

AMENDMENT #3 - PART B *Prax*

OFFERED IN THE HOUSE  
TO: SB 219

1 Page 1, line 1, following "Act": *(title amendment)*:

2 Insert "relating to the modification of a royalty or net profit share in an oil and  
3 gas or gas only lease;"

4

5 Page 1, following line 3:

6 Insert new bill sections to read:

7 **\*\* Section 1.** AS 36.30.850(b)(32) is amended to read:

8 (32) **a contract** [CONTRACTS] between the Department of Natural  
9 Resources and **a contractor** [CONTRACTORS] qualified to evaluate hydrocarbon  
10 development, production, transportation, and economics, to assist the commissioner of  
11 natural resources in evaluating applications for **a royalty or net profit share**  
12 **modification under AS 38.05.180(j)** [INCREASES OR DECREASES OR OTHER  
13 ROYALTY ADJUSTMENTS,] and evaluating the related financial and technical data  
14 [, ENTERED INTO UNDER AS 38.05.180(j)];

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

16 (j) The commissioner

17 (1) may provide for modification of **a royalty or net profit share** on  
18 individual leases, leases unitized as described in (p) of this section, leases subject to an  
19 agreement described in (s) or (t) of this section, or interests unitized under AS 31.05

20 (A) to allow for production from an oil or gas field or pool if

21 (i) the oil or gas field or pool has been sufficiently  
22 delineated to the satisfaction of the commissioner;

23 (ii) the field or pool has not previously produced oil or

1 gas for commercial sale; and

2 (iii) oil or gas production from the field or pool would  
3 not otherwise be economically feasible;

4 (B) to prolong the economic life of an oil or gas field or pool as  
5 per barrel or barrel equivalent costs increase or as the price of oil or gas  
6 decreases, and the increase or decrease is sufficient to make future production  
7 no longer economically feasible; [OR]

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

10 (D) to prolong the economic life of an oil or gas field or pool  
11 from which, without additional capital expenditures, future production  
12 would no longer be economically feasible; a royalty modification may not  
13 be made under this subparagraph;

14 (2) may not grant a royalty or net profit share modification unless the  
15 lessee or lessees requesting the change make a clear and convincing showing that [A]  
16 modification of the royalty or net profit share meets the requirements of this  
17 subsection and is in the best interests of the state;

18 (3) shall provide for an increase or decrease or other modification of  
19 the state's royalty or net profit share by a fixed royalty, sliding scale royalty, net  
20 profit share adjustment, or other mechanism [THAT SHALL BE] based on a change  
21 in the price of oil or gas or [AND MAY ALSO BE BASED] on other relevant factors,  
22 including [SUCH AS] a change in production rate, projected ultimate recovery,  
23 development costs, and operating costs;

24 (4) may not grant a royalty reduction for a field or pool

25 (A) under (1)(A) of this subsection if the royalty modification  
26 for the field or pool would establish a royalty rate of less than five percent in  
27 amount or value of the production removed or sold from a lease or leases  
28 covering the field or pool;

29 (B) under (1)(B) or (1)(C) of this subsection if the royalty  
30 modification for the field or pool would establish a royalty rate of less than  
31 three percent in amount or value of the production removed or sold from a

1 lease or leases covering the field or pool;

2 (5) may not grant a net profit share modification for a field or pool  
3 under (1) of this subsection that would reduce a share reserved to the state to less  
4 than 10 percent of the net profit derived from the lease;

5 (6) may not grant a net profit share modification for a field or pool  
6 under (1)(D) of this subsection unless

7 (A) the modification requires the lessee or lessees to make  
8 the capital expenditures necessary for production to be economically  
9 feasible; and

10 (B) the commissioner determines that the capital  
11 expenditures made under (A) of this paragraph are sufficient to maximize  
12 production from the field or pool;

13 (7) [(5)] may not grant a royalty or net profit share reduction under  
14 this subsection without including an explicit condition that the royalty or net profit  
15 share reduction is not assignable without the prior written approval, which may not be  
16 unreasonably withheld, by the commissioner; the commissioner shall, in the  
17 preliminary and final findings and determinations, set out the conditions under which  
18 the royalty or net profit share reduction may be assigned;

19 (8) [(6)] shall require the lessee or lessees to submit, with the  
20 application for the royalty or net profit share reduction, financial and technical data  
21 that demonstrate that the requirements of this subsection are met; the commissioner

22 (A) may require disclosure of only the financial and technical  
23 data related to development, production, and transportation of oil and gas or  
24 gas only from the field or pool that are reasonably available to the applicant;  
25 and

26 (B) shall keep the data confidential under AS 38.05.035(a)(8)  
27 at the request of the lessee or lessees making application for the royalty or net  
28 profit share reduction; the confidential data may be disclosed by the  
29 commissioner to legislators and to the legislative auditor and as directed by the  
30 chair or vice-chair of the Legislative Budget and Audit Committee to the  
31 director of the division of legislative finance, the permanent employees of their

1           respective divisions who are responsible for evaluating a royalty or net profit  
2 share reduction, and to agents or contractors of the legislative auditor or the  
3 legislative finance director who are engaged under contract to evaluate the  
4 royalty or net profit share reduction, if they sign an appropriate  
5 confidentiality agreement;

6           (9) [(7)] may

7           (A) require the lessee or lessees making application for the  
8 royalty reduction under (1)(A) of this subsection or a net profit share  
9 reduction under (1)(A) or (1)(D) of this subsection to pay for the services of  
10 an independent contractor, selected by the lessee or lessees from a list of  
11 qualified consultants compiled by the commissioner, to evaluate hydrocarbon  
12 development, production, transportation, and economics and to assist the  
13 commissioner in evaluating the application and financial and technical data; if,  
14 under this subparagraph, the commissioner requires payment for the services of  
15 an independent contractor, the total cost of the services to be paid for by the  
16 lessee or lessees may not exceed \$150,000 for each application, and the  
17 commissioner shall determine the relevant scope of the work to be performed  
18 by the contractor; selection of an independent contractor under this  
19 subparagraph is not subject to AS 36.30;

20           (B) with the mutual consent of the lessee or lessees making  
21 application for the royalty or net profit share reduction under (1)(B) or (1)(C)  
22 of this subsection, request payment for the services of an independent  
23 contractor, selected from a list of qualified consultants to evaluate hydrocarbon  
24 development, production, transportation, and economics by the commissioner  
25 to assist the commissioner in evaluating the application and financial and  
26 technical data; if, under this subparagraph, the commissioner requires payment  
27 for the services of an independent contractor, the total cost of the services that  
28 may be paid for by the lessee or lessees may not exceed \$150,000 for each  
29 application, and the commissioner shall determine the relevant scope of the  
30 work to be performed by the contractor; selection of an independent contractor  
31 under this subparagraph is not subject to AS 36.30;

1                    **(10)** [(8)] shall make and publish a preliminary findings and  
 2 determination on the royalty or net profit share reduction application, give  
 3 reasonable public notice of the preliminary findings and determination, and invite  
 4 public comment on the preliminary findings and determination during a 30-day period  
 5 for receipt of public comment;

6                    **(11)** [(9)] shall offer to appear before the Legislative Budget and Audit  
 7 Committee, on a day that is not earlier than 10 days and not later than 20 days after  
 8 giving public notice under **(9)** [(8)] of this subsection, to provide the committee a  
 9 review of the commissioner's preliminary findings and determination on the royalty or  
 10 net profit share reduction application and administrative process; if the Legislative  
 11 Budget and Audit Committee accepts the commissioner's offer, the committee shall  
 12 give notice of the committee's meeting to all members of the legislature;

13                    **(12)** [(10)] shall make copies of the preliminary findings and  
 14 determination available to

15                                    (A) the presiding officer of each house of the legislature;

16                                    (B) the chairs of the legislature's standing committees on  
 17 resources; and

18                                    (C) the chairs of the legislature's special committees on oil and  
 19 gas, if any;

20                    **(13)** [(11)] shall, within 30 days after the close of the public comment  
 21 period under **(9)** [(8)] of this subsection,

22                                    (A) prepare a summary of the public response to the  
 23 commissioner's preliminary findings and determination;

24                                    (B) make a final findings and determination; the  
 25 commissioner's final findings and determination prepared under this  
 26 subparagraph regarding a royalty or net profit share reduction is final and not  
 27 appealable to the court;

28                                    (C) transmit a copy of the final findings and determination to  
 29 the lessee;

30                                    (D) with the applicant's consent, amend the applicant's lease or  
 31 unitization agreement consistent with the commissioner's final decision; and

1 (E) make copies of the final findings and determination  
 2 available to each person who submitted comment under (9) [(8)] of this  
 3 subsection and who has filed a request for the copies;

4 (14) [(12)] is not limited by the provisions of AS 38.05.134(3) or (f) of  
 5 this section in the commissioner's determination under this subsection.

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

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

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

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

1 production as to each lease committed to the agreement. The commissioner may not  
 2 reduce the royalty or net profit share on a lease [LEASES] in connection with a  
 3 communitization or drilling agreement except as provided in (j) of this section.

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

5 (t) The commissioner may prescribe conditions and approve, on conditions, a  
 6 drilling [,] or development contract [CONTRACTS] made by one or more lessees of  
 7 oil or gas leases, with one or more persons, when, in the discretion of the  
 8 commissioner, the conservation of natural resources or the public convenience or  
 9 necessity requires it or the interests of the state are best served. A lease [ALL  
 10 LEASES] operated under an approved drilling or development contract,  
 11 [CONTRACTS] and interests under the contract [THEM], are excepted in  
 12 determining holding or control under AS 38.05.140. The commissioner may not  
 13 reduce the royalty or net profit share on a lease [OR LEASES] that is [ARE] subject  
 14 to a drilling or development contract except as provided in (j) of this section.

15 \* **Sec. 6.** AS 38.05.180 is amended by adding a new subsection to read:

16 (mm) The commissioner may grant a royalty or net profit share modification  
 17 under (j) of this section only if the Alaska Royalty Oil and Gas Development Advisory  
 18 Board recommends that the commissioner approve the royalty or net profit share  
 19 modification.

20 \* **Sec. 7.** AS 38.06.040(a) is amended to read:

21 (a) The board shall

22 (1) in accordance with the criteria set out in AS 38.06.070, develop a  
 23 plan for the wise development of the state's oil and gas royalty interests; the plan of  
 24 development shall be consistent with

25 (A) growth of the private sector of the economy;

26 (B) environmental standards required by law; and

27 (C) public fiscal stability;

28 (2) hold public hearings on proposed sales, exchanges, or other  
 29 disposals of royalty oil or gas to determine whether the proposals comply with  
 30 AS 38.06.070;

31 (3) examine proposed sales, exchanges, or other disposal of, and

1 recommend to the legislature that it approve or disapprove a proposed sale, exchange,  
2 or other disposal of

3 (A) the oil or gas that is obtained by the state as royalty under  
4 AS 38.05.182; or

5 (B) the rights to receive future oil or gas production under state  
6 leases; [AND]

7 (4) recommend to the commissioner of natural resources the conditions  
8 relating to the sale, delivery, transportation, refining, or processing of oil or gas that  
9 [WHICH] the commissioner may include in the offer and sale of oil or gas obtained by  
10 the state as royalty under AS 38.05.182; and

11 (5) review a royalty or net profit share modification under  
12 AS 38.05.180 and recommend that the commissioner approve or disapprove the  
13 modification."

14

15 Page 1, line 4:

16 Delete "Section 1"

17 Insert "Sec. 8"

18

19 Renumber the following bill sections accordingly.

20

21 Page 3, line 11:

22 Delete "sec. 1(a)(2)"

23 Insert "sec. 8(a)(2)"

24

25 Page 3, line 12:

26 Delete "sec. 1(c)(2)"

27 Insert "sec. 8(c)(2)"