

SENATE BILL NO. 104**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - FIRST SESSION****BY SENATOR PEARCE****Introduced: 2/8/93**
Referred: RES, FIN**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 when royalty is payable to the state under applicable
5 federal law; and providing for an effective date."

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

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

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

1 commissioner makes a written finding, based on clear and convincing evidence, that

2 (1) the contract price is unreasonably low;

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

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

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

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

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

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

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

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

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

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

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

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

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

30 * Sec. 3. APPLICATION TO ROYALTY FROM EXISTING FEDERAL LEASES. (a)
31 Notwithstanding AS 38.05.180(aa) and 38.05.180(bb), the provisions of this section apply to

1 the state's share of royalty production of gas produced after January 2, 1959, and before the
2 effective date of this section from a lease of oil or gas rights entered into under applicable
3 federal law.

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

11 (1) the contract price is unreasonably low;

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

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

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

17 (c) In this section,

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

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

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

29 * Sec. 4. RETROSPECTIVE EFFECT OF SECTION 3. Section 3 of this Act is
30 retroactive to January 3, 1959, and applies to the federal government's royalty share from
31 natural gas production due the state after January 2, 1959.

1 • Sec. 5. This Act takes effect immediately under AS 01.10.070(c).