

CS FOR HOUSE BILL NO. 116(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 2/25/93

Referred: Finance

Sponsor(s): REPRESENTATIVES HANLEY, Phillips, Larson, Green, Parnell, Navarre

A BILL

FOR AN ACT ENTITLED

1 "An Act directing the commissioner of natural resources to accept, under certain
2 circumstances, the contract price agreed to between a lessee of federal land and
3 a gas or electric utility as the value of the federal government's royalty share
4 from natural gas production on federal land from which the state is entitled
5 under applicable federal law to receive a share of the royalty on gas production;
6 and providing for an effective date."

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

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

9 (aa) Within 90 days after the written request of a lessee of a lease issued under
10 this section or of a lessee of federal land from which the state is entitled under
11 applicable federal law to receive a share of the royalty on gas production, the
12 commissioner shall enter into an agreement with the lessee to use or accept the price
13 for the gas established in the contract between the lessee and a gas or electric utility

1 as the value of the state's royalty share of gas production sold by the lessee under the
2 contract unless the commissioner makes a written finding, based on clear and
3 convincing evidence, that

4 (1) the contract price is unreasonably low;

5 (2) the prospective reduction in royalty receipts would not be balanced
6 by increased benefits to in-state gas and electric consumers;

7 (3) the lessee and the utility are related in management, ownership, or
8 other aspect; and

9 (4) the contract price is not in the best interest of the state.

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

11 (bb) In (aa) of this section,

12 (1) "gas or electric utility" includes an electric cooperative organized
13 under AS 10.25, a municipal utility, and a gas or electric utility regulated under
14 AS 42.05; provided that if the contract gas is transmitted to consumers through a
15 pipeline and the gas utility either owns the pipeline or is related in ownership to the
16 owner of the pipeline, then the gas utility qualifies as a "gas or electric utility" within
17 the meaning of this paragraph only if it is bound or agrees to be bound by the
18 covenants set out in AS 38.35.120;

19 (2) "price for the gas established in the contract" includes tax
20 reimbursement amounts, deliverability and other charges, and other forms of
21 consideration paid by the gas or electric utility under the contract;

22 (3) "state's royalty share of gas production"

23 (A) includes payments on federal leases made to the state
24 under 30 U.S.C. 191;

25 (B) does not include the state's royalty share of gas production
26 from land patented to the state under

27 (i) [(A)] P.L. 84-830, 70 Stat. 709 (Alaska Mental
28 Health Enabling Act);

29 (ii) [(B)] 38 Stat. 1214 (Act of March 4, 1915); or

30 (iii) [(C)] 43 U.S.C. 1635 in settlement of the claims of
31 the state under 38 Stat. 1214.

1 * **Sec. 3. APPLICATION TO ROYALTY FROM EXISTING FEDERAL LEASES.** (a)
2 Notwithstanding AS 38.05.180(aa) and 38.05.180(bb), the provisions of this section apply to
3 the state's share of royalty production of gas produced after January 2, 1959, and before the
4 effective date of this section from a lease of oil or gas rights entered into under applicable
5 federal law.

6 (b) If a lessee of a lease for federal land from which the state is entitled under
7 applicable federal law to receive a share of the royalty on gas production makes a written
8 request within 90 days of the effective date of this section, the commissioner shall enter into
9 an agreement with the lessee to accept the price for the gas established in the contract between
10 the lessee and a gas or electric utility as the value of the state's royalty share of gas
11 production sold by the lessee under the contract unless the commissioner makes a written
12 finding, based on clear and convincing evidence, that

13 (1) the contract price is unreasonably low;

14 (2) the reduction in royalty receipts is not balanced by increased benefits to
15 in-state gas and electric consumers;

16 (3) the lessee and the utility are related in management, ownership, or other
17 aspect; and

18 (4) the contract price is not in the best interest of the state.

19 (c) In this section,

20 (1) "gas or electric utility" includes an electric cooperative organized under
21 AS 10.25, a municipal utility, and a gas or electric utility regulated under AS 42.05; however,
22 if the contract gas is transmitted to consumers through a pipeline and the gas utility either
23 owns the pipeline or is related in ownership to the owner of the pipeline, then the gas utility
24 qualifies as a "gas or electric utility" within the meaning of this paragraph only if the gas
25 utility is bound or agrees to be bound by the covenants set out in AS 38.35.120;

26 (2) "price for the gas established in the contract" includes tax reimbursement
27 amounts, deliverability and other charges, and other forms of consideration paid by the gas
28 or electric utility under the contract;

29 (3) "state's royalty share of gas production" includes payments on federal
30 leases made to the state under 30 U.S.C. 191.

31 * **Sec. 4. RETROSPECTIVE EFFECT OF SECTION 3.** Section 3 of this Act is

- 1 retroactive to January 3, 1959, and applies to the federal government's royalty share from
- 2 natural gas production due the state after January 2, 1959.
- 3 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).