

**SENATE BILL NO. 254**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR BJORKMAN

Introduced: 2/21/24

Referred: Resources, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to royalty rates for certain oil and gas; and providing for an effective  
2 date."

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

4 \* **Section 1.** AS 38.05.020(a) is amended to read:

5 (a) The commissioner shall

6 (1) supervise the administration of the division of lands;

7 (2) make the determinations required under AS 38.05.180(mm).

8 \* **Sec. 2.** AS 38.05.180(f) is amended to read:

9 (f) Except as provided by AS 38.05.131 - 38.05.134 and (mm) of this  
10 section, the commissioner may issue oil and gas leases or leases for gas only on state  
11 land to the highest responsible qualified bidder as follows:

12 (1) the commissioner shall issue an oil and gas lease or a gas only  
13 lease, as appropriate, to the successful bidder determined by competitive bidding  
14 under regulations adopted by the commissioner; bidding may be by sealed bid or

1 according to any other bidding procedure the commissioner determines is in the best  
2 interests of the state;

3 (2) whenever, under any of the leasing methods listed in this  
4 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline  
5 quality and free of all lease or unit expenses, including but not limited to separation,  
6 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation  
7 off the lease or unit area;

8 (3) following a pre-sale analysis, the commissioner may choose at least  
9 one of the following leasing methods:

10 (A) a cash bonus bid with a fixed royalty share reserved to the  
11 state of not less than 12.5 percent in amount or value of the production  
12 removed or sold from the lease;

13 (B) a cash bonus bid with a fixed royalty share reserved to the  
14 state of not less than 12.5 percent in amount or value of the production  
15 removed or sold from the lease and a fixed share of the net profit derived from  
16 the lease of not less than 30 percent reserved to the state;

17 (C) a fixed cash bonus with a royalty share reserved to the state  
18 as the bid variable but **not** [NO] less than 12.5 percent in amount or value of  
19 the production removed or sold from the lease;

20 (D) a fixed cash bonus with the share of the net profit derived  
21 from the lease reserved to the state as the bid variable;

22 (E) a fixed cash bonus with a fixed royalty share reserved to the  
23 state of not less than 12.5 percent in amount or value of the production  
24 removed or sold from the lease with the share of the net profit derived from the  
25 lease reserved to the state as the bid variable;

26 (F) a cash bonus bid with a fixed royalty share reserved to the  
27 state based on a sliding scale according to the volume of production or other  
28 factor but in no event less than 12.5 percent in amount or value of the  
29 production removed or sold from the lease;

30 (G) a fixed cash bonus with a royalty share reserved to the state  
31 based on a sliding scale according to the volume of production or other factor

1 as the bid variable but not less than 12.5 percent in amount or value of the  
2 production removed or sold from the lease;

3 (4) notwithstanding a requirement in the leasing method chosen of a  
4 minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease  
5 issued in the Cook Inlet sedimentary basin who is the first to file with the  
6 commissioner a nonconfidential sworn statement claiming to be the first to have  
7 drilled a well discovering oil or gas in a previously undiscovered oil or gas pool and  
8 who is certified by the commissioner within one year of completion of that discovery  
9 well to have drilled a well in that pool that is capable of producing in paying quantities  
10 shall pay a royalty of five percent on all production of oil or gas from that pool  
11 attributable to that lease for a period of 10 years following the date of discovery of that  
12 pool, and thereafter the royalty payable on all production of oil or gas from the pool  
13 attributable to that lease shall be determined and payable as specified in the lease; for  
14 purposes of this paragraph, the reduced royalty authorized by this paragraph is subject  
15 to the following:

16 (A) only one reduction of royalty authorized by this paragraph  
17 may be allowed on each lease that qualifies for reduction of royalty under this  
18 paragraph;

19 (B) if, under this paragraph, application is made for a royalty  
20 reduction for a lease that was entered into before March 3, 1997, the  
21 commissioner may approve the application only if, on that date, the lease was a  
22 nonproducing lease that was not committed to a unit approved by the  
23 commissioner under (m) of this section, that is not part of a unit under (p) or  
24 (q) of this section, and that has not been made part of a unit under AS 31.05;

25 (C) if application for a royalty reduction is made under this  
26 paragraph for a lease on which a discovery royalty was claimed or may be  
27 claimed under the discovery royalty provisions of former AS 38.05.180(a) in  
28 effect before May 6, 1969, the commissioner shall disallow the application  
29 under this paragraph unless the applicant waives the right to claim the right to  
30 a reduced royalty under the discovery royalty provisions of former  
31 AS 38.05.180(a) in effect before May 6, 1969; and

1 (D) the commissioner shall adopt regulations setting out the  
2 standards, criteria, and definitions of terms that apply to implement the filing  
3 of applications for, and the review and certification of, discovery certifications  
4 under this paragraph;

5 (5) notwithstanding and in lieu of a requirement in the leasing method  
6 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
7 unitized as described in (p) of this section, leases subject to an agreement described in  
8 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
9 an oil or gas field identified in this section that has been granted approval of a written  
10 plan submitted to the Alaska Oil and Gas Conservation Commission under  
11 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on  
12 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas  
13 produced for sale from that field that occurs in the 10 years following the date on  
14 which the production for sale commences; the fields eligible for royalty reduction  
15 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,  
16 were discovered before January 1, 1988, and have been undeveloped or shut in from at  
17 least January 1, 1988, through December 31, 1997, are

- 18 (A) Falls Creek;  
19 (B) Nicolai Creek;  
20 (C) North Fork;  
21 (D) Point Starichkof;  
22 (E) Redoubt Shoal; and  
23 (F) West Foreland;

24 (6) notwithstanding and in lieu of a requirement in the leasing method  
25 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases  
26 unitized as described in (p) of this section, leases subject to an agreement described in  
27 (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or part of  
28 an oil field located offshore in Cook Inlet on which an oil production platform  
29 specified in (A), (C), or (E) of this paragraph operates, or the lessee of all or part of the  
30 field located offshore in Cook Inlet and described in (G) of this paragraph,

31 (A) shall pay a royalty of five percent on oil produced from the

1 platform if oil production that equaled or exceeded a volume of 1,200 barrels a  
2 day declines to less than that amount for a period of at least one calendar  
3 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
4 as long as the volume of oil produced from the platform remains less than  
5 1,200 barrels a day; the provisions of this subparagraph apply to

6 (i) Dolly;

7 (ii) Grayling;

8 (iii) King Salmon;

9 (iv) Steelhead; and

10 (v) Monopod;

11 (B) shall pay a royalty calculated under this subparagraph if the  
12 volume of oil produced from the platform that was certified by the Alaska Oil  
13 and Gas Conservation Commission under (A) of this paragraph later increases  
14 to 1,200 or more barrels a day and remains at 1,200 or more barrels a day for a  
15 period of at least one calendar quarter; until the royalty rate determined under  
16 this subparagraph applies, the royalty continues to be calculated under (A) of  
17 this paragraph; on and after the first day of the month following the month the  
18 increased production exceeds the period specified in this subparagraph, the  
19 royalty payable under this subparagraph is

20 (i) for production of at least 1,200 barrels a day but not  
21 more than 1,300 barrels a day - seven percent;

22 (ii) for production of more than 1,300 barrels a day but  
23 not more than 1,400 barrels a day - 8.5 percent;

24 (iii) for production of more than 1,400 barrels a day but  
25 not more than 1,500 barrels a day - 10 percent; and

26 (iv) for production of more than 1,500 barrels a day -  
27 12.5 percent;

28 (C) shall pay a royalty of five percent on oil produced from the  
29 platform if oil production that equaled or exceeded a volume of 975 barrels a  
30 day declines to less than that amount for a period of at least one calendar  
31 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for

1 as long as the volume of oil produced from the platform remains less than 975  
2 barrels a day; the provisions of this subparagraph apply to

- 3 (i) Baker;
- 4 (ii) Dillon;
- 5 (iii) XTO.A; and
- 6 (iv) XTO.C;

7 (D) shall pay a royalty calculated under this subparagraph if the  
8 volume of oil produced from the platform that was certified by the Alaska Oil  
9 and Gas Conservation Commission under (C) of this paragraph later increases  
10 to 975 or more barrels a day and remains at 975 or more barrels a day for a  
11 period of at least one calendar quarter; until the royalty rate determined under  
12 this subparagraph applies, the royalty continues to be calculated under (C) of  
13 this paragraph; on and after the first day of the month following the month the  
14 increased production exceeds the period specified in this subparagraph, the  
15 royalty payable under this subparagraph is

- 16 (i) for production of at least 975 barrels a day but not  
17 more than 1,100 barrels a day - seven percent;
- 18 (ii) for production of more than 1,100 barrels a day but  
19 not more than 1,200 barrels a day - 8.5 percent;
- 20 (iii) for production of more than 1,200 barrels a day but  
21 not more than 1,350 barrels a day - 10 percent; and
- 22 (iv) for production of more than 1,350 barrels a day -  
23 12.5 percent;

24 (E) shall pay a royalty of five percent on oil produced from the  
25 platform if oil production that equaled or exceeded a volume of 750 barrels a  
26 day declines to less than that amount for a period of at least one calendar  
27 quarter, as certified by the Alaska Oil and Gas Conservation Commission, for  
28 as long as the volume of oil produced from the platform remains less than 750  
29 barrels a day; the provisions of this subparagraph apply to

- 30 (i) Granite Point;
- 31 (ii) Anna; and

1 (iii) Bruce;

2 (F) shall pay a royalty calculated under this subparagraph if the  
3 volume of oil produced from the platform that was certified by the Alaska Oil  
4 and Gas Conservation Commission under (E) of this paragraph later increases  
5 to 750 or more barrels a day and remains at 750 or more barrels a day for a  
6 period of at least one calendar quarter; until the royalty rate determined under  
7 this subparagraph applies, the royalty continues to be calculated under (E) of  
8 this paragraph; on and after the first day of the month following the month the  
9 increased production exceeds the period specified in this subparagraph, the  
10 royalty payable under this subparagraph is

11 (i) for production of at least 750 barrels a day but not  
12 more than 850 barrels a day - seven percent;

13 (ii) for production of more than 850 barrels a day but  
14 not more than 1,000 barrels a day - 8.5 percent;

15 (iii) for production of more than 1,000 barrels a day but  
16 not more than 1,200 barrels a day - 10 percent; and

17 (iv) for production of more than 1,200 barrels a day -  
18 12.5 percent;

19 (G) shall pay a royalty of five percent on oil produced from the  
20 field if oil production that equaled or exceeded a volume of 750 barrels a day  
21 declines to less than that amount for a period of at least one calendar quarter,  
22 as certified by the Alaska Oil and Gas Conservation Commission, for as long  
23 as the volume of oil produced from the field remains less than 750 barrels a  
24 day; the provisions of this subparagraph apply to the West McArthur River  
25 field;

26 (H) shall pay a royalty calculated under this subparagraph if the  
27 volume of oil produced from the field that was certified by the Alaska Oil and  
28 Gas Conservation Commission under (G) of this paragraph later increases to  
29 750 or more barrels a day and remains at 750 or more barrels a day for a period  
30 of at least one calendar quarter; until the royalty rate determined under this  
31 subparagraph applies, the royalty continues to be calculated under (G) of this

1 paragraph; on and after the first day of the month following the month the  
 2 increased production exceeds the period specified in this subparagraph, the  
 3 royalty payable under this subparagraph is

4 (i) for production of at least 750 barrels a day but not  
 5 more than 850 barrels a day - seven percent;

6 (ii) for production of more than 850 barrels a day but  
 7 not more than 1,000 barrels a day - 8.5 percent;

8 (iii) for production of more than 1,000 barrels a day but  
 9 not more than 1,200 barrels a day - 10 percent; and

10 (iv) for production of more than 1,200 barrels a day -  
 11 12.5 percent; and

12 (I) may obtain the benefits of the royalty adjustments set out in  
 13 (A) - (H) of this paragraph only if the commissioner determines that the  
 14 reduction in production from the platform or the field is

15 (i) based on the average daily production during the  
 16 calendar quarter based on reservoir conditions; and

17 (ii) not the result of short-term production declines due  
 18 to mechanical or other choke-back factors, temporary shutdowns or  
 19 decreased production due to environmental or facility constraints, or  
 20 market conditions.

21 \* **Sec. 3.** AS 38.05.180 is amended by adding new subsections to read:

22 (mm) Notwithstanding a requirement in the leasing method chosen of a  
 23 minimum fixed royalty share, for leases issued for a property in the state that does not  
 24 include land located north of 68 degrees North latitude, the royalty share reserved to  
 25 the state

26 (1) for the period beginning July 1, 2024, and ending July 1, 2030,

27 (A) for qualified new oil or qualified new gas may not exceed  
 28 zero if the qualified new oil or qualified new gas is first offered to an in-state  
 29 electric or heating utility regulated under AS 42.05 under a firm contract; a  
 30 reduction in the royalty share under this subparagraph does not apply until on  
 31 and after the date the well producing the qualified new oil or qualified new gas

1 is spudded;

2 (B) may not exceed 10.5 percent for oil or gas that does not  
3 qualify under (1)(A) or (2) of this subsection if the oil or gas is first offered to  
4 an in-state electric or heating utility regulated under AS 42.05 under a firm  
5 contract;

6 (2) under a lease issued to a lessee may not exceed zero if the lessee is  
7 recovering costs associated with development of qualified new oil or qualified new  
8 gas and the qualified new oil or qualified new gas is first offered to an in-state electric  
9 or heating utility regulated under AS 42.05 under a firm contract; the reduction in the  
10 royalty share under this paragraph applies to the cost of new drilling, well sidetracks,  
11 and workovers only if the department determines that the activity is intended to  
12 produce qualified new oil or qualified new gas.

13 (nn) In (mm) of this section,

14 (1) "firm contract" means a contract that requires the delivery and  
15 purchase of fixed amounts of oil or gas over a designated period;

16 (2) "qualified new gas" means gas produced from a pool that the  
17 commissioner determines has not previously produced gas for commercial sale before  
18 July 1, 2024;

19 (3) "qualified new oil" means oil produced from a pool that the  
20 commissioner determines has not previously produced oil for commercial sale before  
21 July 1, 2024.

22 \* **Sec. 4.** AS 38.95 is amended by adding new sections to read:

23 **Article 6A. Overriding Royalty Interests.**

24 **Sec. 38.95.280. Overriding oil or gas royalty interests; condemnation. (a)**

25 The department may exercise the right of eminent domain to acquire a private  
26 overriding royalty interest in oil or gas produced from land that does not include land  
27 located north of 68 degrees North latitude if the commissioner determines that the

28 (1) acquisition is in the best interest of the state; and

29 (2) acquisition will promote the development of oil or gas resources.

30 (b) The department shall provide just compensation and damages for the  
31 acquisition of a private overriding royalty interest under this section. Unless otherwise

1 determined by a court, for purposes of this section, compensation and damages are  
2 equal to the average annual income generated by the overriding royalty interest over  
3 the preceding five years, multiplied by two.

4 (c) In this section,

5 (1) "commissioner" means the commissioner of natural resources;

6 (2) "department" means the Department of Natural Resources.

7 **Sec. 38.95.285. Limitation on overriding oil or gas royalty interests.** The  
8 Department of Natural Resources may approve an overriding royalty interest only if,  
9 when combined with the royalty share of the state, the total royalties on the unit would  
10 not exceed 20 percent.

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

13 **APPLICABILITY.** AS 38.95.285, added by sec. 4 of this Act, applies to overriding  
14 royalty interests approved after the effective date of this Act.

15 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 **TRANSITION.** To comply with AS 38.05.180(mm), added by sec. 3 of this Act, the  
18 commissioner of natural resources shall enter into lease negotiations with a lessee holding a  
19 lease issued before the effective date of this Act to modify the lease to meet the maximum  
20 royalty share required by AS 38.05.180(mm). No other terms in a lease may be changed in a  
21 negotiation described in this section.

22 \* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).