2007, except that an exploration expenditure for a Cook Inlet  
21 prospect must be incurred for work performed on or after July 1, 2005, and  
22 before July 1, 2010, and except that an exploration expenditure, in whole or in  
23 part, south of 68 degrees, 15 minutes, North latitude, and not part of a Cook Inlet  
24 prospect must be incurred for work performed on or after July 1, 2003, and  
25 before July 1, 2010, and

26 (1) may be for seismic or geophysical exploration costs not connected  
27 with a specific well;

28 (2) if for an exploration well,

29 (A) must be incurred by an explorer that holds an interest in the  
30 exploration well for which the production tax credit is claimed;

31 (B) may be for either an oil or gas discovery well or a dry hole;

1 and

2 (C) must be for goods, services, or rentals of personal property  
3 reasonably required for the surface preparation, drilling, casing, cementing,  
4 and logging of an exploration well, and, in the case of a dry hole, for the  
5 expenses required for abandonment if the well is abandoned within 18 months  
6 after the date the well was spudded;

7 (3) may not be for testing, stimulation, or completion costs;  
8 administration, supervision, engineering, or lease operating costs; geological or  
9 management costs; community relations or environmental costs; bonuses, taxes, or  
10 other payments to governments related to the well; or other costs that are generally  
11 recognized as indirect costs or financing costs; and

12 (4) may not be incurred for an exploration well or seismic exploration  
13 that is included in a plan of exploration or a plan of development for any unit on  
14 May 13, 2003.

15 \* Sec. 4. AS 43.55.025(c) is amended to read:

16 (c) To be eligible for the [A] 20 percent production tax credit authorized by  
17 (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3)  
18 of this section, exploration expenditures must

19 (1) qualify under (b) of this section; and

20 (2) be for an exploration well, subject to the following:

21 (A) for an exploration well other than a well that is  
22 described in (B) of this paragraph, the well must be [THAT IS] located and  
23 drilled in such a manner that the bottom hole is located not less than three  
24 miles away from the bottom hole of a preexisting suspended, completed, or  
25 abandoned oil or gas well; in this subparagraph [PARAGRAPH],  
26 "preexisting" means a well that was spudded more than 150 days but less than  
27 35 years before the exploration well was spudded;

28 (B) for an exploration well that explores a Cook Inlet  
29 prospect, the well must be located at least three miles from any other well  
30 drilled for oil and gas with all distances measured as the horizontal  
31 distance between exploration targets, except that the exploration well that

1                   is located within three miles of a well drilled for oil and gas qualifies for  
2                   the tax credit authorized by this subsection if the exploration well tests  
3                   potential hydrocarbon traps that the commissioner of natural resources  
4                   determines, after analyzing evidence submitted by the explorer and from  
5                   other information that the commissioner of natural resources determines  
6                   relevant, constitute a distinctly separate exploration target.

7 \* Sec. 5. AS 43.55.025(d) is amended to read:

8                   (d) To be eligible for the [AN ADDITIONAL] 20 percent production tax  
9                   credit authorized by (a)(2) of this section or the 40 percent production tax credit  
10                   authorized by (a)(3) of this section, an exploration expenditure must

11                               (1) qualify under (b) of this section; and

12                               (2) be for an exploration well that is located not less than 25 miles  
13                   outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a  
14                   plan of development, except that for an exploration well for a Cook Inlet prospect  
15                   to qualify under this paragraph, the exploration well must be located not less  
16                   than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any  
17                   unit that is under a plan of development.

18 \* Sec. 6. AS 43.55.025(e) is amended to read:

19                   (e) To be eligible for the 40 percent production tax credit authorized by  
20                   (a)(4) [IN (a)] of this section, the exploration expenditure must

21                               (1) qualify under (b) of this section;

22                               (2) be for seismic exploration; and

23                               (3) have been conducted outside the boundaries of a production unit or  
24                   an exploration unit; however, the amount of the expenditure that is otherwise eligible  
25                   under this subsection is reduced proportionately by the portion of the seismic  
26                   exploration activity that crossed into a production unit or an exploration unit.

27 \* Sec. 7. AS 43.55.025(f) is amended to read:

28                   (f) For a production tax credit under this section,

29                               (1) an explorer shall, in a form prescribed by the department and  
30                   within six months of the completion of the exploration activity, claim the credit and  
31                   submit information sufficient to demonstrate to the department's satisfaction that the

1 claimed exploration expenditures qualify under this section;

2 (2) an explorer shall agree, in writing,

3 (A) to notify the Department of Natural Resources, within 30  
4 days after completion of seismic or geophysical data processing, completion of  
5 a well, or filing of a claim for credit, whichever is the latest, for which  
6 exploration costs are claimed, of the date of completion and submit a report to  
7 that department describing the processing sequence and providing a list of data  
8 sets available; if, under (c)(2)(B) of this section, an explorer submits a  
9 claim for a credit for expenditures for an exploration well that is located  
10 within three miles of a well already drilled for oil and gas, in addition to  
11 the submissions required under (1) of this subsection, the explorer shall  
12 submit the information necessary for the commissioner of natural  
13 resources to evaluate the validity of the explorer's claim that the well is  
14 directed at a distinctly separate exploration target, and the commissioner  
15 of natural resources shall, upon receipt of all evidence sufficient for the  
16 commissioner to evaluate the explorer's claim, make that determination  
17 within 60 days;

18 (B) to provide to the Department of Natural Resources, within  
19 30 days after the date of a request, specific data sets, ancillary data, and reports  
20 identified in (A) of this paragraph;

21 (C) that, notwithstanding any provision of AS 38, information  
22 provided under this paragraph will be held confidential by the Department of  
23 Natural Resources for 10 years following the completion date, at which time  
24 that department will release the information after 30 days' public notice;

25 (3) if more than one explorer holds an interest in a well or seismic  
26 exploration, each explorer may claim an amount of credit that is proportional to the  
27 explorer's cost incurred;

28 (4) the department may exercise the full extent of its powers as though  
29 the explorer were a taxpayer under this title, in order to verify that the claimed  
30 expenditures are qualified exploration expenditures under this section; and

31 (5) if the department is satisfied that the explorer's claimed

1 expenditures are qualified under this section, the department shall issue to the explorer  
2 a production tax credit certificate for the amount of credit to be allowed against  
3 production taxes due under this chapter; however, notwithstanding any other  
4 provision of this section, the department may not issue to an explorer a  
5 production tax credit certificate if the total of production tax credits submitted  
6 for Cook Inlet production, based on exploration expenditures for work  
7 performed during the period described in (b) of this section for that production,  
8 that have been approved by the department exceeds \$20,000,000.

9 \* Sec. 8. AS 43.55.025(k) is amended to read:

10 (k) In this section,

11 (1) "Cook Inlet production" means oil or gas production from the  
12 Cook Inlet sedimentary basin, as that term is defined by regulation adopted to  
13 implement AS 38.05.180(f)(4);

14 (2) "Cook Inlet prospect" means a location within the Cook Inlet  
15 sedimentary basin, as that term is defined by regulation adopted to implement  
16 AS 38.05.180(f)(4);

17 (3) "explorer" means a person who, in exploring for new oil or gas  
18 reserves, incurs expenditures.

19 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

**Senate Resources Committee**

**May 4, 2005**

**RE: HB 286**

Two fiscal notes were issued for HB 286, but apparently the second note did not catch up on the House side.

One of the fiscal notes, from CCED, dated 4/28/05, was included in the packet that was distributed yesterday. It was a zero fiscal note.

The new fiscal note is dated 4/27/05 from DNR. It is a zero fiscal note.

Both fiscal notes are attached.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 286  
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Value of Royalty on Gas Production RDU Regulatory Commission of Alaska (399)  
 Component Regulatory Commission of Alaska  
 Sponsor Samuels  
 Requester House Oil & Gas Component No. 2417

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently, no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone (907) 263-2110  
 Division Regulatory Commission of Alaska Date/Time 4/28/05 12:15 PM  
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2005  
 Agency Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB286-DNR-O&G-04-27  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title Value of Royalty on Gas Production RDU Resource Development  
 Component Oil and Gas Development  
 Sponsor Rep. Samuels  
 Requester House Oil and Gas Component No. 439

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>***Indeterminate</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends AS 38.05.180(aa), a statute that relates to the royalty value of gas sold to a gas or electric utility that serves the general public. Under the state's oil and gas leases, a producer-lessee must pay the state royalties-in-value (cash) or royalties-in-kind (oil or gas). If the producer pays the gas royalty in-value, meaning that the producer sells the gas to its customer and then tenders a payment to the state, the producer is liable under the lease for a royalty value that is the higher of the producer's actual sales price (less certain allowed deductions) or the average royalty values for other producers in the same area based on their sales.

Under current law, AS 38.05.180(aa) provides that a gas producer can apply to the Commissioner of the Department of Natural Resources (the department) to have its royalty gas valued at its contract sales price

Prepared by: Mark D. Myers, Director Phone 269-8800  
 Division Oil and Gas Date/Time 4/27/2005  
 Approved by: Tom Irwin, Commissioner Date 4/27/2005  
 Agency Natural Resources

**FISCAL NOTE**

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

**BILL NO. HB286-DNR-O&G-0.**

**ANALYSIS CONTINUATION**

If the Commissioner approves the application, the state gives up the higher of value under the lease, relating to the average sales prices received by other producers as noted above. To obtain approval under AS 38.05.180(a), the producer must present a negotiated, third-party arm's length contract for the Commissioner's consideration.

HB 286 would change current law to allow a producer-lessee that transfers its gas to an affiliated utility to apply for AS 38.05.180(aa) treatment. Under the bill, if a producer-lessee has an internal transfer price for gas consumed by its utility approved for ratemaking purposes by the Regulatory Commission of Alaska, it could apply to the department to have its transfer price used as its royalty value. In the absence of HB 286, the department would use the higher of value to determine the royalty value. Since there would be no negotiated, arm's length third-party contract for the producer-lessee's internally consumed gas, the higher of value would be the average of the other producers' royalty values.

\*\*\*Indeterminate. The department is unable to determine whether enacting HB 286 would have a negative or positive fiscal impact on the state. If the transfer price were used for the royalty value, as the bill would permit with department approval, the impact would be negative if the transfer price was lower than the average of other producers' royalty values. However, the fiscal impact would be positive if the transfer price was higher than the average of other producers' royalty values.

## **Senate Resources**

**May 4, 2005**

### HB 286 Materials List

- Sponsor Statement: 1 page
- HB 286: 2 pages
- #1 FN: CCED: 4/28/05: 1 page



# **REPRESENTATIVE RALPH SAMUELS**

## **HOUSE DISTRICT 29**

### **Sponsor Statement HB 286**

**“An Act amending the manner of determining the royalty received by the state on gas production by directing the commissioner of natural resources to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska; and providing for an effective date.”**

Anchorage Municipal Light and Power is proposing a housekeeping amendment to AS 38.05.180(aa). The amendment will allow the Department of Natural Resources to use the transfer price for gas set by the Regulatory Commission of Alaska to value the State's share of royalty gas. The amendment reflects language as proposed by ML&P and modified at DNR's request. DNR does not oppose this amendment.

Since 1986, Alaska utilities have been able to use the price set in their long-term gas purchase contracts as the value for royalty gas values.

ML&P has used (aa) for the gas ML&P uses from its share of the Beluga River Field. DNR agreed to let ML&P continue to receive (aa) treatment based on the ML&P/Snell contract even after ML&P bought Shell's interest in the field. But that contract expires at the end of 2005. While ML&P's share in the Beluga River Field will assure ML&P of a supply of gas, in the absence of the proposed legislation, ML&P will not be able to continue to receive (aa) treatment for its gas.

The proposed legislation adds language that allows DNR to use the gas transfer price set by the RCA much like DNR uses the contract price for gas. The transfer price is the rate ML&P is required to charge itself for the Beluga Field gas it uses. The proposed amendment allows DNR to give (aa) treatment not only to an arms-length gas supply contract, but also to RCA-approved orders setting the transfer price when a utility uses its own natural gas.

The proposed amendment is consistent with the purpose of the original law. It will allow ML&P to continue to receive the benefits the Legislature intended to provide to consumers. It assures that rigorous and fair regulatory process will be used to set the price for royalty gas. The fiscal impact will be minimal compared to the (aa) treatment ML&P presently receives. This amendment will help ensure that Anchorage electric consumers have certainty and stability in their electric rates.

Email: [Representative\\_Ralph\\_Samuels@legis.state.ak.us](mailto:Representative_Ralph_Samuels@legis.state.ak.us)

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