

**CS FOR HOUSE BILL NO. 207(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/30/95  
Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to adjustments to royalty reserved to the state to encourage  
2 otherwise uneconomic production of oil and gas; and providing for an effective  
3 date."

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

5 \* **Section 1.** LEGISLATIVE INTENT. In amending AS 38.05.180(j) in sec. 2 of this Act,  
6 it is the intent of the legislature that the commissioner of natural resources consider reduction  
7 of royalty where appropriate, to promote otherwise uneconomic production of oil and gas from  
8 marginal fields and pools upon a finding that the royalty reduction is in the best interests of  
9 the state.

10 \* **Sec. 2.** AS 38.05.180(j) is amended to read:

11 (j) **The** [TO PROLONG THE ECONOMIC LIFE OF AN OIL AND GAS  
12 FIELD OR TO REESTABLISH COMMERCIAL PRODUCTION OF SHUT-IN OIL  
13 OR GAS THAT WOULD NOT OTHERWISE BE ECONOMICALLY FEASIBLE,  
14 THE] commissioner

1 (1) may [SHALL ADOPT REGULATIONS TO] allow reduction of  
2 royalty on individual leases or leases unitized as described in (p) of this section or  
3 subject to an agreement described in (s) or (t) of this section

4 (A) to allow for production from an oil or gas field, pool, or  
5 portion of a field or pool if

6 (i) the oil or gas field, pool, or portion of the field or  
7 pool has been sufficiently delineated to the satisfaction of the  
8 commissioner;

9 (ii) the field, pool, or portion of the field or pool has  
10 not previously produced quantities of oil or gas for sale; and

11 (iii) oil or gas production from the field, pool, or  
12 portion of the field or pool would not otherwise be economically  
13 feasible;

14 (B) to prolong the economic life of an oil or gas field, pool,  
15 or portion of a field or pool as per barrel or barrel equivalent costs  
16 increase or as the price of oil or gas decreases, and the increase or  
17 decrease is sufficient to make future production no longer economically  
18 feasible; or

19 (C) to reestablish production of shut-in oil or gas that would  
20 not otherwise be economically feasible;

21 (2) [. THE COMMISSIONER] may not grant a reduction of royalty  
22 unless the lessee or lessees requesting the reduction make [MAKES] a clear and  
23 convincing showing that a reduction of royalty meets the requirements of this  
24 subsection and is in the best interests of the state;

25 (3) shall, as part of the royalty reduction agreement, [THE  
26 REVENUE FROM THE LESSEE'S SHARE OF ALL HYDROCARBONS  
27 PRODUCED FROM THE FIELD IS AND IS LIKELY TO CONTINUE TO BE  
28 INSUFFICIENT TO PRODUCE A REASONABLE RATE OF RETURN WITH  
29 RESPECT TO THE LESSEE'S TOTAL INVESTMENT IN THE FIELD. THE  
30 COMMISSIONER MAY] condition the [A] royalty reduction granted under this  
31 subsection by making reference to a sliding scale royalty or equivalent provision

1 that provides for adjustment of royalty [IN ANY WAY NECESSARY] to protect  
2 the state's best interests; under this paragraph, the commissioner shall include  
3 provisions in the agreement to increase or decrease the state's royalty share based  
4 on relevant economic factors, including [INTEREST, INCLUDING  
5 RESTORATION OF THE STATE'S ROYALTY SHARE IN THE EVENT OF AN  
6 INCREASE IN] the price of oil or gas, field or pool production rate, projected  
7 ultimate recovery, development costs, and operating costs;

8 (4) may not grant a royalty reduction for a field, pool, or portion  
9 of a field or pool

10 (A) under (1)(A) of this subsection that exceeds 80 percent  
11 of the royalty originally specified in a lease entered into under the  
12 provisions of (f) of this section or AS 38.05.134;

13 (B) under (1)(B) or (1)(C) of this subsection that exceeds 90  
14 percent of the royalty originally specified in a lease entered into under the  
15 provisions of (f) of this section or AS 38.05.134;

16 (5) shall, as part of the royalty reduction application, require the  
17 lessee or lessees to submit, with the application for the royalty reduction, financial  
18 and technical data that demonstrates that the requirements of this subsection are  
19 met; the commissioner

20 (A) may require disclosure of only the financial and  
21 technical data relating to production that is reasonably available to the  
22 applicant; and

23 (B) shall keep the data confidential under AS 38.05.035(a)(9)  
24 upon the lessee's request;

25 (6) may require the lessee or lessees making application for the  
26 royalty reduction to retain and pay for the services of a contractor, selected by  
27 the lessee or lessees from a list of nationally recognized consultants in  
28 hydrocarbon production and economics provided by the commissioner, to assist  
29 the commissioner in evaluating the application and financial and technical data;  
30 when the commissioner requires the lessee or lessees to retain the services of a  
31 contractor under this paragraph, the commissioner shall determine the relevant

1 scope of the work to be performed by the contractor;

2 (7) shall make, publish, and give reasonable public notice of a  
3 preliminary determination on the royalty reduction application and invite written  
4 public comment to that preliminary determination during a period for receipt of  
5 public comment; the duration of the public comment period is as long as the  
6 commissioner determines, but may not be more than 30 days;

7 (8) shall, within 30 days after the close of the public comment  
8 period under (7) of this subsection, make final written findings and a  
9 determination; under this paragraph,

10 (A) the commissioner shall provide a copy of the written  
11 findings and determination to the lessee and make copies of the findings  
12 and determination available to any other person who submitted written  
13 comment under (7) of this subsection and who has filed a written request  
14 for the copies;

15 (B) the commissioner shall prepare a written summary of  
16 the public response to the commissioner's preliminary determination;

17 (C) the commissioner shall transmit copies of the  
18 commissioner's final determination and the summary prepared under (B)  
19 of this paragraph to

20 (i) the presiding officer of each house [. BEFORE  
21 APPROVING A ROYALTY REDUCTION, THE COMMISSIONER  
22 SHALL MAKE A WRITTEN FINDING THAT THE STATE HAS  
23 OBTAINED THE MAXIMUM POSSIBLE ECONOMIC RETURN  
24 THAT IS COMPATIBLE WITH ALLOWING A REASONABLE  
25 RATE OF ECONOMIC RETURN FOR THE LESSEE, AND SEND  
26 COPIES OF THE FINDING TO ALL MEMBERS] of the legislature;

27 (ii) the chairs of the legislature's standing committees  
28 on resources; and

29 (iii) the chairs of the legislature's special committees  
30 on oil and gas, if any;

31 (D) the commissioner's written determination regarding

1 royalty reduction is final and not appealable to the court;

2 (9) is not limited by the provisions of AS 38.05.134(3) or (f) of this  
3 section in the commissioner's determination under this subsection.

4 \* **Sec. 3.** AS 38.05.180(p) is amended to read:

5 (p) To conserve the natural resources of all or a part of an oil or gas pool,  
6 field, or like area, the lessees and their representatives may unite with each other, or  
7 jointly or separately with others, in collectively adopting or operating under a  
8 cooperative or a unit plan of development or operation of the pool, field, or like area,  
9 or a part of it, when determined and certified by the commissioner to be necessary or  
10 advisable in the public interest. The commissioner may, with the consent of the  
11 holders of leases involved, establish, change, or revoke drilling, producing, and royalty  
12 requirements of the leases and adopt regulations with reference to the leases, with like  
13 consent on the part of the lessees, in connection with the institution and operation of  
14 a cooperative or unit plan as the commissioner determines necessary or proper to  
15 secure the proper protection of the public interest. **The commissioner may not**  
16 **reduce royalty on leases in connection with a cooperative or unit plan except as**  
17 **provided in (j) of this section.** The commissioner may require oil and gas leases  
18 issued under this section to contain a provision requiring the lessee to operate under  
19 a reasonable cooperative or unit plan, and may prescribe a plan under which the lessee  
20 must operate. The plan must adequately protect all parties in interest, including the  
21 state.

22 \* **Sec. 4.** AS 38.05.180(s) is amended to read:

23 (s) When separate tracts cannot be individually developed and operated in  
24 conformity with an established well-spacing or development program, a lease, or a  
25 portion of a lease, may be pooled with other land, whether or not owned by the state,  
26 under a communication or drilling agreement providing for an apportionment of  
27 production or royalties among the separate tracts of land comprising the drilling or  
28 spacing unit when determined by the commissioner to be in the public interest.  
29 Operations or production under the agreement are considered as operations or  
30 production as to each lease committed to the agreement. **The commissioner may not**  
31 **reduce royalty on leases in connection with a communization or drilling**

1           agreement except as provided in (j) of this section.

2       \* **Sec. 5.** AS 38.05.180(t) is amended to read:

3                   (t) The commissioner may prescribe conditions and approve, on conditions,  
4           drilling, or development contracts made by one or more lessees of oil or gas leases,  
5           with one or more persons, when, in the discretion of the commissioner, the  
6           conservation of natural resources or the public convenience or necessity requires it or  
7           the interests of the state are best served. All leases operated under approved drilling  
8           or development contracts and interests under them, are excepted in determining holding  
9           or control under AS 38.05.140. **The commissioner may not reduce royalty on a**  
10          **lease or leases that are subject to a drilling or development contract except as**  
11          **provided in (j) of this section.**

12       \* **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).