

**HB**

**2017**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/95

FURTHER:

DATE TURNED INTO OFFICE: 5/11/95

The Finance Committee considered CS FOR HOUSE BILL NO. 207(FIN) am

Adjustments to royalty reserved to the state to encourage otherwise uneconomic production of oil and gas; EFD.

and recommends:

- be replaced with 5 CS CS HD 207 (FIN)
- adopt previous      CS      (      )
- attached amendment(s)
- adopt Letter of Intent by      Committee
- further referral to the      Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical change
  - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
Co-Chair:		Co-Chair: <i>[Signature]</i>	✓		
Co-Chair:		Co-Chair: <i>[Signature]</i>	✓		

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal

#2	DOR	4/23/95	0	
#3	DRR	5/1/95		105.3
#4	DOR	3/5/95		I

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 2  
 Version: HB 207  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION SFC 5-11-95

REPORTED OUT OF

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Reduce Royalty Share/Hold Permanent Fund BRU: APFC  
 Component: APFC  
 Sponsor: GOV  
 Requester: GOV COMPONENT SERIAL NO. 109

### Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ \_\_\_\_\_

### POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

No additional costs or significant impact is anticipated with the implementation of this proposed legislation upon the Alaska Permanent Fund Corporation.

Prepared by: Martin Pihl, Acting Executive Director Phone: 465-2047  
 Division: APFC Date: 2/23/95  
 Approved by: \_\_\_\_\_  
 Commissioner: Deborah Vogt Date: 2/23/95  
 Agency: Revenue

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# FISCAL NOTE

No. 3 Corrected

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

REPORTED OUT OF

Bill Version: HB 207

(H) Publish Date: 3/8/95

Revision Date: Original 5-11-95 Dept Affected: Natural Resources  
 Title: An Act relating to adjustments to royalty reserved to BRU: Resource Development  
the state to encourage otherwise uneconomic production of oil and ... Component: Oil & Gas Development  
 Sponsor: House Rules Committee  
 Requestor: Governor Knowles Component Serial No. 439

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	90.5	94.0	97.5	101.2	105.0	108.9
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>105.5</b>	<b>109.0</b>	<b>112.5</b>	<b>116.2</b>	<b>120.0</b>	<b>123.9</b>
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	105.5	109.0	112.5	116.2	120.0	123.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>105.5</b>	<b>109.0</b>	<b>112.5</b>	<b>116.2</b>	<b>120.0</b>	<b>123.9</b>

Estimate of any current year (FY95) cost: \$ None

POSITIONS						
FULL-TIME	11	11	11	11	11	11
PART-TIME	01	01	01	01	01	01
TEMPORARY	01	01	01	01	01	01

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Ken Boyd, Acting Director *Ken Boyd* Phone: 762-2547  
 Division: Oil & Gas Date: 3-Mar-95  
 Approved by Commissioner: *John Knowles* Date: 3-7-95  
 Agency: Natural Resources

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ATTACHMENT FOR FISCAL NOTE - HB207  
REDUCE ROYALTY SHARE/HOLD PERMANENT FUND "HARMLESS"

Implementation of this legislation will create an increased workload for the Division of Oil & Gas. We anticipate that some of the applications will be analyzed within the Division and many will require analysis by third parties (the bill provides that third-party costs will be paid for by the companies). Because of the extremely sensitive and confidential nature of the data a considerable amount of interaction between the third-party contractor and the state will be needed. Furthermore, the bill requires that applicants make a clear and convincing showing of the need for royalty reduction, so the Division will need to evaluate the economic, geological and engineering data submitted for compliance with the law prior to seeking the assistance of a third party.

Because this legislation contains provisions that may cause the terms of the application to vary over time, any approved application will need to be monitored on a continuing basis. We expect this program to have broad appeal, however, we cannot anticipate how many applications will be submitted or when they will be submitted.

An exempt Petroleum Engineer, Range 26A, will provide the broad background that will be needed to evaluate these proposals effectively. This position will need to be skilled not only in Petroleum Engineering, but will also need to have extensive knowledge of petroleum geology and petroleum economics. The salary cost of this position will be approximately \$90.6 the first year, including benefits. Additional, minor expenses such as travel, contractual and supplies will be required which we estimate will not exceed \$15.0. This position and the associated costs are our estimates of the funding needed to get the program started; if many applications are received, other positions may be required. We assume that each application will take between 4-6 employee-months to evaluate.

This legislation will effect state operating revenues in an unquantifiable manner (the Permanent Fund share is not affected by this legislation). This legislation gives the commissioner authority to grant royalty reduction which, on its face, would seem to indicate a decrease in revenue. However, since the purpose of this legislation is to promote development of fields that would not otherwise be produced, the net effect on state revenues should be positive. As a result of this legislation we are gaining new revenues based on this new production (albeit at a somewhat reduced rate from currently producing fields).

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BI

Revision Date: 3/14/95 Dept. Affected: Revenue  
 Title: Adjustments to Oil and Gas Royalty BRU: Revenue Operations  
 Component: Oil & Gas Audit  
 Sponsor: (H) Rules  
 Requirer: Governor COMPONENT SERIAL NO. 115

### Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	*****See Analysis*****					
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY95) cost: \$ \_\_\_\_\_

### POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

### ANALYSIS: (Attach a separate page if necessary)

This Bill would grant the Commissioner of Natural Resources broad authority to reduce the royalty terms of an oil and gas lease if such reduction would allow new commercial development, prolong field life, or reestablish commercial production from idle leases. The reduction could be no greater than the percentage required to deposit royalty income under the initial lease terms into the permanent fund. The net impact of this provision will be to insure that the permanent fund share under the original lease terms will be covered in the event of reduction in royalty rate. In theory, the ability to grant royalty relief should raise the cash bids on new leases.

New production from this royalty reduction would most likely pay little severance tax because the Economic Limit Factor is designed to provide almost total tax relief to the kind of marginal fields this legislation is aimed at benefiting. Each new barrel of production would be subject to the \$.05/bbl or \$.03/bbl hazardous release surcharge (depending on the balance in the 470 fund) and the \$.004/bbl conservation tax. The impact on the corporate income tax would be too small to measure because of the world-wide apportioned tax base and since bid definition these fields would have marginal profitability.

Prepared by: Chuck Loasdon Phone: 277-5627  
 Division: Oil and Gas Audit Division Date: 3/14/95  
 Approved by Commissioner: Deborah Vcol Date: 2/15/95  
 Agency: Revenue

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**COMMITTEE COPY**

Failed 5/11/95

A M E N D M E N T

OFFERED IN THE SENATE  
TO: SCS CSHB 207(RES)

SENATE FINANCE  
COMMITTEE  
Amendment Number: #1  
Bill Number: SCS CSHB 207C.FIN  
Sponsor: Phillips Date: 5/9/95  
Logged In By: JPK

1 Page 3, following line 25:

2 Insert a new subparagraph to read:

3 "(C) under this subsection unless the commissioner and the  
4 lessee or lessees applying for the royalty decrease or other adjustment  
5 agree that the decrease or other adjustment may take effect only if not  
6 disapproved under (12)(D) of this subsection and the commissioner first  
7 submits the decrease or other adjustment under that provision:"

8 Page 7, following line 29:

9 Insert a new subparagraph to read:

10 "(D) submit a final findings and determination made under  
11 (B) or approved by the governor under (C) to the presiding officer of each  
12 house of the legislature: if the legislature is in session at the time of  
13 submission and does not act within 50 days after the close of the public  
14 comment period under (8)(B) or (C) of this subsection to disapprove the  
15 commissioner's proposed final findings and determination by enacting  
16 legislation, the commissioner shall issue a final findings and  
17 determination: if the legislature is not in session, the Legislative Budget  
18 and Audit Committee shall review and approve or disapprove proposed  
19 final findings and determinations: if the Legislative Budget and Audit  
20 Committee does not act within 50 days after the close of the public  
21 comment period under (8) of this subsection to disapprove, by majority  
22 vote of the committee's full membership, the commissioner's proposed  
23 final findings and determinations, the commissioner shall issue a final  
24 findings and determination:"

1 Reletter the following subparagraph accordingly.

2 Page 7, line 31:

3 Delete "(B) or (C)"

4 Insert "(B) - (D)"

Page 3, Line 9, delete all material and replace with:

- (C) for a modification under (1)(A) of this subsection, set out the terms and conditions, which
- (i) must include a schedule based on price or value of the hydrocarbons produced; the schedule must provide for an increase in royalty percentage resulting from an increase in price from the base assumptions that is equal to or greater than the decrease in royalty percentage that would result from an equivalent decrease in price from the base assumptions; and
  - (ii) may include, in addition to the schedule specified in (i) of this subparagraph, a further adjustment to the schedule based on ultimate recovery from the field or pool;
- (D) for a modification under (1)(B) or (1)(C) of this subsection, set out the terms and conditions, which may include

SENATE FINANCE  
COMMITTEE  
Amendment Number: 2  
Bill Number: SCS CS113207 (FIN)  
Sponsor: Rieger Date: 5/9/95  
Logged In By: JAC

Fail.  
5/11/95

Any reduction of royalty receipts as a result of the commissioner's decision to decrease or otherwise adjust a royalty under (1) (A), (B) or (C) of <sup>this</sup> ~~the~~ subsection shall be apportioned to the revenues deposited to the General Fund and the Permanent Fund so as to maintain, to the full extent practicable, the revenue stream that otherwise would have been deposited to the Permanent Fund.

SENATE FINANCE  
COMMITTEE

Amendment Number: 3  
Bill Number: SCS CH HB 207 (FIN)  
Sponsor: Herl Ford Date: 5/11/95  
Logged In By: [Signature]

Adopted 5/11/95

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

Page 2, line 3:

After "otherwise"  
Delete "adjust"  
Insert "modify"

SENATE FINANCE  
COMMITTEE

Amendment Number: 4  
Bill Number: SCS 17B207(FIN)  
Sponsor: Admiral - Date: 5/11/95  
Logged in by: HW

AMENDMENT

SENATE FINANCE  
COMMITTEE

Amendment Number: 5  
Bill Number: SCS HB 207 (FIN)  
Sponsor: Admiral Date: 5/11/98  
Logged In By: [Signature]

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

Page 2, line 12:  
After "subsection;"  
Delete "and"

Page 2, line 14:  
After "sale;"  
Insert "and"

Page 2, line 15  
Before "(B)"  
Insert "(iii) oil or gas production from the field or pool would not otherwise  
be economically feasible;"

fail

Fail  
5/11/95

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

Page 3, lines 7 -15:  
After "price"  
Delete "or value ... under the modification"

SENATE FINANCE  
COMMITTEE  
Amendment Number: 6  
Bill Number: SCS HD 207 (FIN)  
Sponsor: Artemis Date: 5/11/95  
Logged In By: [Signature]

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

Page 3, lines 7 -15:  
After "price"  
Delete "or value ... under the modification"

SENATE FINANCE  
COMMITTEE  
Amendment Number: 6  
Bill Number: SCS HD 207 (FIN)  
Sponsor: Admiral Date: 5/16/95  
Logged In By: JJK

Deletes: line 7... after VALUE thru  
the semicolon.

Adopted 5/11/95

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

SENATE FINANCE  
COMMITTEE  
Amendment Number: 7  
Bill Number: SCS HB 207 (FIN)  
Sponsor: Adams Date: 5/11/95  
Logged In By: [Signature]

Page 3, line 18:  
After "on"  
Delete "ultimate recovery"  
Insert "production rate or volume"

Amend. to the Amend.

Adopted  
5/11-95

Pg 3, line 17 delete as

Insert "which must meet the conditions"

Adopted 5/11/95

WORK DRAFT

WORK DRAFT

WORK DRAFT

Adopted Amend:

9-GH0039\X  
Chenoweth/Finley  
5/11/95

- ① pg 4 - line 17 "may" to "shall"
- ② pg 3 - line 7 after price "." remove the rest of the language
- ③ Amend #4
- ④ Amend #7 — Amended - See Attached

SENATE CS FOR CS FOR HOUSE BILL NO. 207( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

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. AS 36.30.850(b) is amended by adding a new paragraph to read:

6 (33) contracts between the Department of Natural Resources and  
 7 contractors qualified to evaluate hydrocarbon development, production, transportation,  
 8 and economics, to assist the commissioner of natural resources in evaluating applications  
 9 for oil and gas royalty increases or decreases or other oil and gas royalty adjustments,  
 10 and evaluating the related financial and technical data, entered into under  
 11 AS 38.05.180(j).

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

13 (j) The [TO PROLONG THE ECONOMIC LIFE OF AN OIL AND GAS  
 14 FIELD OR TO REESTABLISH COMMERCIAL PRODUCTION OF SHUT-IN OIL OR

1 GAS THAT WOULD NOT OTHERWISE BE ECONOMICALLY FEASIBLE, THE)  
2 commissioner

3 (1) may provide for an increase or decrease or otherwise adjust  
4 [SHALL ADOPT REGULATIONS TO ALLOW REDUCTION OF] royalty on  
5 individual leases, leases unitized as described in (p) of this section, leases subject to  
6 an agreement described in (s) or (t) of this section, or interests unitized under  
7 AS 31.05; the commissioner may act under this subsection to modify the royalty

8 (A) after the effective date of this Act and not later than  
9 July 1, 2000, to allow for production from an oil or gas field or pool if

10 (i) the oil or gas field or pool has been delineated  
11 sufficiently to allow the commissioner to conduct the analyses and  
12 make the findings required by this subsection; and

13 (ii) the field or pool has not previously produced oil or  
14 gas for sale;

15 (B) to prolong the economic life of an oil or gas field or pool  
16 as costs per barrel or barrel equivalent increase such that future production  
17 would not otherwise be economically feasible; or

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

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

24 (3) shall

25 (A) [THE REVENUE FROM THE LESSEE'S SHARE OF ALL  
26 HYDROCARBONS PRODUCED FROM THE FIELD IS AND IS LIKELY TO  
27 CONTINUE TO BE INSUFFICIENT TO PRODUCE A REASONABLE RATE  
28 OF RETURN WITH RESPECT TO THE LESSEE'S TOTAL INVESTMENT IN  
29 THE FIELD. THE COMMISSIONER MAY] condition any [A] royalty  
30 modification [REDUCTION] granted under this subsection in any way necessary  
31 to protect the state's best interests;

32 (B) describe, in the findings and determinations required by

1 this subsection, the relevant factors, including price, projected production  
2 rate or volume, predicted ultimate recovery, and development, operating,  
3 and transportation costs, upon which the modification is based:

4 (C) for a modification under (1)(A) of this subsection, set out  
5 the terms and conditions, which

6 (i) must include a mechanism for adjusting royalty  
7 percentage based on price or value of the hydrocarbons produced;  
8 the mechanism must provide for an increase in royalty percentage  
9 resulting from an increase in price from the base assumptions that,  
10 at a minimum, fully compensates for any decreases in royalty  
11 percentage resulting from a decrease in price from the base  
12 assumptions; it is the intent of this provision that the value of the  
13 potential percentage increases under the mechanism will, at a  
14 minimum, fully compensate for any negative risks the state assumed  
15 under the modification; and

16 (ii) may include, in addition to the royalty percentage  
17 adjustment based on price as specified in (i) of this subparagraph,  
18 a further adjustment based on ultimate recovery from the field or  
19 pool; and

20 (D) for a modification under (1)(B) or (1)(C) of this  
21 subsection, set out the terms and conditions, which may include  
22 substitution of a sliding scale royalty or other mechanism to modify the  
23 royalty if there is a change in the relevant factors, such as price, projected  
24 production rate or volume, predicted ultimate recovery, and development,  
25 operating, and transportation costs, upon which the modification is based:

26 (4) may not grant a royalty modification for a field or pool

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

31 (B) under (1)(B) or (1)(C) of this subsection if the royalty  
32 modification for the field or pool would establish a royalty rate of less than

1 three percent in amount or value of the production removed or sold from a  
2 lease or leases covering the field or pool;

3 (5) may not grant a royalty modification under this subsection  
4 without including an explicit condition that the royalty modification is not  
5 assignable without the prior written approval of the commissioner; the  
6 commissioner shall, in the preliminary and final findings and determinations, set out  
7 the conditions under which the royalty modification may be assigned;

8 (6) shall require the lessee or lessees to submit, with the application  
9 for the royalty modification, financial and technical data that demonstrate that the  
10 requirements of this subsection are met; the commissioner shall

11 (A) require disclosure of the financial and technical data  
12 related to development, production, and transportation of oil and gas from  
13 the field or pool that are necessary to make a determination as to whether  
14 or not to grant the request for royalty modification; and

15 (B) keep the data described in (A) of this paragraph  
16 confidential under AS 38.05.035(a)(9) at the request of the lessee or lessees  
17 making application for the royalty modification; the confidential data may  
18 be disclosed by the commissioner to legislators who sign an appropriate  
19 confidentiality agreement, to the legislative auditor, the director of the  
20 division of legislative finance, and the permanent employees of their  
21 respective divisions, and to agents or contractors of the legislative auditor or  
22 the legislative finance division director who are engaged under contract to  
23 evaluate the royalty modification;

24 (7) may require the lessee or lessees making application for the  
25 royalty modification to pay for the services of an independent contractor, qualified  
26 to evaluate hydrocarbon development, production, transportation, and economics,  
27 who is selected by the commissioner to assist the commissioner in evaluating the  
28 application and financial and technical data; selection of an independent contractor  
29 under this paragraph is not subject to AS 36.30;

30 (8) shall

31 (A) make and publish a preliminary findings and  
32 determination on the royalty modification application; if the preliminary

shall

1 findings and determination concerns a royalty modification under (1)(A)  
2 of this subsection, the preliminary findings and determination shall also be  
3 presented to the governor for the governor's approval or disapproval: the  
4 governor may not delegate a determination to approve or disapprove a  
5 preliminary findings and determination under this subparagraph:

6 (B) for a royalty modification under (1)(A) of this  
7 subsection, if the governor approves the preliminary findings and  
8 determination under (A) of this paragraph.

9 (i) give reasonable public notice of the preliminary  
10 findings and determination;

11 (ii) concurrently with the issuance of the public  
12 notice, unless directed by the Legislative Budget and Audit  
13 Committee to do otherwise, make available copies of the  
14 commissioner's preliminary findings and determination on the  
15 royalty modification application and the supporting financial and  
16 technical data, including the work papers, analyses, and  
17 recommendations of any contractors retained under (7) of this  
18 subsection, to persons authorized under (6)(B) of this subsection to  
19 review the data; and

20 (iii) invite public comment on the preliminary  
21 findings and determination during a 30-day period for receipt of  
22 public comment;

23 (C) for a royalty modification under (1)(B) or (C) of this  
24 subsection, if the preliminary findings and determination approves a  
25 royalty modification.

26 (i) give reasonable public notice of the preliminary  
27 findings and determination; and

28 (ii) invite public comment on the preliminary findings  
29 and determination during a 30-day period for receipt of public  
30 comment;

31 (9) shall address in any findings and determinations required under  
32 this subsection the reasonably foreseeable effects of the proposed royalty

1 modification on the state's revenue:

2 (10) shall offer to appear before the Legislative Budget and Audit  
3 Committee to provide the committee a review of the commissioner's preliminary  
4 findings and determination on the royalty modification application and the  
5 supporting financial and technical data; if the Legislative Budget and Audit  
6 Committee accepts the commissioner's offer, the committee shall give notice of the  
7 committee's meeting to all members of the legislature; if, under (6)(B) of this  
8 subsection, the financial and technical data must be kept confidential at the  
9 request of a lessee or lessees making application for the royalty modification, the  
10 commissioner may appear before the committee in executive session;

11 (11) shall make copies of the preliminary findings and determination  
12 available to

13 (A) the presiding officer of each house [INTEREST,  
14 INCLUDING RESTORATION OF THE STATE'S ROYALTY SHARE IN THE  
15 EVENT OF AN INCREASE IN THE PRICE OF OIL OR GAS. BEFORE  
16 APPROVING A ROYALTY REDUCTION, THE COMMISSIONER SHALL  
17 MAKE A WRITTEN FINDING THAT THE STATE HAS OBTAINED THE  
18 MAXIMUM POSSIBLE ECONOMIC RETURN THAT IS COMPATIBLE  
19 WITH ALLOWING A REASONABLE RATE OF ECONOMIC RETURN FOR  
20 THE LESSEE, AND SEND COPIES OF THE FINDING TO ALL MEMBERS]  
21 of the legislature;

22 (B) the chairs of the legislature's standing committees on  
23 resources; and

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

26 (12) shall, within 30 days after the close of the public comment  
27 period under (8) of this subsection,

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

30 (B) make a final findings and determination and present it  
31 to the governor for the governor's approval or disapproval; the governor  
32 may not delegate a decision to approve or disapprove a final findings and

1 determination presented under this subparagraph; the commissioner's final  
2 findings and determination regarding a royalty modification, if approved  
3 by the governor, is, as to the lessee or lessees applying for the royalty  
4 modification, final and not appealable to the court:

5 (C) transmit a copy of the final findings and determination  
6 prepared under (B) of this paragraph to the lessee or lessees making  
7 application for the royalty modification;

8 (D) with the consent of the lessee or lessees applying for the  
9 royalty modification, amend the lease or unitization agreement of the lessee  
10 or lessees applying for the royalty modification consistent with the  
11 commissioner's approved final findings and determination; and

12 (E) make copies of the final findings and determination  
13 available to each person who submitted comment under (8) of this subsection  
14 and who has filed a request for the copies;

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

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

18 (p) To conserve the natural resources of all or a part of an oil or gas pool, field,  
19 or like area, the lessees and their representatives may unite with each other, or jointly  
20 or separately with others, in collectively adopting or operating under a cooperative or a  
21 unit plan of development or operation of the pool, field, or like area, or a part of it, when  
22 determined and certified by the commissioner to be necessary or advisable in the public  
23 interest. The commissioner may, with the consent of the holders of leases involved,  
24 establish, change, or revoke drilling, producing, and royalty requirements of the leases  
25 and adopt regulations with reference to the leases, with like consent on the part of the  
26 lessees, in connection with the institution and operation of a cooperative or unit plan as  
27 the commissioner determines necessary or proper to secure the proper protection of the  
28 public interest. The commissioner may not decrease royalty on leases in connection  
29 with a cooperative or unit plan except as provided in (i) of this section. The  
30 commissioner may require oil and gas leases issued under this section to contain a  
31 provision requiring the lessee to operate under a reasonable cooperative or unit plan, and  
32 may prescribe a plan under which the lessee must operate. The plan must adequately

1 protect all parties in interest, including the state.

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

3 (s) When separate tracts cannot be individually developed and operated in  
4 conformity with an established well-spacing or development program, a lease, or a  
5 portion of a lease, may be pooled with other land, whether or not owned by the state,  
6 under a communication or drilling agreement providing for an apportionment of  
7 production or royalties among the separate tracts of land comprising the drilling or  
8 spacing unit when determined by the commissioner to be in the public interest.  
9 Operations or production under the agreement are considered as operations or production  
10 as to each lease committed to the agreement. The commissioner may not decrease  
11 royalty on leases in connection with a communication or drilling agreement except  
12 as provided in (j) of this section.

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

14 (t) The commissioner may prescribe conditions and approve, on conditions,  
15 drilling, or development contracts made by one or more lessees of oil or gas leases, with  
16 one or more persons, when, in the discretion of the commissioner, the conservation of  
17 natural resources or the public convenience or necessity requires it or the interests of the  
18 state are best served. All leases operated under approved drilling or development  
19 contracts and interests under them, are excepted in determining holding or control under  
20 AS 38.05.140. The commissioner may not decrease royalty on a lease or leases that  
21 are subject to a drilling or development contract except as provided in (j) of this  
22 section.

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

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

SENATE FINANCE  
COMMITTEE

Amendment Number: 5  
Bill Number: SCS HR 207(FIN)  
Sponsor: Admiral Date: 5/11/95  
Logged In By: [Signature]

Fail  
5/11/95

Page 2, line 12:  
After "subsection;"  
Delete "and"

Page 2, line 14:  
After "sale;"  
Insert "and"

Page 2, line 15  
Before "(B)"  
Insert "(iii) oil or gas production from the field or pool would not otherwise  
be economically feasible;"

*Failed*

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

Page 3, lines 7 -15:  
After "price"  
Delete "or value ... under the modification"

SENATE FINANCE  
COMMITTEE  
Amendment Number: 6  
Bill Number: SCS HD 207 (FIN)  
Sponsor: Admin Date: 3/10/95  
Logged In By: JM

Adopted 5/11/95

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

SENATE FINANCE  
COMMITTEE  
Amendment Number: 7  
Bill Number: SCS HB 207 (FIN)  
Sponsor: Admiral Date: 5/11/95  
Logged In By: [Signature]

Page 3, line 18:  
After "on"  
Delete "ultimate recovery"  
Insert "production rate or volume"

Adopted 5/11/95  
Amended (delete as)  
insert after price  
which must meet the  
conditions . . . . .

*Adopted 5/11/95*  
WORK DRAFT

9-GH0039X  
Chenoweth/Finley  
5/11/95

SENATE CS FOR CS FOR HOUSE BILL NO. 207( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

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. AS 36.30.850(b) is amended by adding a new paragraph to read:

6 (33) contracts between the Department of Natural Resources and  
7 contractors qualified to evaluate hydrocarbon development, production, transportation,  
8 and economics, to assist the commissioner of natural resources in evaluating applications  
9 for oil and gas royalty increases or decreases or other oil and gas royalty adjustments,  
10 and evaluating the related financial and technical data, entered into under  
11 AS 38.05.180(j).

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

13 (j) The [TO PROLONG THE ECONOMIC LIFE OF AN OIL AND GAS  
14 FIELD OR TO REESTABLISH COMMERCIAL PRODUCTION OF SHUT-IN OIL OR

1 GAS THAT WOULD NOT OTHERWISE BE ECONOMICALLY FEASIBLE, THE]  
2 commissioner

3 (1) may provide for an increase or decrease or otherwise adjust  
4 [SHALL -ADOPT REGULATIONS TO ALLOW REDUCTION OF] royalty on  
5 individual leases, leases unitized as described in (p) of this section, leases subject to  
6 an agreement described in (s) or (t) of this section, or interests unitized under  
7 AS 31.05; the commissioner may act under this subsection to modify the royalty

8 (A) after the effective date of this Act and not later than  
9 July 1, 2000, to allow for production from an oil or gas field or pool if

10 (i) the oil or gas field or pool has been delineated  
11 sufficiently to allow the commissioner to conduct the analyses and  
12 make the findings required by this subsection; and

13 (ii) the field or pool has not previously produced oil or  
14 gas for sale;

15 (B) to prolong the economic life of an oil or gas field or pool  
16 as costs per barrel or barrel equivalent increase such that future production  
17 would not otherwise be economically feasible; or

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

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

24 (3) shall

25 (A) [THE REVENUE FROM THE LESSEE'S SHARE OF ALL  
26 ~~HYDROCARBONS~~ PRODUCED FROM THE FIELD IS AND IS LIKELY TO  
27 ~~CONTINUE~~ TO BE INSUFFICIENT TO PRODUCE A REASONABLE RATE  
28 OF RETURN WITH RESPECT TO THE LESSEE'S TOTAL INVESTMENT IN  
29 THE FIELD. THE COMMISSIONER MAY] condition any [A] royalty  
30 modification [REDUCTION] granted under this subsection in any way necessary  
31 to protect the state's best interests;

32 (B) describe, in the findings and determinations required by

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this subsection, the relevant factors, including price, projected production rate or volume, predicted ultimate recovery, and development, operating, and transportation costs, upon which the modification is based:

(C) for a modification under (1)(A) of this subsection, set out the terms and conditions, which

(i) must include a mechanism for adjusting royalty percentage based on price, or value of the hydrocarbons produced; the mechanism must provide for an increase in royalty percentage resulting from an increase in price from the base assumptions that, at a minimum, fully compensates for any decreases in royalty percentage resulting from a decrease in price from the base assumptions; it is the intent of this provision that the value of the potential percentage increases under the mechanism will, at a minimum, fully compensate for any negative risks the state assumed under the modification; and

(ii) may include, in addition to the royalty percentage adjustment based on price as specified in (i) of this subparagraph, a further adjustment based on ultimate recovery from the field or pool; and

*Production Rate ~~or~~ Volume*

(D) for a modification under (1)(B) or (1)(C) of this subsection, set out the terms and conditions, which may include substitution of a sliding scale royalty or other mechanism to modify the royalty if there is a change in the relevant factors, such as price, projected production rate or volume, predicted ultimate recovery, and development, operating, and transportation costs, upon which the modification is based:

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

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

(B) under (1)(B) or (1)(C) of this subsection if the royalty modification for the field or pool would establish a royalty rate of less than

*delete*

1 three percent in amount or value of the production removed or sold from a  
2 lease or leases covering the field or pool;

3 (5) may not grant a royalty modification under this subsection  
4 without including an explicit condition that the royalty modification is not  
5 assignable without the prior written approval of the commissioner; the  
6 commissioner shall, in the preliminary and final findings and determinations, set out  
7 the conditions under which the royalty modification may be assigned;

8 (6) shall require the lessee or lessees to submit, with the application  
9 for the royalty modification, financial and technical data that demonstrate that the  
10 requirements of this subsection are met; the commissioner shall

11 (A) require disclosure of the financial and technical data  
12 related to development, production, and transportation of oil and gas from  
13 the field or pool that are necessary to make a determination as to whether  
14 or not to grant the request for royalty modification; and

15 (B) keep the data described in (A) of this paragraph  
16 confidential under AS 38.05.035(a)(9) at the request of the lessee or lessees  
17 making application for the royalty modification; the confidential data may  
18 be disclosed by the commissioner to legislators who sign an appropriate  
19 confidentiality agreement, to the legislative auditor, the director of the  
20 division of legislative finance, and the permanent employees of their  
21 respective divisions, and to agents or contractors of the legislative auditor or  
22 the legislative finance division director who are engaged under contract to  
23 evaluate the royalty modification;

24 (7) may require the lessee or lessees making application for the  
25 royalty modification to pay for the services of an independent contractor, qualified  
26 to evaluate hydrocarbon development, production, transportation, and economics,  
27 who is selected by the commissioner to assist the commissioner in evaluating the  
28 application and financial and technical data; selection of an independent contractor  
29 under this paragraph is not subject to AS 36.30;

30 (8) shall

31 (A) make and publish a preliminary findings and  
32 determination on the royalty modification application; if the preliminary

Shall  
Adopted  
5/11/95

1 findings and determination concerns a royalty modification under (1)(A)  
2 of this subsection, the preliminary findings and determination shall also be  
3 presented to the governor for the governor's approval or disapproval; the  
4 governor may not delegate a determination to approve or disapprove a  
5 preliminary findings and determination under this subparagraph:

6 (B) for a royalty modification under (1)(A) of this  
7 subsection, if the governor approves the preliminary findings and  
8 determination under (A) of this paragraph,

9 (i) give reasonable public notice of the preliminary  
10 findings and determination;

11 (ii) concurrently with the issuance of the public  
12 notice, unless directed by the Legislative Budget and Audit  
13 Committee to do otherwise, make available copies of the  
14 commissioner's preliminary findings and determination on the  
15 royalty modification application and the supporting financial and  
16 technical data, including the work papers, analyses, and  
17 recommendations of any contractors retained under (7) of this  
18 subsection, to persons authorized under (6)(B) of this subsection to  
19 review the data; and

20 (iii) invite public comment on the preliminary  
21 findings and determination during a 30-day period for receipt of  
22 public comment;

23 (C) for a royalty modification under (1)(B) or (C) of this  
24 subsection, if the preliminary findings and determination approves a  
25 royalty modification,

26 (i) give reasonable public notice of the preliminary  
27 findings and determination; and

28 (ii) invite public comment on the preliminary findings  
29 and determination during a 30-day period for receipt of public  
30 comment;

31 (9) shall address in any findings and determinations required under  
32 this subsection the reasonably foreseeable effects of the proposed royalty

1 modification on the state's revenue:

2 (10) shall offer to appear before the Legislative Budget and Audit  
3 Committee to provide the committee a review of the commissioner's preliminary  
4 findings and determination on the royalty modification application and the  
5 supporting financial and technical data; if the Legislative Budget and Audit  
6 Committee accepts the commissioner's offer, the committee shall give notice of the  
7 committee's meeting to all members of the legislature; if, under (6)(B) of this  
8 subsection, the financial and technical data must be kept confidential at the  
9 request of a lessee or lessees making application for the royalty modification, the  
10 commissioner may appear before the committee in executive session;

11 (11) shall make copies of the preliminary findings and determination  
12 available to

13 (A) the presiding officer of each house [INTEREST,  
14 INCLUDING RESTORATION OF THE STATE'S ROYALTY SHARE IN THE  
15 EVENT OF AN INCREASE IN THE PRICE OF OIL OR GAS. BEFORE  
16 APPROVING A ROYALTY REDUCTION, THE COMMISSIONER SHALL  
17 MAKE A WRITTEN FINDING THAT THE STATE HAS OBTAINED THE  
18 MAXIMUM POSSIBLE ECONOMIC RETURN THAT IS COMPATIBLE  
19 WITH ALLOWING A REASONABLE RATE OF ECONOMIC RETURN FOR  
20 THE LESSEE, AND SEND COPIES OF THE FINDING TO ALL MEMBERS]  
21 of the legislature;

22 (B) the chairs of the legislature's standing committees on  
23 resources; and

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

26 (12) shall, within 30 days after the close of the public comment  
27 period under (8) of this subsection,

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

30 (B) make a final findings and determination and present it  
31 to the governor for the governor's approval or disapproval; the governor  
32 may not delegate a decision to approve or disapprove a final findings and

1 determination presented under this subparagraph; the commissioner's final  
2 findings and determination regarding a royalty modification, if approved  
3 by the governor, is, as to the lessee or lessees applying for the royalty  
4 modification, final and not appealable to the court:

5 (C) transmit a copy of the final findings and determination  
6 prepared under (B) of this paragraph to the lessee or lessees making  
7 application for the royalty modification:

8 (D) with the consent of the lessee or lessees applying for the  
9 royalty modification, amend the lease or unitization agreement of the lessee  
10 or lessees applying for the royalty modification consistent with the  
11 commissioner's approved final findings and determination; and

12 (E) make copies of the final findings and determination  
13 available to each person who submitted comment under (8) of this subsection  
14 and who has filed a request for the copies:

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

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

18 (p) To conserve the natural resources of all or a part of an oil or gas pool, field,  
19 or like area, the lessees and their representatives may unite with each other, or jointly  
20 or separately with others, in collectively adopting or operating under a cooperative or a  
21 unit plan of development or operation of the pool, field, or like area, or a part of it, when  
22 determined and certified by the commissioner to be necessary or advisable in the public  
23 interest. The commissioner may, with the consent of the holders of leases involved,  
24 establish, change, or revoke drilling, producing, and royalty requirements of the leases  
25 and adopt regulations with reference to the leases, with like consent on the part of the  
26 lessees, in connection with the institution and operation of a cooperative or unit plan as  
27 the commissioner determines necessary or proper to secure the proper protection of the  
28 public interest. The commissioner may not decrease royalty on leases in connection  
29 with a cooperative or unit plan except as provided in (j) of this section. The  
30 commissioner may require oil and gas leases issued under this section to contain a  
31 provision requiring the lessee to operate under a reasonable cooperative or unit plan, and  
32 may prescribe a plan under which the lessee must operate. The plan must adequately

1 protect all parties in interest, including the state.

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

3 (s) When separate tracts cannot be individually developed and operated in  
4 conformity with an established well-spacing or development program, a lease, or a  
5 portion of a lease, may be pooled with other land, whether or not owned by the state,  
6 under a communication or drilling agreement providing for an apportionment of  
7 production or royalties among the separate tracts of land comprising the drilling or  
8 spacing unit when determined by the commissioner to be in the public interest.  
9 Operations or production under the agreement are considered as operations or production  
10 as to each lease committed to the agreement. The commissioner may not decrease  
11 royalty on leases in connection with a communication or drilling agreement except  
12 as provided in (i) of this section.

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

14 (t) The commissioner may prescribe conditions and approve, on conditions,  
15 drilling, or development contracts made by one or more lessees of oil or gas leases, with  
16 one or more persons, when, in the discretion of the commissioner, the conservation of  
17 natural resources or the public convenience or necessity requires it or the interests of the  
18 state are best served. All leases operated under approved drilling or development  
19 contracts and interests under them, are excepted in determining holding or control under  
20 AS 38.05.140. The commissioner may not decrease royalty on a lease or leases that  
21 are subject to a drilling or development contract except as provided in (i) of this  
22 section.

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

Deleted  
Failed  
5/11/95

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207(FIN)

Page 2, Line 8 - 9:

After "(A)"

Delete "after the effective date ... July 1, 2000,"

Before "allow"

Capitalize "T" in "to"

SENATE FINANCE  
COMMITTEE

Amendment Number: 8

Bill Number: SCS HB 207(FIN)X

Sponsor: Zharoff Date: 5/11/95

Logged In By: JJA

*With Drawn*

SENATE FINANCE  
COMMITTEE

Amendment Number: 9  
Bill Number: SCS HB 207 (FIN)  
Sponsor: Z. Howard Date: 5/11/95  
Logged In By: [Signature]

AMENDMENT

OFFERED IN THE SENATE  
TO: SCS CSHB 207 (FIN)

- Page 4, line 32 - Page 5, line 10:  
After "application"  
Delete all material  
Insert ",give reasonable public notice of the preliminary findings and determination, and invite public comment on the preliminary findings and determination during a 30-day period for receipt of public comment;"
  
- Page 5, line 11:  
Delete "(ii)"  
Insert "(B)"
  
- Page 5, line 19:  
Delete "and"
  
- Page 5, lines 20 - 30:  
Delete all material
  
- Page 6, line 30 - page 7, 3:  
After "determination"  
Delete "and ... governor,"
  
- Page 7, line 3  
Before "is"  
Insert "which"

# A FAX

## Alaska State Legislature

Date: 5-12-95

To: Anch. L.I.O. for Pat Flood

Fax #: 258-1269 Phone #: 258-8111

From: Senate Finance

Phone #: 465-2618

Re: JCS CSMB 207 (Fin)

Please hold the attached bill for  
pick up by Mr. Flood

Following this page, please find 8 pages(s). If this does not reach you in full, please inform us ASAP.



## THANK YOU

A M E N D M E N T

OFFERED IN THE SENATE  
TO: SCS CSHB 207(RES)

SENATE FINANCE  
COMMITTEE  
Amendment Number: 3  
Bill Number: HB 207  
Sponsor: Bieger Date: 5/8/95  
Logged In By: [Signature]

- 1 Page 2, line 3:
- 2 Delete "an increase or decrease or otherwise adjust"
- 3 Insert "a modification of"
  
- 4 Page 2, lines 7 and 8:
- 5 Delete "increase, decrease, or otherwise adjust"
- 6 Insert "modify"
  
- 7 Page 2, line 13, after "subsection:":
- 8 Insert "and"
  
- 9 Page 2, line 15:
- 10 Delete "and"
  
- 11 Page 2, lines 16 - 17:
- 12 Delete all material.
  
- 13 Page 2, line 24:
- 14 Delete "increase, decrease, or other adjustment"
- 15 Insert "modification"
  
- 16 Page 2, line 25:
- 17 Delete "increase, decrease, or other adjustment"
- 18 Insert "modification"

1 Page 2, lines 25 - 26:

2 Delete "clear and convincing showing that an increase, decrease, or other  
3 adjustment"

4 Insert "clear showing; that a modification"

5 Page 3, line 2:

6 Delete "increase, decrease, or other adjustment"

7 Insert "modification"

8 Page 3, lines 4 - 15:

9 Delete all material and insert:

10 "(B) describe, in the findings and determinations required  
11 by this subsection for a royalty modification described in (1)(A) of this  
12 subsection, the assumptions, including price, projected production rate or  
13 volume, predicted ultimate recovery, and development, operating, and  
14 transportation costs, upon which the modification is based, and set out the  
15 terms and conditions of the modification, which

16 (i) must include a schedule based on price or value  
17 of the hydrocarbons produced; the schedule must provide for an  
18 increase in royalty revenue to the state from the field or pool,  
19 resulting from an increase in price from the base assumptions, that  
20 is greater than the decrease in royalty revenue that would result  
21 from an equivalent decrease in price from the base assumptions;  
22 and

23 (ii) may include, in addition to the schedule specified  
24 in (i) of this subparagraph, a further adjustment to the schedule  
25 based on ultimate recovery; the further adjustment must provide  
26 for an increase in royalty percentage if the ultimate recovery was  
27 higher than the base assumptions and the modification was based  
28 on a finding that the field or pool was not economic and would not  
29 be developed under the base assumptions, and the modification  
30 included a change to the royalty under the base assumptions;

1                    (C) describe, in the findings and determinations required  
 2                    by this subsection for a royalty modification described in (1)(B) or (C) of  
 3                    this subsection, the assumptions, including price, projected production  
 4                    rate or volume, and operating and transportation costs, upon which the  
 5                    modification is based, and set out the terms and conditions of the  
 6                    modification, which must include a schedule based on price or value of the  
 7                    hydrocarbons produced; the schedule must be in the form of a higher  
 8                    royalty percentage and an allowance of some portion of field production  
 9                    costs as a deduction from wellhead value before calculation of royalty;"

10 Page 3, line 16:

11            Delete "increase, decrease, or other adjustment"

12            Insert "modification"

13 Page 3, lines 18 - 19:

14            Delete "increase, decrease, or adjustment"

15            Insert "modification"

16 Page 3, lines 22 - 25:

17            Delete all material and insert:

18                                    "(B) under (1)(B) or (1)(C) of this subsection unless, under  
 19                                    the base case assumptions, the average field operating costs are greater  
 20                                    than 80 percent of the average wellhead value in the field or pool over the  
 21                                    life of the base case assumptions;"

22 Page 3, line 26:

23            Delete "increase, decrease, or other adjustment"

24            Insert "modification"

25 Page 3, line 28:

26            Delete "increase, decrease, or other adjustment"

27            Insert "modification"

1 Page 3, line 30:

2 Delete "and convincing"

3 Page 4, line 2:

4 Delete "increase, decrease, or other adjustment"

5 Insert "modification"

6 Page 4, lines 8 - 9:

7 Delete "increase, decrease, or other adjustment"

8 Insert "modification"

9 Page 4, lines 12 - 13:

10 Delete "increase or decrease or other royalty adjustment"

11 Insert "modification"

12 Page 4, lines 20 - 21:

13 Delete "increase, decrease, or other royalty adjustment"

14 Insert "modification"

15 Page 4, line 24:

16 Delete "increase, decrease, or other adjustment"

17 Insert "modification"

18 Page 4, line 32:

19 Delete "increase, decrease, or other adjustment"

20 Insert "modification"

21 Page 5, line 1, after "application:", through line 30:

22 Delete all material and insert:

23 "(B) in addition, if the preliminary findings and  
 24 determination proposes a royalty modification, the preliminary findings  
 25 and determination shall also be presented to the governor for the

1 governor's approval or disapproval; the governor may not delegate a  
 2 determination to approve or disapprove a preliminary findings and  
 3 determination under this subparagraph; if the governor approves the  
 4 preliminary findings and determination.

5 (i) give reasonable public notice of the preliminary  
 6 findings and determination;

7 (ii) concurrently with the issuance of the public  
 8 notice, if directed by the Legislative Budget and Audit Committee,  
 9 make available copies of the commissioner's preliminary findings  
 10 and determination on the royalty modification application and the  
 11 supporting financial and technical data, including the work papers,  
 12 analyses, and recommendations of any contractors retained under  
 13 (7) of this subsection, to persons authorized under (6)(b) of this  
 14 subsection to review the data; and

15 (iii) invite public comment on the preliminary  
 16 findings and determination during a 30-day period for receipt of  
 17 public comment;"

18 Page 6, lines 2 - 3:

19 Delete "increase, decrease, or other adjustment"

20 Insert "modification"

21 Page 6, lines 4 - 5:

22 Delete "increase, decrease, or other adjustment"

23 Insert "modification."

24 Page 6, lines 6 - 12:

25 Delete ", and the steps taken by the commissioner in conditioning the royalty  
 26 increase, decrease, or other adjustment to assure that anticipated investments or other  
 27 beneficial spending within the state occur;

28 (C) the projected effects of the proposed royalty increase,  
 29 decrease, or other adjustment on the employment of Alaskans and the use

1 of in-state contractors and suppliers"

2 Reletter the following subparagraph accordingly.

3 Page 6, lines 13 - 15:

4 Delete "increase, decrease, or adjustment upon existing and potential new oil and  
5 gas exploration and development, and upon"

6 Insert "modification on"

7 Page 6, lines 18 - 19:

8 Delete "on a day that is not earlier than 10 days and not later than 20 days after  
9 giving public notice under (8) of this subsection,"

10 Page 6, line 21:

11 Delete "increase, decrease, or other adjustment"

12 Insert "modification"

13 Page 6, lines 26 - 27:

14 Delete "increase or decrease or other royalty adjustment"

15 Insert "modification"

16 Page 7, lines 16 - 29:

17 Delete all material and insert:

18 "(B) make a final findings and determination and present  
19 it to the governor for the governor's approval or disapproval; the  
20 governor may not delegate a decision to approve or disapprove a final  
21 findings and decision presented under this subparagraph; the  
22 commissioner's final findings and determination regarding a royalty  
23 modification prepared under this subparagraph, if approved by the  
24 governor, is, as to the lessee or lessees applying for the royalty  
25 modification, final and not appealable to the court;"

1 Reletter the following subparagraphs accordingly.

2 Page 7, line 31:

3 Delete "or (C)"

4 Page 7, line 32:

5 Delete "increase, decrease, or other adjustment"

6 Insert "modification"

7 Page 8, line 2:

8 Delete "increase, decrease, or other adjustment"

9 Insert "modification"

10 Page 8, line 4:

11 Delete "increase, decrease, or other adjustment"

12 Insert "modification"

5-8-95  
② Removed  
Gov.

SENATE FINANCE  
COMMITTEE

Amendment Number: 4

Bill Number: HB 207

Sponsor: Zharov Date: 5/8/95

Logged In By: jjh

by Zharov

To SCS CS HB 207 (Res)

Page 4 line 31

delete "(A)"

Page 5 Line 1-25

delete - "is the preliminary ...  
... or other adjustment"

page 5 line 26

delete (i) add ,

Page 5 line 27

delete ~~is~~ ; add ,

Page 5 line 28

delete (ii)

Page 7 lines 16-18

delete - "except as ... subsection"

Page 7 lines 20-29

delete - all of subsection (c)

SENATE FINANCE  
COMMITTEE

Amendment Number: 5

Bill Number: HB 207

Sponsor: Zharov Date: 5/21/95

Logged In By: JM

5-8-95  
② Remove  
eff. date  
Sunset

by Zharov

0 - SCS CS HB 207 (Res.)

page 2

lines - 9 & 10

Delete - "after the effective  
date of this Act and  
not later than July 1, 2000"

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 207(RES)

SENATE FINANCE  
COMMITTEE

Amendment Number: #1  
Bill Number: SCS CSHB 207(FIN)  
Sponsor: Phillips Date: 5/9/95  
Logged In By: JK

1 Page 3, following line 25:

2 Insert a new subparagraph to read:

3 "(C) under this subsection unless the commissioner and the  
4 lessee or lessees applying for the royalty decrease or other adjustment  
5 agree that the decrease or other adjustment may take effect only if not  
6 disapproved under (12)(D) of this subsection and the commissioner first  
7 submits the decrease or other adjustment under that provision:"

8 Page 7, following line 29:

9 Insert a new subparagraph to read:

10 "(D) submit a final findings and determination made under  
11 (B) or approved by the governor under (C) to the presiding officer of each  
12 house of the legislature: if the legislature is in session at the time of  
13 submission and does not act within 50 days after the close of the public  
14 comment period under (8)(B) or (C) of this subsection to disapprove the  
15 commissioner's proposed final findings and determination by enacting  
16 legislation, the commissioner shall issue a final findings and  
17 determination: if the legislature is not in session, the Legislative Budget  
18 and Audit Committee shall review and approve or disapprove proposed  
19 final findings and determinations: if the Legislative Budget and Audit  
20 Committee does not act within 50 days after the close of the public  
21 comment period under (8) of this subsection to disapprove, by majority  
22 vote of the committee's full membership, the commissioner's proposed  
23 final findings and determinations, the commissioner shall issue a final  
24 findings and determination:"

1 Reletter the following subparagraph accordingly.

2 Page 7, line 31:

3 Delete "(B) or (C)"

4 Insert "(B) - (D)"

9-GH0039L ✓  
Chenoweth  
5/9/95

SENATE CS FOR CS FOR HOUSE BILL NO. 207(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

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. AS 36.30.850(b) is amended by adding a new paragraph to read:

6 (33) contracts between the Department of Natural Resources and  
7 contractors qualified to evaluate hydrocarbon development, production, transportation,  
8 and economics, to assist the commissioner of natural resources in evaluating applications  
9 for oil and gas royalty increases or decreases or other oil and gas royalty adjustments,  
10 and evaluating the related financial and technical data, entered into under  
11 AS 38.05.180(j).

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

13 (j) The [TO PROLONG THE ECONOMIC LIFE OF AN OIL AND GAS  
14 FIELD OR TO REESTABLISH COMMERCIAL PRODUCTION OF SHUT-IN OIL OR

1 GAS THAT WOULD NOT OTHERWISE BE ECONOMICALLY FEASIBLE, THE]  
2 commissioner

3 (1) may provide for an increase or decrease or otherwise adjust  
4 [SHALL ADOPT REGULATIONS TO ALLOW REDUCTION OF] royalty on  
5 individual leases, leases unitized as described in (p) of this section, leases subject to  
6 an agreement described in (s) or (t) of this section, or interests unitized under  
7 AS 31.05: the commissioner may act under this subsection to increase, decrease, or  
8 otherwise adjust the royalty

9 (A) after the effective date of this Act and not later than  
10 July 1, 2000, to allow for production from an oil or gas field or pool if

11 (i) the oil or gas field or pool has been delineated  
12 sufficiently to allow the commissioner to conduct the analyses and  
13 make the findings required by this subsection;

14 (ii) the field or pool has not previously produced oil or  
15 gas for sale; and

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

*in  
New  
text. AD.*

18 (B) to prolong the economic life of an oil or gas field or pool  
19 as costs per barrel or barrel equivalent increase such that future production  
20 would not otherwise be economically feasible; or

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

23 (2) [. THE COMMISSIONER] may not grant a [REDUCTION OF]  
24 royalty increase, decrease, or other adjustment unless the lessee or lessees requesting  
25 the increase, decrease, or other adjustment [REDUCTION] makes a clear and  
26 convincing showing that an increase, decrease, or other adjustment of royalty meets  
27 the requirements of this subsection and 's in the best interests of the state;

28 (3) shall

29 (A) [THE REVENUE FROM THE LESSEE'S SHARE OF ALL  
30 HYDROCARBONS PRODUCED FROM THE FIELD IS AND IS LIKELY TO  
31 CONTINUE TO BE INSUFFICIENT TO PRODUCE A REASONABLE RATE  
32 OF RETURN WITH RESPECT TO THE LESSEE'S TOTAL INVESTMENT IN

1 THE FIELD. THE COMMISSIONER MAY] condition any [A] royalty  
2 increase, decrease, or other adjustment [REDUCTION] granted under this  
3 subsection in any way necessary to protect the state's best interests:

4 (B) describe, in the findings and determinations required by  
5 this subsection, the relevant factors, including price, projected production  
6 rate or volume, predicted ultimate recovery, and development, operating,  
7 and transportation costs, upon which the increase, decrease, or other  
8 adjustment is based; and

9 (C) set out the terms and conditions, which may include  
10 substitution of a sliding scale royalty or other mechanism to increase,  
11 decrease, or otherwise adjust the royalty if there is a change in the  
12 relevant factors, such as price, projected production rate or volume,  
13 predicted ultimate recovery, and development, operating, and  
14 transportation costs, upon which t<sup>h</sup> increase, decrease, or other  
15 adjustment is based:

16 (4) may not grant a royalty increase, decrease, or other adjustment  
17 for a field or pool

18 (A) under (1)(A) of this subsection if the royalty increase,  
19 decrease, or adjustment for the field or pool would establish a royalty rate  
20 of less than five percent in amount or value of the production removed or  
21 sold from a lease or leases covering the field or pool;

22 (B) under (1)(B) or (1)(C) of this subsection if the royalty  
23 decrease or other adjustment for the field or pool would establish a royalty  
24 rate of less than three percent in amount or value of the production removed  
25 or sold from a lease or leases covering the field or pool;

26 (5) may not grant a royalty increase, decrease, or other adjustment  
27 under this subsection without including an explicit condition that the royalty  
28 increase, decrease, or other adjustment is not assignable without the prior written  
29 approval of the commissioner; the commissioner shall, in the preliminary and final  
30 findings and determinations, set out the conditions under which the royalty increase,  
31 decrease, or other adjustment may be assigned;

32 (6) shall require the lessee or lessees to submit, with the application

1 for the royalty increase, decrease, or other adjustment, financial and technical data  
2 that demonstrate that the requirements of this subsection are met; the commissioner  
3 shall

4 (A) require disclosure of the financial and technical data  
5 related to development, production, and transportation of oil and gas from  
6 the field or pool that are necessary to make a determination as to whether  
7 or not to grant the request for royalty increase, decrease, or other  
8 adjustment; and

9 (B) keep the data described in (A) of this paragraph  
10 confidential under AS 38.05.035(a)(9) at the request of the lessee or lessees  
11 making application for the royalty increase or decrease or other royalty  
12 adjustment; the confidential data may be disclosed by the commissioner to  
13 legislators who sign an appropriate confidentiality agreement, to the  
14 legislative auditor, the director of the division of legislative finance, and the  
15 permanent employees of their respective divisions, and to agents or  
16 contractors of the legislative auditor or the legislative finance division  
17 director who are engaged under contract to evaluate the royalty increase,  
18 decrease, or other royalty adjustment;

19 (7) may require the lessee or lessees making application for the  
20 royalty increase, decrease, or other adjustment to pay for the services of an  
21 independent contractor, qualified to evaluate hydrocarbon development, production,  
22 transportation, and economics, who is selected by the commissioner to assist the  
23 commissioner in evaluating the application and financial and technical data;  
24 selection of an independent contractor under this paragraph is not subject to  
25 AS 36.30;

26 (8) shall

27 (A) make and publish a preliminary findings and  
28 determination on the royalty increase, decrease, or other adjustment  
29 application; if the preliminary findings and determination concerns a  
30 royalty increase, decrease, or other adjustment under (1)(A) of this  
31 subsection, the preliminary findings and determination shall also be  
32 presented to the governor for the governor's approval or disapproval; the

1 governor may not delegate a determination to approve or disapprove a  
2 preliminary findings and determination under this subparagraph;

3 (B) for a royalty increase, decrease, or other adjustment  
4 under (1)(A) of this subsection, if the governor approves the preliminary  
5 findings and determination under (A) of this paragraph.

6 (i) give reasonable public notice of the preliminary  
7 findings and determination;

8 (ii) concurrently with the issuance of the public  
9 notice, unless directed by the Legislative Budget and Audit  
10 Committee to do otherwise, make available copies of the  
11 commissioner's preliminary findings and determination on the  
12 royalty increase, decrease, or other adjustment application and the  
13 supporting financial and technical data, including the work papers,  
14 analyses, and recommendations of any contractors retained under  
15 (7) of this subsection, to persons authorized under (6)(B) of this  
16 subsection to review the data; and

17 (iii) invite public comment on the preliminary  
18 findings and determination during a 30-day period for receipt of  
19 public comment;

20 (C) for a royalty increase, decrease, or other adjustment  
21 under (1)(B) or (C) of this subsection, if the preliminary findings and  
22 determination approves a royalty increase, decrease, or other adjustment,

23 (i) give reasonable public notice of the preliminary  
24 findings and determination; and

25 (ii) invite public comment on the preliminary findings  
26 and determination during a 30-day period for receipt of public  
27 comment;

28 (9) shall address in any findings and determinations required under  
29 this subsection

30 (A) the reasonably foreseeable effects of the proposed royalty  
31 increase, decrease, or other adjustment on the state's revenue;

32 (B) the likelihood that the proposed royalty increase, decrease,

1 or other adjustment will result in incremental capital investment or other  
2 expenditures within the state, and the steps taken by the commissioner in  
3 conditioning the royalty increase, decrease, or other adjustment to assure  
4 that anticipated investments or other expenditures within the state occur:

5 (C) the reasonably foreseeable effects of the proposed royalty  
6 increase, decrease, or other adjustment on the employment of Alaskans and  
7 the use of in-state contractors and suppliers; and

8 (D) the reasonably foreseeable effects of the proposed royalty  
9 increase, decrease, or adjustment upon existing and potential new oil and gas  
10 exploration and development;

11 (10) shall offer to appear before the Legislative Budget and Audit  
12 Committee on a day that is no earlier than 10 days and not later than 20 days  
13 after giving public notice under (8) of this subsection, to provide the committee  
14 a review of the commissioner's preliminary findings and determination on the  
15 royalty increase, decrease, or other adjustment application and the supporting  
16 financial and technical data; if the Legislative Budget and Audit Committee  
17 accepts the commissioner's offer, the committee shall give notice of the  
18 committee's meeting to all members of the legislature; if, under (6)(B) of this  
19 subsection, the financial and technical data must be kept confidential at the  
20 request of a lessee or lessees making application for the royalty increase or  
21 decrease or other royalty adjustment, the commissioner may appear before the  
22 committee in executive session:

23 (11) shall make copies of the preliminary findings and determination  
24 available to

25 (A) the presiding officer of each house [INTEREST,  
26 INCLUDING RESTORATION OF THE STATE'S ROYALTY SHARE IN THE  
27 EVENT OF AN INCREASE IN THE PRICE OF OIL OR GAS. BEFORE  
28 APPROVING A ROYALTY REDUCTION, THE COMMISSIONER SHALL  
29 MAKE A WRITTEN FINDING THAT THE STATE HAS OBTAINED THE  
30 MAXIMUM POSSIBLE ECONOMIC RETURN THAT IS COMPATIBLE  
31 WITH ALLOWING A REASONABLE RATE OF ECONOMIC RETURN FOR  
32 THE LESSEE, AND SEND COPIES OF THE FINDING TO ALL MEMBERS]

1 of the legislature;

2 (B) the chairs of the legislature's standing committees on  
3 resources; and

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

6 (12) shall, within 30 days after the close of the public comment  
7 period under (8) of this subsection.

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

10 (B) except as to a final findings and determination proposed  
11 for a royalty increase, decrease, or other adjustment under (1)(A) of this  
12 subsection, make a final findings and determination, which is final and not  
13 appealable to the court by the lessee or lessees;

14 (C) as to a final findings and determination prepared for  
15 a royalty increase, decrease, or other adjustment under (1)(A) of this  
16 subsection, make a final findings and determination and present it to the  
17 governor for the governor's approval or disapproval; the governor may not  
18 delegate a decision to approve or disapprove a final findings and decision  
19 presented under this subparagraph; the commissioner's final findings and  
20 determination regarding a royalty increase, decrease, or other adjustment  
21 prepared under this subparagraph, if approved by the governor, is, as to  
22 the lessee or lessees applying for the royalty increase, decrease, or other  
23 adjustment, final and not appealable to the court;

24 (D) transmit a copy of the final findings and determination  
25 prepared under (B) or (C) of this paragraph to the lessee or lessees making  
26 application for the royalty increase, decrease or other adjustment;

27 (E) with the consent of the lessee or lessees applying for the  
28 royalty increase, decrease, or other adjustment, amend the lease or  
29 unitization agreement of the lessee or lessee applying for the royalty  
30 increase, decrease, or other adjustment consistent with the commissioner's  
31 final findings and determination; and

32 (F) make copies of the final findings and determination

1 available to each person who submitted comment under (8) of this subsection  
2 and who has filed a request for the copies:

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

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

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

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

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

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

5-8-95  
Sen. Leman  
explained

SENATE FINANCE  
COMMITTEE

Amendment Number: 1

Bill Number: HB 207

Sponsor: Stapp Date: 5/8/95

AMENDMENT Logged In By: JJC

May 8, 1994

OFFERED IN THE SENATE

TO: Senate CS for CS for HB 207(RES)

Page 4, Lines 14-15:

DELETE [at the direction of the majority of the members of the  
Legislative Budget and Audit Committee,]

Page 5, Line 13:

DELETE [if directed] and insert unless directed, and after "Committee" insert  
to do otherwise

5-8-95  
Sen.  
Lemon  
explained

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 207(RES)

SENATE FINANCE  
COMMITTEE

Amendment Number: 2

Bill Number: HB 207

Sponsor: Sharp Date: 5/8/95

Logged In By: [Signature]

1 Page 3. line 5:

2 Delete "the assumptions"

3 Insert "the relevant factors"

4 Page 3. lines 9 - 15:

5 Delete all material and insert:

6 "(C) set out the terms and conditions, which may include  
7 substitution of a sliding scale royalty or other mechanism to increase,  
8 decrease, or otherwise adjust the royalty if there is a change in the  
9 relevant factors, such as price, projected production rate or volume,  
10 predicted ultimate recovery, and development, operating, and  
11 transportation costs, upon which the increase, decrease, or other  
12 adjustment is based;"

5-8-95  
 SE  
 handout  
 Palmer

HYPOTHETICAL "NORTH SLOPE MARGINAL" FIELD WITH FIXED ROYALTY				
	\$10 Oil	\$16 Oil	\$22 Oil	\$28 Oil
Price of ANS Delivered on West Coast	\$10.00	\$16.00	\$22.00	\$28.00
Marine Tanker: Valdez to West Coast	1.20	1.20	1.20	1.20
Pipeline Tariffs	4.60	4.60	4.60	4.60
Netback Price at the Field	\$4.20	\$10.20	\$16.20	\$22.20
State Royalty Rate 15% (approximate**)	0.63	1.53	2.43	3.33
State Tax (includes Production Tax, Property Tax, Income Tax and Environmental Tax)	1.02	1.78	2.66	3.54
Federal Income Tax *	0.19	1.71	3.19	4.67
Operating Costs (Illustrative)	2.00	2.00	2.00	2.00
Recovery of Capital Invested	2.92	2.92	2.92	2.92
Profit (After Tax)	(\$2.56)	\$0.26	\$3.00	\$5.74

HYPOTHETICAL "NORTH SLOPE MARGINAL" FIELD WITH SLIDING SCALE ROYALTY				
	\$10 Oil	\$16 Oil	\$22 Oil	\$28 Oil
Price of ANS Delivered on West Coast	\$10.00	\$16.00	\$22.00	\$28.00
Marine Tanker: Valdez to West Coast	1.20	1.20	1.20	1.20
Pipeline Tariffs	4.60	4.60	4.60	4.60
Netback Price at the Field	\$4.20	\$10.20	\$16.20	\$22.20
Sliding Royalty Scale	(5% Rate)	(12.5 % Rate)	(15% Rate)	(20% Rate)
	0.21	1.28	2.43	4.44
State Tax (includes Production Tax, Property Tax, Income Tax and Environmental Tax)	1.02	1.78	2.66	3.54
Federal Income Tax *	0.19	1.71	3.19	4.67
Operating Costs (Illustrative)	2.00	2.00	2.00	2.00
Recovery of Capital Invested	2.92	2.92	2.92	2.92
Profit (After Tax)	(\$2.14)	\$0.51	\$3.00	\$4.63

\* Federal Income Tax is based on 35% of Netback Price minus State Taxes, Operating Costs and Royalty Rate.

5-8-95  
Shively

## Comparison of HB 207 Versions.

	Governor's Version	House Version	Senate Version
	Non-producing fields		
<b>Types of Leases</b>	Uneconomic fields	Same	Same
	Shut-in fields		
<b>Royalty Floor</b>	Before '78--75% red. (3.125%)	Non-producing 75% red. (3.125%)	Non-producing 5% (60% red.)
(assuming 12.5% royalty)	After '78--50% red. (6.25%)	Uneconomic 90% red. (1.25%)	Uneconomic 3% (76% red.)
<b>Oversight</b>	None	LB&A advisory	Governor's approval for 38.05.180(j)(i)(a) non-producing fields. LB&A advisory but confidential information goes to LB&A staff & agents
<b>Sunset</b>	None	None	Authority to grant ends July 1, 2000 for non-producing fields.
<b>Commissioner's Findings</b>	No Criteria	No Criteria	Establishes criteria to be addressed.
<b>3rd Party Analyses</b>	Selected by commissioner.	Selected by applicant from DNR	Selected by DNR.
	Costs paid by applicant.	short list. Costs paid by applicant.	Costs paid by applicant.
<b>Assignability</b>	Not addressed.	Not addressed.	With Commissioner's prior approval.
<b>Appealability</b>	Not appealable by anyone.	Not appealable by anyone.	Not appealable by applicant.

SECTIONAL ANALYSIS  
OF  
SENATE CS FOR CS FOR HOUSE BILL NO. 207(FIN)  
(VERSION L )  
MAY 9, 1995

The Senate CS for CS for House Bill No. 207(FIN) defines the commissioner's authority to increase, decrease or otherwise adjust the existing royalty terms of oil and gas leases to encourage production under three different circumstances. Presuming that the relevant conditions set forth in the bill are met, the commissioner would be authorized: 1) under (j)(1)(A), to increase, decrease or adjust the royalty terms of leases overlying delineated fields from which oil or gas has not been produced for sale previously, 2) under (j)(1)(B), to decrease or adjust the royalty terms of leases within producing fields "as costs per barrel or barrel equivalent increase such that future production would not otherwise be economically feasible" and 3) under (j)(1)(C), to increase, decrease or adjust the royalty rates of leases within shut-in fields to re-establish production that would not otherwise be economically feasible. The authority to grant an increase, decrease or otherwise adjust royalty rates under (j)(1)(A) expires July 1, 2000. For (j)(1)(B) and (j)(1)(C) there is no sunset date.

**Section 1**

This section amends AS 36.30.850(b)(33) by adding a new paragraph which exempts the commissioner's selection of a qualified contractor to assist in the review of an application to increase, decrease or otherwise adjust royalty rates from the provisions of the State Procurement Code. Contractors' qualifications are described in Section 2, subsection (j)(7), below.

**Section 2**

This section amends AS 38.05.180(j) as provided below.

### Subsection (j)(1)

This subsection clarifies that, before the commissioner may increase, decrease or otherwise adjust a royalty rate, the field must be delineated "sufficiently to allow the commissioner to conduct the analyses and make the findings required ..." instead of relying upon the more subjective standard of "sufficiently to the satisfaction of the commissioner..." which was specified in an earlier version of the bill. This change was made to reinforce the expectation that the commissioner's decisions to increase, decrease or adjust royalty rates will be well reasoned and supported by the record. This standard should encourage greater accountability, reducing the likelihood of disputes over whether the commissioner was "satisfied" with too little information before making a decision to increase, decrease or adjust royalty rates.

Subsections (j)(1)(A), (j)(1)(B) and (j)(1)(C) clarify that any royalty increase, decrease or adjustment will be based upon the economic feasibility of production from the entire oil or gas field or pool and not from a "portion of the field or pool." This will provide the state a safeguard against potential abuse of the royalty amendment provisions which might arise if the inquiry of what production is economically feasible is focused only on selected leases, portions of leases or vertically segregated zones underlying leases within a field.

The intent is to assure that, when royalties are increased, decreased or adjusted, the state will have the opportunity to share on the upside to the same extent it agrees to accept additional risk on the downside. By focusing this legislation on field-wide or pool-wide economics, the likelihood is reduced that the state will be asked to participate only in the sharing of costs for the most expensive wells within a field or pool while being denied the opportunity to share more equitably in the revenues from more economical wells.

### Subsection (j)(2)

This subsection establishes the general standards for any royalty increase, decrease or adjustment to be a "clear and convincing showing that an increase, decrease or adjustment of royalty meets the requirements of this subsection and is in the best interests of the state." It also places the burden of proof for making that showing on the lessee.

### Subsection (j)(3)

This subsection directs the commissioner to condition any royalty increase, decrease or adjustment "in any way necessary to protect the state's best interest." The Senate Finance Committee CS requires that the commissioner describe in a written findings and determination the assumptions upon which an increase, decrease or adjustment is based, and set forth the terms and conditions, which may include the substitution of a sliding scale royalty or other mechanisms that will be applied to increase, decrease or adjust the state's royalty share if the assumptions upon which the commissioner relied are subsequently determined either to have underestimated or overestimated the economic feasibility of the field's development without the royalty increase, decrease or adjustment.

### Subsection (j)(4)

This subsection sets forth explicit limitations on the commissioner's authority to grant a royalty increase, decrease or adjustment. With respect to delineated but previously non-producing fields (j)(1)(A), the Senate Finance Committee CS would forbid an increase, decrease or adjustment of royalty if the increase, decrease or adjustment would establish a royalty rate of less than five percent in amount or value of production removed or sold. With respect to non-economic producing (j)(1)(B) and shut-in fields (j)(1)(C), the commissioner may not decrease or otherwise adjust the royalty rate below a floor of three percent in amount or value of the production removed or sold.

### Subsection (j)(5)

This subsection requires the commissioner to condition any royalty increase, decrease or adjustment with an explicit notice that the increase, decrease or adjustment may not be assigned without the prior written approval of the commissioner. It further specifies that the commissioner shall, in the preliminary and final findings and determination, set out the conditions under which the royalty increase, decrease or other adjustment may be assigned.

### Subsection (j)(6)

This subsection establishes the requirement that the applicant submit supporting financial and technical data with an application for a royalty increase, decrease or adjustment. It defines the categories of information which may be required, and provides for the confidentiality of documents submitted in support of an application to increase, decrease or adjust the royalty rate.

The Senate Resources Finance CS makes explicit that the commissioner will require data necessary to make an informed decision on an application to increase, decrease or otherwise adjust royalty rates. In addition, the limitation of the commissioner's authority to require any information other than financial and technical data relating to "production", which appeared in an earlier version of the bill, has been deleted, clarifying that the scope of the commissioner's inquiry may include financial and technical data relating to development and transportation of oil and gas, as well as production, if the commissioner determines that those data are necessary to properly evaluate an application.

The subsection also defines the confidentiality principles which will apply to information submitted in support of an application to adjust royalties. Generally, the data may be held confidential under the provisions of AS 38.05.035(a)(9), at the request of the lessee or lessees; however, the data may be disclosed by the commissioner legislators who sign an appropriate confidentiality agreement, to the legislative auditor, to the director of the division of legislative finance and the permanent employees of their respective divisions, and to agents, or contractors of the legislative auditor or the legislative finance director who are engaged under contract to evaluate the royalty increase, decrease or other royalty adjustment.

### Subsection (j)(7)

This subsection confirms the commissioner's authority to require the applicant to pay for the services of an independent contractor to assist the commissioner in reviewing an application to increase, decrease or otherwise adjust royalty rates. Relative to an earlier version of the bill, the contractor's qualifications have been expanded to include the ability to evaluate hydrocarbon production, development and transportation economics.

### Subsection (j)(8)

This subsection establishes the requirement that the commissioner make and publish a preliminary findings and determination (preliminary findings) on applications to increase, decrease or otherwise adjust the royalty. Preliminary findings related to increases, decreases or adjustments under (1)(A), must first be submitted to the governor for the governor's approval or disapproval. If the governor approves the preliminary finding, the commissioner must: 1) give reasonable public notice, and 2) concurrently with the issuance of that notice, unless otherwise directed by the Budget and Audit Committee, make copies of the findings and supporting financial and technical data available to those persons authorized under (6)(B) of this subsection to review the data and 3) invite public comment on the preliminary findings for a 30-day period.

For preliminary findings under (1) (B) or (C) of this subsection, the commissioner must give reasonable public notice and allow for a 30-day comment period on the proposal.

### Subsection (j)(9)

This subsection defines a list of issues, (j)(9)(A)-(j)(9)(D), which the commissioner must address in any written finding and determination for a royalty increase, decrease or adjustment. The House version of this bill did not specify any issues or concerns which had to be addressed in the commissioner's findings and determination.

### Subsection (j)(10)

This subsection sets forth the requirement that the commissioner offer to appear before the Legislative Budget and Audit Committee (LB&A) on a day no earlier than 10 days and not later than 20 days after giving public notice of a preliminary findings and determination on a royalty increase, decrease or other adjustment to provide the committee a review of the findings and the supporting financial and technical data.

If the LB&A Committee accepts the offer, it shall give notice of the meeting to all members of the legislature, and if the technical and financial data must be kept confidential, as provided in (6)(B), the commissioner may appear in executive session.

**Subsection (i)(11)**

This subsection provides that the commissioner shall make copies of the preliminary findings and determination for a proposed increase, decrease or adjustment of a royalty rate to the presiding officer of each house; the chairs of the legislature's standing committees on resources; and the chairs of the legislature's special committees on oil and gas, if any.

**Subsection (j)(12)**

This subsection defines the timelines and administrative procedures to be followed in summarizing the public comments, preparing and distributing the final findings and determination and amending the leases to reflect an increase, decrease or other adjustment of royalty rates, depending upon whether the findings apply to increases, decreases or adjustments under (1)(A) or those under (1)(B) or (1)(C). This subsection also contains language affirming that the commissioner's decisions, as regards the applicant, are final and not appealable to the court. The House version of this bill provided that the commissioner's finding and determination was final and not appealable by any party.

For final findings for adjustments under (1)(B) or (C) of this section, the commissioner is directed, within 30 days after the close of the public comment period, to prepare a summary of the public's response to the preliminary findings, and make a final findings and determination. For those adjustments under (1)(A) of this section, the commissioner is directed to summarize the public comments, make his final finding and submit it to the governor for the governor's approval or disapproval. The bill Senate Finance CS provides that the governor may not delegate a decision to approve or disapprove a final findings and determination for an increase, decrease or other adjustment under section (1)(A).

Under (12)(D) of this subsection, the commissioner is directed to provide copies of the final findings and determination (following the governor's approval, if under (1)(A)) to the lessee or lessees, and with their consent to amend the lease(s) or unit agreement(s) to reflect the increase, decrease or adjustment consistent with the terms of the findings and determination. Copies of the final findings and determination are to be provided to each person who submitted comments during the public comment period and who filed a request for copies.

#### **Subsection (j)(13)**

This subsection clarifies that the commissioner may, under the authorities vested by this bill, increase, decrease or adjust the royalty provisions of leases arising from conversion of Exploration Licenses.

#### **Section 3**

Section 3 amends the provisions of AS 38.05.180(p) to clarify that the commissioner may not increase, decrease or otherwise adjust royalty on leases in connection with a cooperative or unit plan except as provided in AS 38.05.180(p), as amended by this bill.

#### **Section 4**

Section 4 amends the provisions of AS 38.05.180(s) to clarify that the commissioner may not increase, decrease or otherwise adjust royalty on leases in connection with a communitization or drilling agreement except as provided in AS 38.05.180(s), as amended by this bill.

#### **Section 5**

Section 5 amends the provisions of AS 38.05.180(t) to clarify that the commissioner may not increase, decrease or otherwise adjust royalty on a lease or leases that are subject to a drilling or development contract except as provided in (j) of this section, as amended by this bill.

## Section 6

Section 6 provides for an immediate effective date under AS 01.10.070(c).

### Notes on Amendments of this CS relative to the Senate Resources Committee CS dated May 8, 1995

Subsections (3)(C) was redrafted to clarify that there would be no "hidden" reopeners, and to clarify that both the events which may lead to subsequent adjustment of an increase, decrease or other adjustment and the steps to be taken when, and if, they occur, will be set out in the findings and determination.

Subsections (6)(B) was redrafted to provide legislators who sign an appropriate confidentiality agreement to have access to confidential data which in the Senate Resources CS were available only to LB&A, its staff and contractors.

Subsection (8)(B)(ii) was redrafted to require the commissioner to submit the confidential materials to LB&A concurrently with the issuance of public notice—unless directed to do otherwise by the Legislative Budget and Audit Committee. This amendment was made to assure that LB&A has access to the data upon which to base its analysis as soon as it is available, rather than having to wait to be directed to request the data.

Technical amendments were made to subsection (9) to delete the words "beneficial spending" and "projected", and to replace those terms with "expenditures" and "reasonably foreseeable", respectively, in each instance in which those words appeared.

Subsection (9)(D) was amended to delete the phrase "and upon competition and patterns of investment related to oil and gas exploration and development" from one of the sets of issues which the best interest finding and determination must address.

ATTACHMENT FOR FISCAL NOTE - HB207  
REDUCE ROYALTY SHARE/HOLD PERMANENT FUND "HARMLESS"

Implementation of this legislation will create an increased workload for the Division of Oil & Gas. We anticipate that some of the applications will be analyzed within the Division and many will require analysis by third parties (the bill provides that third-party costs will be paid for by the companies). Because of the extremely sensitive and confidential nature of the data a considerable amount of interaction between the third-party contractor and the state will be needed. Furthermore, the bill requires that applicants make a clear and convincing showing of the need for royalty reduction, so the Division will need to evaluate the economic, geological and engineering data submitted for compliance with the law prior to seeking the assistance of a third party.

Because this legislation contains provisions that may cause the terms of the application to vary over time, any approved application will need to be monitored on a continuing basis. We expect this program to have broad appeal, however, we cannot anticipate how many applications will be submitted or when they will be submitted.

An exempt Petroleum Engineer, Range 26A, will provide the broad background that will be needed to evaluate these proposals effectively. This position will need to be skilled not only in Petroleum Engineering, but will also need to have extensive knowledge of petroleum geology and petroleum economics. The salary cost of this position will be approximately \$90.6 the first year, including benefits. Additional, minor expenses such as travel, contractual and supplies will be required which we estimate will not exceed \$15.0. This position and the associated costs are our estimates of the funding needed to get the program started; if many applications are received, other positions may be required. We assume that each application will take between 4-6 employee-months to evaluate.

This legislation will effect state operating revenues in an unquantifiable manner (the Permanent Fund share is not affected by this legislation). This legislation gives the commissioner authority to grant royalty reduction which, on its face, would seem to indicate a decrease in revenue. However, since the purpose of this legislation is to promote development of fields that would not otherwise be produced, the net effect on state revenues should be positive. As a result of this legislation we are gaining new revenues based on this new production (albeit at a somewhat reduced rate from currently producing fields).

SECTIONAL ANALYSIS  
OF  
SENATE CS FOR CS FOR HOUSE BILL NO. 207(RES)  
(VERSION 1)  
MAY 8, 1995

The Senate CS for CS for House Bill No. 207(RES) defines the commissioner's authority to increase, decrease or otherwise adjust the existing royalty terms of oil and gas leases to encourage production under three different circumstances. Presuming that the relevant conditions set forth in the bill are met, the commissioner would be authorized: 1) under (j)(1)(A), to increase, decrease or adjust the royalty terms of leases overlying delineated fields from which oil or gas has not been produced for sale previously, 2) under (j)(1)(B), to increase, decrease or adjust the royalty terms of leases within producing fields where the field's operating costs exceed revenues, and are likely to continue to do so absent royalty increase, decrease or adjustment, and 3) under (j)(1)(C), to increase, decrease or adjust the royalty rates of leases within shut-in fields to re-establish production that would not otherwise be economically feasible. The authority to grant an increase, decrease or otherwise adjust royalty rates under (j)(1)(A) expires July 1, 2000. For (j)(1)(B) and (j)(1)(C) there is no sunset date.

**Section 1.**

This section amends AS 36.30.850(b)(33) by adding a new paragraph which exempts the commissioner's selection of a qualified contractor to assist in the review of an application to increase, decrease or otherwise adjust royalty rates from the provisions of the State Procurement Code. Contractors' qualifications are described in Section 2, subsection (j)(7), below.

**Section 2**

This section amends AS 38.05.180(j) as provided below.

### Subsection (j)(1)

This subsection clarifies that, before the commissioner may increase, decrease or otherwise adjust a royalty rate, the field must be delineated "sufficiently to allow the commissioner to conduct the analyses and make the findings required ..." instead of relying upon the more subjective standard of "sufficiently to the satisfaction of the commissioner..." which was specified in an earlier version of the bill. This change was made to reinforce the expectation that the commissioner's decisions to increase, decrease or adjust royalty rates will be well reasoned and supported by the record. This standard should encourage greater accountability, reducing the likelihood of disputes over whether the commissioner was "satisfied" with too little information before making a decision to increase, decrease or adjust royalty rates.

Subsections (j)(1)(A), (j)(1)(B) and (j)(1)(C) clarify that any royalty increase, decrease or adjustment will be based upon the economic feasibility of production from the entire oil or gas field or pool and not from a "portion of the field or pool." This will provide the state a safeguard against potential abuse of the royalty amendment provisions which might arise if the inquiry of what production is economically feasible is focused only on selected leases, portions of leases or vertically segregated zones underlying leases within a field.

The intent is to assure that, when royalties are increased, decreased or adjusted, the state will have the opportunity to share on the upside to the same extent it agrees to accept additional risk on the downside. By focusing this legislation on field-wide or pool-wide economics, the likelihood is reduced that the state will be asked to participate only in the sharing of costs for the most expensive wells within a field or pool while being denied the opportunity to share more equitably in the revenues from more economical wells.

### Subsection (i)(2)

This subsection establishes the general standards for any royalty increase, decrease or adjustment to be a "clear and convincing showing that an increase, decrease of adjustment of royalty meets the requirements of this subsection and is in the best interests of the state." It also places the burden of proof for making that showing on the lessee.

### Subsection (j)(3)

This subsection directs the commissioner to condition any royalty increase, decrease or adjustment "in any way necessary to protect the state's best interest." The Senate Resources Committee CS establishes the requirement that the commissioner describe in a written findings and determination the assumptions upon which an increase, decrease or adjustment is based, and set forth the terms and conditions, which may include the substitution of a sliding scale royalty or other mechanisms that will be applied to increase, decrease or adjust the state's royalty share if the assumptions upon which the commissioner relied are subsequently determined either to have underestimated or overestimated the economic feasibility of the field's development without the royalty increase, decrease or adjustment.

### Subsection (j)(4)

This subsection sets forth explicit limitations on the commissioner's authority to grant a royalty increase, decrease or adjustment. With respect to delineated but previously non-producing fields (j)(1)(A), the Senate Resources Committee CS would forbid an increase, decrease or adjustment of royalty if the increase, decrease or adjustment would establish a royalty rate of less than five percent in amount or value of production removed or sold. With respect to non-economic producing (j)(1)(B) and shut-in fields (j)(1)(C), the commissioner may not decrease or otherwise adjust the royalty rate below a floor of three percent in amount or value of the production removed or sold.

### Subsection (j)(5)

This subsection requires the commissioner to condition any royalty increase, decrease or adjustment with an explicit notice that the increase, decrease or adjustment may not be assigned without the prior written approval of the commissioner. It further specifies that the commissioner's approval shall be based upon a clear and convincing showing by the assignor that the assignment meets the requirements of subsection (j)(1), and is in the best interests of the state.

### Subsection (j)(6)

This subsection establishes the requirement that the applicant submit supporting financial and technical data with an application for a royalty increase, decrease or adjustment. It defines the categories of information which may be required, and provides for the confidentiality of documents submitted in support of an application to increase, decrease or adjust the royalty rate.

The Senate Resources Committee CS makes explicit that the commissioner will require data necessary to make an informed decision on an application to increase, decrease or otherwise adjust royalty rates. In addition, the limitation of the commissioner's authority to require any information other than financial and technical data relating to "production", which appeared in an earlier version of the bill, has been deleted, clarifying that the scope of the commissioner's inquiry may include financial and technical data relating to development and transportation of oil and gas, as well as production, if the commissioner determines that those data are necessary to properly evaluate an application.

The subsection also defines the confidentiality principles which will apply to information submitted in support of an application to adjust royalties. At the direction of the majority of the members of the Legislative Budget and Audit Committee, the data may be disclosed to the director of the division of legislative finance and the permanent employees of their respective divisions, and to agents, or contractors of the legislative auditor or the legislative finance director who are engaged under contract to evaluate the royalty increase, decrease or other royalty adjustment. The data may not be disclosed to members of the legislature, and will remain confidential under the provisions of AS 38.05.035(a)(9) upon lessee's request.

### Subsection (j)(7)

This subsection confirms the commissioner's authority to require the applicant to pay for the services of an independent contractor to assist the commissioner in reviewing an application to increase, decrease or otherwise adjust royalty rates. Relative to an earlier version of the bill, the contractor's qualifications have been expanded to include the ability to evaluate hydrocarbon production, development and transportation economics.

### Subsection (j)(8)

This subsection establishes the requirement that the commissioner make and publish a preliminary findings and determination (preliminary findings) on applications to increase, decrease or otherwise adjust the royalty. Preliminary findings related to increases, decreases or adjustments under (1)(A), must first be submitted to the governor for the governor's approval or disapproval. If the governor approves the preliminary finding, the commissioner must: 1) give reasonable public notice, and 2) concurrently with the issuance of that notice, if directed by the Legislative Budget and Audit Committee, make copies of the findings and supporting financial and technical data available to those persons authorized under (6)(B) of this subsection to review the data and 3) invite public comment on the preliminary findings for a 30-day period.

For preliminary findings under (1) (B) or (C) of this subsection, the commissioner must give reasonable public notice and allow for a 30-day comment period on the proposal.

### Subsection (j)(9)

This subsection defines a list of issues, (j)(9)(A)-(j)(9)(D), which the commissioner must address in any written finding and determination for a royalty increase, decrease or adjustment.

### Subsection (j)(10)

This subsection sets forth the requirement that the commissioner offer to appear before the Legislative Budget and Audit Committee (LB&A) on a day no earlier than 10 days and not later than 20 days after giving public notice of a preliminary findings and determination on a royalty increase, decrease or other adjustment to provide the committee a review of the findings and the supporting financial and technical data.

If the LB&A Committee accepts the offer, it shall give notice of the meeting to all members of the legislature, and if the technical and financial data must be kept confidential, as provided in (6)(B), the commissioner may appear in executive session.

**Subsection (i)(11)**

This subsection provides that the commissioner shall make copies of the preliminary findings and determination for a proposed increase, decrease or adjustment of a royalty rate to the presiding officer of each house; the chairs of the legislature's standing committees on resources; and the chairs of the legislature's special committees on oil and gas, if any.

**Subsection (j)(12)**

This subsection defines the timelines and administrative procedures to be followed in summarizing the public comments, preparing and distributing the final findings and determination and amending the leases to reflect an increase, decrease or other adjustment of royalty rates, depending upon whether the findings apply to increases, decreases or adjustments under (1)(A) or those under (1)(B) or (1)(C). This subsection also contains language affirming that the commissioner's decisions, as regards the applicant, are final and not appealable to the court.

For final findings for adjustments under (1)(B) or (C) of this section, the commissioner is directed, within 30 days after the close of the public comment period, to prepare a summary of the public's response to the preliminary findings, and make a final findings and determination. For those adjustments under (1)(A) of this section, the commissioner is directed to summarize the public comments, make his final finding and submit it to the governor for the governor's approval or disapproval. The governor may not delegate a decision to approve or disapprove a final findings and determination for an increase, decrease or other adjustment under section (1)(A).

Under (12)(D) of this subsection, the commissioner is directed to provide copies of the final findings and determination (following the governor's approval, if under (1)(A)) to the lessee or lessees, and with their consent to amend the lease(s) or unit agreement(s) to reflect the increase, decrease or adjustment consistent with the terms of the findings and determination. Copies of the final findings and determination are to be provided to each person who submitted comments during the public comment period and who filed a request for copies.

**Subsection (j)(13)**

This subsection clarifies that the commissioner may, under the authorities vested by this bill, increase, decrease or adjust the royalty provisions of leases arising from conversion of Exploration Licenses.

### Section 3

Section 3 amends the provisions of AS 38.05.180(p) to clarify that the commissioner may not increase, decrease or otherwise adjust royalty on leases in connection with a cooperative or unit plan except as provided in AS 38.05.180(p), as amended by this bill.

### Section 4

Section 4 amends the provisions of AS 38.05.180(s) to clarify that the commissioner may not increase, decrease or otherwise adjust royalty on leases in connection with a communitization or drilling agreement except as provided in AS 38.05.180(s), as amended by this bill.

### Section 5

Section 5 amends the provisions of AS 38.05.180(t) to clarify that the commissioner may not increase, decrease or otherwise adjust royalty on a lease or leases that are subject to a drilling or development contract except as provided in (j) of this section, as amended by this bill.

### Section 6

Section 6 provides for an immediate effective date under AS 01.10.070(c).

*Cross Ref. to HB 207*

BILL: SR 101      SHORT TITLE: ADJUSTMENTS TO OIL AND GAS ROYALTIES

BILL VERSION:

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

CURRENT STATUS: (S) RES  
                  THEN FIN, RLS

STATUS DATE: 02/27/95

*HB 207*

TITLE: "An Act relating to adjustments to royalty reserved to the state to encourage otherwise uneconomic production of oil and gas; relating to the depositing of royalties and royalty sale proceeds in the Alaska permanent fund and providing for an effective date."

02/27/95	405	(S)	READ THE FIRST TIME - REFERRAL(S)
02/27/95	405	(S)	RES, FIN
02/27/95	405	(S)	FISCAL NOTE (DNR #1)
02/27/95	405	(S)	ZERO FISCAL NOTES (DNR #2, REV #3)
03/09/95	557	(S)	CORRECTED FN DNR #4 REPLACES DNR #1)

HB 207

The Department of Natural Resources does not support any amendment which would limit the commissioner's ability to adjust royalty to only a sliding scale mechanism based on a referenced oil price. Although such a mechanism may be simple to administer, it could cause fiscal deterrence to development or deny the state upside benefits if other factors change.

Sliding scale mechanisms have been criticized by Petroconsultants (U.K.) Ltd. in its study of various petroleum fiscal regimes, "Annual Review of Petroleum Fiscal Regimes (1994) ("Fiscal Regimes"). The study notes that in "marginal situations, it is possible that [certain fiscal regimes] will delay the advent of economic rent considerably and may prevent it altogether, i.e. leave the investor with a negative NPV [net present value]." Fiscal Regimes at Analysis - 2. It also states that "long depreciation schedules for tax (or cost recovery) purposes delays the advent of economic rent for the investor, as do mechanisms based on sliding scales (such as profit sharing) which increase the State share when field production increases and not when profitability increases." *Id.* (emphasis and underlining in original).

Additionally, a sliding scale based solely on price may deny the state potential upside benefits. For example, if the royalty reduction is based upon these assumptions:

1. A company needs an internal rate of return of ten percent to invest in a project.
2. The company estimates recoverable reserves of 200 million barrels of oil.
3. The company can achieve a ten percent return if it recovers 200 million barrels at a destination price of fifteen dollars per barrel and a royalty rate of 10 percent. (All other factors are held constant.)
4. The state agrees to downwardly adjust the royalty rate such that at fifteen dollars the royalty rate will be ten percent. The parties agree to a sliding scale mechanism based on oil price which provides that the royalty will be 5% at price of ten dollars or less, 7.5% at \$12.50, 10 % at \$15.00, 12.5% at \$17.50, 15 % at \$20.00, and 17.5% at \$22.50 or above.

Assume now, that as production begins, it becomes obvious that 50 million additional barrels above original estimates can be recovered. The actual destination price, however, remains fixed at a constant fifteen dollars per barrel. The company will get the benefit of the increased production (and achieve a higher internal rate of return than was necessary to induce it to invest in the project). The state, however, will not receive the benefit of this increased production even though the actual economics of the project have improved dramatically over the initial economics assumed.

The decision to invest in a new field is based upon an assessment of economic risk and an analysis using price alone is generally overly simplistic. Other variables, not price alone, should be considered. Field profits are determined by a combination of variables, not just one. Production volume, capital investment, and operating costs remain important

*Provided by Sen. Lemann.*

considerations. At the very least, the state should consider the "value of production" (price times volume) as a sliding scale basis. Even this method, however, ignores the effect of the Alaska field's profitability to the consolidated income statement of the typically integrated company operating in Alaska.

Nevertheless, sliding scale mechanisms are useful tools which should be considered by the commissioner in making his decision. They, however, should not be the exclusive tool.

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

OIL & GAS CHAIR  
LABOR & COMMERCE, VICE CHAIR  
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIR  
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER  
ECONOMIC DEVELOPMENT, MEMBER



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JUNEAU, AK 99801-1182  
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FAX: (907) 465-2040

### Representative Norman Rokeberg

#### MEMORANDUM

TO: Members of Senate Finance Committee

FROM: Representative Norman Rokeberg *NR*

DATE: May 5, 1995

SUBJECT: Senate CS for HB 207 - Royalty Adjustments

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A number of items contained in the latest work draft, GH0039\I dated 5/4/95, adopted by the Senate Resources Committee were debated both in committee and on the House floor. Areas still needing revision are:

- a sunset period of the year 2000 is too short if we need one at all it should be 2005 to allow investors who are not currently doing business in Alaska but may explore at some future time (giving the appearance of being special interest legislation for BP, which is not the case) Page 2, line 10
- Subsection (3) (B), Page 3, lines 4 - 8, is ambiguous because the relevant factors or assumptions are either all mandated or all permissive depending on interpretation - price variables should be mandated in each agreement while the other factors are optional depending on circumstance
- contains a reopener clause that is vague and unclear any reopener clause has to be bargained for in advance, Subsection (3) (C), Page 3, Lines 9-15 (What does the term "subsequently determined" mean?)

- the royalty floor on "old uneconomic fields" of 3% e.g. Cook Inlet (current law allows the royalty to go to 0%, prefer 1.25%), Subsection (4) (B), Page 3, Line 24
- assignment of a royalty adjustment between owners which is similar to the initial application procedure - consent less stringent Subsection (5), Page 3, Lines 30-32
- contains no "reasonably available" standard for "old oil field data" that may not be available when multiple transfers of ownership occur add to (6) (A), Page 4, Line 9
- industry prefers having the DNR Commissioner approve a list of independent contractors that the industry can then choose from thus avoiding problems based on historic relationships, Subsection (7), Page 4, Line 26

listing of the items that must be addressed in the findings and determination which could increase the possibility of litigation and some items may not apply in every circumstance - recommend changing "shall to may", Subsection (8), Page 4, Line 30

- changes the non-appealability language to lessee or lessees only (house version limits appeals to constitutional issues by deleting the above), Subsection (12) (B), Page 7, Line 19 and (12) (C), Page 7, lines 27 after is through line 29

I strongly urge you to help revise the Senate draft and possibly incorporate some of the above suggestions. I believe this bill is very important to Alaska and the companies who do business in our state.

TONY KNOWLES  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 207  
P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the reduction of royalties reserved to the state to encourage otherwise uneconomic production of oil and gas from marginal fields and to prolong the production life of declining fields.

The bill would change existing royalty reduction provisions to grant the commissioner of the Department of Natural Resources greater discretion to provide royalty relief to lessees when necessary and clarify the commissioner's authority to grant such relief under various provisions in AS 38.05.180.

The proposed changes will require the lessee to make a clear and convincing showing that a royalty reduction is necessary and is in the best interest of the state. The commissioner may condition granting of a royalty reduction in any way necessary to protect the state's best interests, such as increasing the state's royalty share if the price of oil or gas rises.

Finally, the bill maintains the royalty contributions to the permanent fund so that the fund would never receive a royalty less than that provided under existing statutes.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles".

Tony Knowles  
Governor

# SENATE COMMITTEE REPORT

DATE: 4/20/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 5-5-95

*Print*

Resources Committee considered CSHB 207(FIN) AM

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

*Φ d FIN*

and recommends:

- be replaced with SEN CS CSHB 207 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical change
- new: SCR# \_\_\_\_\_

SIGNING DO. PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>		<i>[Signature]</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
<i>[Signature]</i>		<i>[Signature]</i>			
<i>[Signature]</i>		<i>[Signature]</i>			
<i>[Signature]</i>		<i>[Signature]</i>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
CHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			

②  
①

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal

Department	Date	Zero	Fiscal
Revenue/APFC	2/27	<input checked="" type="checkbox"/>	
DNR	3/8		105.6
Revenue/OIL & GAS ACT	3/15	<input checked="" type="checkbox"/>	I

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill