

Original sponsor: Rules Committee by request  
of the Joint Pipeline Impact  
Committee

Offered: 4/13/72  
Referred: Rules

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 294 *Am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to lease of rights-of-way over state  
7 land for the transportation of oil and gas within the  
8 state; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 38 is amended by adding a new chapter to read:

11 CHAPTER 35. RIGHT-OF-WAY LEASING ACT OF 1972.

12 Sec. 38.35.010. LEGISLATIVE DECLARATION OF POLICY. The natural  
13 resources of this state in crude oil and natural gas and in its land  
14 for transportation of these resources and their products by pipeline  
15 toward markets both in and out of the state are capable of making a  
16 significant contribution to the general welfare of the people of this  
17 state. It is the policy of this state that the development, use, and  
18 control of a pipeline transportation system be directed to make the  
19 maximum contribution to the development of the human resources of this  
20 state, the increase in the standard of living for all of its residents,  
21 the advancement of existing and potential sectors of its economy, the  
22 strengthening of free competition in its private enterprise system, and  
23 the careful protection of its incomparable natural environment.

24 Sec. 38.35.020. GRANT OF RIGHT-OF-WAY LEASE. Rights-of-way on  
25 state owned lands including right-of-way on, over, under, along,  
26 across, or upon the right-of-way of a public road or highway or the  
27 right-of-way of a railroad or other public utility, or on, across,  
28 upon, over, or under a river or other body of water or land belonging  
29 to or administered by the state may be granted by noncompetitive lease

1 by the commissioner for pipeline purposes for the transportation of oil,  
2 products or natural gas under those conditions prescribed by law and by  
3 administrative regulations. No person shall engage in any construction,  
4 acquisition or operation of, or transportation, service, or sale by the  
5 whole or a part of an oil, products, or natural gas pipeline, which in  
6 whole or in part is or is proposed to be on state public land, unless  
7 that person is a carrier and has obtained from the commissioner a right-  
8 of-way lease of the land under this chapter as well as a certificate  
9 that the construction, acquisition, operation, transportation, service,  
10 or sale, if subject to the lease, will be in accordance with its terms.

11 Sec. 38.35.030. ABANDONMENT OF OR REDUCTION OR IMPAIRMENT OF  
12 SERVICE OF PIPELINE BY LESSEE CARRIER. No lessee carrier may abandon  
13 any portion of a pipeline that is on state public land or subject  
14 to the lease, or operation or transportation, service, or sale by it,  
15 or reduce or impair service, unless the carrier has first applied for  
16 and the commissioner has granted a certificate that the abandonment,  
17 reduction, or impairment is in accordance with the terms of the lease.

18 Sec. 38.35.040. TEMPORARY OR EMERGENCY SERVICE OR TEMPORARY  
19 ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE BY LESSEE CARRIER. The  
20 commissioner may, either upon a request made in the form he shall by  
21 regulation require, or upon his own motion without request, authorize  
22 or require temporary or emergency rendering of service or temporary  
23 or emergency abandonment, reduction or impairment of service by a pipe-  
24 line of a lessee carrier without compliance with secs. 50 - 110 of this  
25 chapter. Nothing in this section prevents a carrier from temporarily  
26 suspending operations in the event of an emergency which threatens  
27 public health or safety; however notice shall be given the commissioner  
28 as soon as possible.

29 Sec. 38.35.050. APPLICATIONS FOR RIGHT-OF-WAY LEASES AND

1 CERTIFICATES. (a) A carrier desiring to engage in construction,  
2 acquisition or operation of, or transportation, service, or sale by the  
3 whole or a part of a pipeline, which in whole or part is or is proposed  
4 to be on state public land may apply for a noncompetitive right-of-way  
5 lease of this land and, as applicable, a certificate that the construc-  
6 tion, acquisition, operation, transportation, service, or sale is in  
7 accordance with the lease. A lessee carrier desiring to engage, on  
8 other than state public land, in construction, acquisition, or operation  
9 of, or transportation, service, or sale by a pipeline subject to the  
10 lease may apply for a certificate that the act or acts will be in  
11 accordance with that lease.

12 (b) All carriers or lessee carriers owning or planning to own an  
13 interest in a pipeline or proposed pipeline subject to a lease, and  
14 every corporation or association employed or to be employed to operate  
15 the pipeline, must join in the application under (a) of this section.

16 (c) A carrier other than one described in (a) or (b) of this  
17 section may join in an application under (a) or (b) of this section if  
18 the commissioner approves the joinder.

19 (d) Applications under (a), (b), or (c) of this section shall be  
20 made in a form and manner prescribed by regulation.

21 (e) An amendment to an application filed under this section or  
22 sec. 60 of this chapter, other than to correct a typographical, compu-  
23 tational, or similar error, is subject to the regulations applying to  
24 an original application.

25 Sec. 38.35.060. APPLICATION FOR CERTIFICATE TO ABANDON OR DIMINISH  
26 SERVICE. A lessee carrier desiring to abandon or diminish operation of  
27 or transportation, service, or sales by all or a portion of a pipeline  
28 subject to its lease, shall apply, in the form and manner prescribed  
29 by regulation, for a certificate that the abandonment or diminution

1 will be in accordance with the lease.

2 Sec. 38.35.070. NOTICE OF APPLICATION. Upon receiving an appli-  
3 cation under sec. 50 or 60 of this chapter, the commissioner shall

4 (1) cause notice of it to appear in the daily newspaper of  
5 general circulation published nearest the location of the proposed  
6 pipeline;

7 (2) file copies of the application with each coordinate  
8 agency; and

9 (3) furnish at cost copies of a notice or application to  
10 persons requesting them.

11 Sec. 38.35.080. MULTIPLE APPLICATIONS FOR SAME LEASE. When the  
12 commissioner receives within a 30-day period two or more applications  
13 relating to the same or substantially the same subject matter, he shall  
14 consider the applications upon a comparative basis. The commissioner  
15 may extend the time within which a carrier may submit an application  
16 for consideration upon a comparative basis with a previously filed  
17 application.

18 Sec. 38.35.090. DECISIONS UPON APPLICATIONS. (a) The commis-  
19 sioner shall determine, on an application filed with him under sec. 50  
20 of this chapter for a right-of-way lease of state public land or for a  
21 certificate under a lease, whether the applicant is fit, willing, and  
22 able to perform the transportation or other acts proposed and to conform  
23 to the provisions of the proposed right-of-way lease or certificate,  
24 and of this chapter, and whether the proposed construction, acquisition,  
25 or operation of or transportation, service, or sale by the pipeline is  
26 or will be required by the present or future public interest and neces-  
27 sity. If the commissioner makes these determinations favorably to the  
28 applicant, then he may grant the whole or part of the application.  
29 Otherwise, he shall deny the application. In order to grant the whole

1 or part of the application the commissioner shall offer a lease or  
2 certificate to the applicant for its acceptance through signing of the  
3 lease or certificate and agreeing to comply with its terms, conditions,  
4 and obligations and with this chapter. Only upon proper acceptance  
5 of offered lease or certificate by the applicant within 30 days after  
6 its having been presented is the grant of the application consummated.

7 (b) The commissioner, on application by a lessee carrier for a  
8 certificate to abandon or diminish operation of, or transportation,  
9 service, or sale by any portion of a pipeline that is subject to its  
10 lease, shall determine whether the proposed abandonment or diminution  
11 is or will be consistent with the present or future public interest,  
12 convenience, and necessity. If the commissioner makes this determina-  
13 tion favorably to the applicant, he may grant the whole or a part of  
14 the application. Otherwise, he shall deny the application.

15 (c) For a right-of-way lease granted under this chapter for an oil  
16 or natural gas pipeline valued at \$1,000,000 or more to be valid and of  
17 legal effect, it must contain the terms required to be inserted under  
18 the provisions of secs. 100 - 140 of this chapter. An oil or natural  
19 gas pipeline right-of-way lease granted under this chapter that does  
20 not contain the required terms is null and void and without legal effect  
21 and does not vest any interest in state public land or any authority  
22 in the carrier granted the lease.

23 (d) The commissioner may, at his discretion, include the terms  
24 set out in secs. 100 - 140 of this chapter in leases of state public  
25 land for products pipeline right-of-way purposes.

26 Sec. 38.35.100. TERM OF LEASE. Each lease of state public land for  
27 pipeline right-of-way purposes shall contain a provision that the lease  
28 shall run for a specified term of 25 years, and shall be renewable on the  
29 same terms for an additional period of up to 10 years, so long as the

1 lessee is in full compliance with all state law, including but not  
2 limited to state law pertaining to regulation and taxation of the pipe-  
3 line facility, and is in compliance with all terms of the lease.

4 Sec. 38.35.110. COVENANTS REQUIRED TO BE INCLUDED IN LEASE. A  
5 noncompetitive lease of state public land for a right-of-way for an oil  
6 or natural gas pipeline valued at \$1,000,000 or more may be granted only  
7 upon the condition that the lessee carrier expressly covenants in the  
8 lease, in consideration of the rights acquired by it under the lease, that:

9 (1) it will obtain a certificate of compliance with the terms  
10 and conditions of the lease before undertaking any construction,  
11 acquisition or operation of or transportation, service or sale by the  
12 whole or any part of a pipeline on state public land, including the  
13 portions of the pipeline not on state public land;

14 (2) it will undertake and complete or regularly perform  
15 within or during the time period and in accordance with the project  
16 description contained in the lease or certificate, throughout the  
17 entire route of the pipeline in the state, both on state public land  
18 obtained under the lease and on other land, any construction or acqui-  
19 sition or other act required to be performed in conjunction with the  
20 lease, or operation of, or transportation, service, or sale by the  
21 pipeline in good faith and in accordance with the lease and certificates,  
22 this chapter, and any other applicable state or federal law;

23 (3) it assumes the status of and will perform all of its  
24 functions undertaken under the lease as a common carrier and will  
25 accept, convey, and transport all crude oil or natural gas, depending  
26 on the kind of pipeline involved, delivered to it for transportation  
27 from fields in the vicinity of the pipeline subject to the lease  
28 throughout its route both on state public land obtained under the lease  
29 and on other land; however, the common carrier provision of this section

1 shall not apply to a natural gas pipeline operated by a person subject  
2 to regulation under the Natural Gas Act of the United States (52 Stat.  
3 821, 68 Stat. 36);

4 (4) it will accept, convey, and transport or purchase  
5 crude oil or natural gas without unjust or unreasonable discrimination  
6 in favor of one producer or person, including itself, as against  
7 another in the same field, and without unjust or unreasonable discrimi-  
8 nation as between fields in the state but will take the crude oil or  
9 natural gas, depending on the kind of pipeline involved, delivered or  
10 offered in the proportion that the commission shall, after a full hearing  
11 with due notice to the interested parties and a proper finding of facts,  
12 determine to be reasonable;

13 (5) it will exchange crude oil or natural gas, depending  
14 upon the kind of pipeline involved, with each like common carrier and  
15 provide connections and facilities for the interchange of crude oil or  
16 natural gas at every locality reached by both pipelines when the neces-  
17 sity exists, subject to rates and regulations made by the appropriate  
18 state or federal regulatory agency;

19 (6) the governor has the authority to obtain an option to  
20 purchase an undivided interest, not to exceed 20 per cent, in a trans-  
21 Alaska pipeline project or facility; a lease of state public land for  
22 right-of-way for a trans-Alaska pipeline facility shall contain the  
23 condition that the lessee grants to the state the option to purchase,  
24 on reasonable notice, an undivided interest, not to exceed 20 per  
25 cent, in the entire pipeline project or facility; the governor shall  
26 not exercise any option to purchase an interest in the pipeline project  
27 or facility unless the purchase price and other terms of the purchase  
28 proposal are approved by the legislature; in no event may the option  
29 to purchase be exercised until the purchase of the interest has been

1 approved by a majority of the voters in a statewide referendum; purchase  
2 of the interest may, at the option of the state, be made in stages  
3 subject to the foregoing provisions;

4 (7) it will maintain and preserve books, accounts, records,  
5 papers, and correspondence and other records and will make those  
6 reports that the state may prescribe by regulation or law as necessary  
7 and appropriate for purposes of administration of this chapter;

8 (8) it will accord at all reasonable times to the state and  
9 its authorized agents and auditors the right of access to its property  
10 and records, of inspection of its property, and of examination and  
11 copying of records;

12 (9) it will provide, where economically feasible and consis-  
13 tent with the primary function of the line, connections and facilities  
14 on the pipeline subject to the lease, both on state land and other land  
15 in the state, for the purpose of delivering crude oil or natural gas,  
16 depending upon the kind of pipeline involved, to persons desiring to  
17 purchase who are located in municipalities in the vicinity of the  
18 pipeline;

19 (10) it will, at its own expense, during the term of the lease

20 (A) maintain the leasehold and pipeline in good repair;

21 (B) exercise the highest degree of care in using the  
22 leasehold and operating the pipeline to prevent a pipeline incident;

23 (C) promptly repair or remedy any damage to or destruc-  
24 tion of the leasehold or pipeline;

25 (D) promptly remedy any damage to or destruction of  
26 property resulting from damage to or destruction of the leasehold  
27 or pipeline;

28 (11) it will not transfer, assign, or dispose of in any manner,  
29 directly or indirectly, or by transfer of control of the carrier

1 corporation, its interest in a right-of-way lease, or any rights under  
2 the lease, or any pipeline subject to the lease, except as authorized by  
3 the commissioner, upon application by the carrier; the commissioner  
4 shall not unreasonably withhold his consent to the transfer, assignment  
5 or disposal;

6 (12) it will file with the commissioner a written appoint-  
7 ment of a named permanent resident of the state to be its registered  
8 agent in the state and to receive service of notices, regulations,  
9 decisions and orders of the commissioner; if it fails to appoint an  
10 agent for service, service may be made by posting a copy in the office  
11 of the commissioner and filing a copy of it in the office of the  
12 lieutenant governor;

13 (13) the applicable law of this state will be used in  
14 resolving questions of interpretation of the lease.

15 Sec. 38.35.120. RIGHT-OF-WAY EASEMENTS OR LEASES ACQUIRED FROM  
16 OTHERS. (a) The lease shall contain the further express agreement  
17 by the carrier that

18 (1) the state reserves to itself and the lessee grants to  
19 the state the sole right to condemn, by declaration of taking real  
20 property for right-of-way purposes and to acquire to the extent federal-  
21 ly permissible leases of or easements or rights-of-way on public lands  
22 belonging to the United States in this state, including "withdrawn  
23 public lands" as that term is defined in secs. 3(k) and 16(b) of  
24 the Alaska Native Claims Act of 1971 (85 Stat. 688), required for  
25 right-of-way purposes for the pipeline subject to the lease;

26 (2) the carrier will, if the commissioner delegates the  
27 function to it, condemn, by declaration of taking, real property  
28 and acquire leases of or easements or rights-of-way on public lands  
29 in this state belonging to the United States, including "withdrawn

1 public lands" required for right-of-way purposes for the pipeline  
2 subject to the lease on behalf of and as agent for the board in whom  
3 title to or interest in the land shall vest.

4 (b) The lease covenant required by this section shall be accom-  
5 panied by a provision that the land, right-of-way, or easement acquired  
6 under this section is or will form part of the lands leased to the  
7 lessee carrier.

8 Sec. 38.35.130. PAYMENT OF PERCENTAGE RENTAL. (a) The carrier  
9 shall agree in the lease, as a condition for obtaining the noncompeti-  
10 tive lease of state public land for pipeline right-of-way, that it will  
11 pay annually to the state as rent for the premises demised not less  
12 than the amount calculated by the following formula: two per cent of  
13 that portion of annual net earnings less than two per cent of total  
14 assets; 25 per cent of that portion of annual net earnings between  
15 two per cent and four per cent of total assets; and 50 per cent of  
16 that portion of annual net earnings greater than four per cent of  
17 total assets; net earnings shall be determined before deduction of  
18 income taxes; the depreciation schedules, the determination of total  
19 assets, and other accounting rules that are to be applied in calculating  
20 net earnings shall be specified in the right-of-way lease.

21 (b) The lease shall provide for payment of the annual rental  
22 either on a monthly, quarterly, biannual, or annual basis and  
23 shall provide that any installment of rent not paid when due shall  
24 bear interest at the rate of 10 per cent per year.

25 (c) The lease may provide for payment of a reasonable percentage  
26 rental in excess of the minimum provided for in (a) of this section.

27 (d) When the commissioner determines that the costs of adminis-  
28 tration involved in calculating the rental payments due under the  
29 formula in (a) of this section are likely to exceed the benefits

1 accruing to the state from them, he may, after public notice of this  
2 determination as provided in sec. 70 of this chapter and compliance  
3 with the other provisions of this chapter, issue a right-of-way lease  
4 without the covenant to pay rental under (a) of this section.

5 (e) Each lease of state public land for pipeline right-of-way  
6 shall provide that all money and other sums which shall become due to  
7 the state by reason of any provision of the lease is and shall always  
8 be a valid and first lien upon the buildings and improvements on the  
9 demised property, and upon all of the interests of the lessee carrier  
10 in the lease and in the property of the carrier transported by the  
11 pipeline subject to the lease and paramount to any mortgage which the  
12 carrier may execute on them, or any lien caused by the carrier.

13 Sec. 38.35.140. ADDITIONAL PROVISIONS OF LEASE. (a) The commis-  
14 sioner may insert in any right-of-way lease other reasonable provisions  
15 and conditions that he determines the public interest, convenience and  
16 necessity requires, however, these other reasonable provisions and  
17 conditions shall relate to the primary function of the lease and the  
18 land involved.

19 (b) The commissioner shall require the lessee carrier to procure  
20 and file liability and property damage insurance from a company licensed  
21 to write insurance in the state or deposit security for the limits of  
22 liability upon the terms and conditions the commissioner determines  
23 necessary for the protection of the public against damage and injury  
24 for which the lessee carrier may be liable by reason of the operation  
25 of the pipeline. This subsection shall not prevent a person from being  
26 a self-insurer.

27 (c) The commissioner shall require the lessee carrier to submit  
28 a security or bond in a reasonable amount conditioned for the construc-  
29 tion and completion of the facility together with the payment of rent,

1 taxes, assessments and other obligations under the lease until the  
2 construction and completion of the facility, after which the bond shall  
3 be cancelled or the securities returned. The agreement as to the  
4 securities and the bond shall provide that if the carrier fails to  
5 construct the facility specified in the project description, a  
6 reasonable amount of the securities or bond shall be held payable to  
7 the state as damages for failure to construct and complete the  
8 facility.

9 Sec. 38.35.150. TRANSFER OF RIGHT-OF-WAY LEASE, CERTIFICATES,  
10 OR PIPELINE. No lessee carrier may transfer, assign, or dispose of in  
11 any manner its right-of-way lease, or any rights under the lease, or  
12 any pipeline subject to the lease, whether on state public land or  
13 other land in the state, either voluntarily or involuntarily, directly  
14 or indirectly, or by transfer of control of any corporation holding the  
15 lease or certificate or owning the pipeline, to any person, except to  
16 the extent that the commissioner, after consideration of the public  
17 interest, convenience, and necessity, by order authorizes the transfer.  
18 The commissioner shall not unreasonably withhold this authorization.  
19 The application shall be disposed of as if the proposed transferee or  
20 assignee were making application under secs. 50 - 90 of this chapter.

21 Sec. 38.35.160. FORFEITURE OF LEASE. A determination, after due  
22 notice and an adequate hearing, that the carrier has failed to comply  
23 with the provisions of this chapter or the provisions of the lease  
24 agreement shall be grounds for the forfeiture of the grant of the  
25 right-of-way lease, as well as grounds for the remedies provided in  
26 sec. 170 of this chapter. The commissioner may not forfeit a right-of-  
27 way lease until 60 days has elapsed after giving notice of intent  
28 to cancel or until judicial review of the commissioner's proposed  
29 action has commenced, whichever occurs earlier. The commissioner may

1 insert in each lease of state public land for pipeline right-of-way  
2 additional reasonable provisions regarding default that he considers  
3 necessary and desirable.

4 Sec. 38.35.170. SUITS TO ENJOIN OR RECOVER DAMAGES FOR DEFAULTS.

5 (a) When in the judgment of the commissioner a person has violated  
6 or is about to violate a provision of this chapter or an obligation,  
7 condition, or provision of a right-of-way lease, the attorney general,  
8 on advice of the commissioner, shall seek a prohibition or mandatory  
9 injunction from the superior court to remedy the violation.

10 (b) A penalty imposed by the provisions of a right-of-way lease  
11 issued under this chapter may be enforced in the superior court by  
12 proceedings in personam against the lessee carrier, or, in the case  
13 of a lien, by proceedings in rem against any of the lessee carrier's  
14 property.

15 (c) Neither this section nor the state's obtaining an injunction  
16 or recovering penalties extinguishes any civil cause of action or  
17 criminal responsibility arising out of a violation of this chapter, a  
18 right-of-way lease, or certificate under a lease. A person obtaining  
19 a money judgment in an action arising out of a violation is entitled  
20 to a reasonable attorney fee, fixed by the court, to be taxed and  
21 collected as costs of the suit.

22 Sec. 38.35.180. APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT.

23 (a) AS 44.62.010 - 44.62.320, 44.62.640 and 44.62.650 apply to regu-  
24 lations adopted by the commissioner under the authority of this chapter.

25 (b) AS 44.62.430 - 44.62.440 and 44.62.590 apply to actions of  
26 the commissioner under this chapter.

27 (c) AS 44.62.320 applies to right-of-way leases provided the leg-  
28 islature acts within 30 days after the commissioner submits the lease  
29 for review to the legislature. In computing the 30-day period, days in

1 which either house is not in session because of adjournment for three  
2 or more days are excluded.

3 (d) AS 44.62.630 applies to all functions and decisions of the  
4 commissioner.

5 Sec. 38.35.190. JUDICIAL REVIEW OF ACTION TO CANCEL LEASE. A  
6 lessee carrier complaining of proposed action to be taken by the  
7 commissioner under sec. 160 of this chapter may have the commissioner's  
8 action reviewed by filing a petition for review in the superior court  
9 within 60 days after notice of the proposed action.

10 Sec. 38.35.200. DELEGATION OF COMMISSIONER'S AUTHORITY. The  
11 commissioner may delegate to an employee of the Department of Natural  
12 Resources or the Department of Law the authority granted under this  
13 chapter, except for the authority to execute leases and certificates.

14 Sec. 38.35.210. CONTINUED OPERATION OF EXISTING CARRIER. (a)  
15 Existing easements or rights-of-way for pipelines on state public land  
16 existing on the effective date of this chapter are unaffected by the  
17 provisions of this chapter.

18 (b) If the existing right-of-way is revocable or for a term of  
19 years, then upon revocation or expiration this chapter applies.

20 (c) Applications for pipeline permits which have been filed  
21 with the division of lands before the effective date of this chapter  
22 shall be considered as filed under this chapter but this does not  
23 otherwise restrict the authority of the commissioner in acting on these  
24 applications under this chapter; however, in the event the division of  
25 lands has, prior to the effective date of this chapter, granted right-  
26 of-entry to an applicant or issued a letter of no-objection to an appli-  
27 cant, and the applicant thereafter fully complies with all of the terms  
28 and conditions originally specified by the division of lands or other  
29 agency, these applications are an existing valid permit or easement on

1 the effective date of this chapter and are unaffected by the provisions  
2 of this chapter.

3 (d) An applicant or competing applicant or a person who raises  
4 objections within 60 days of the filing of an application for a right-  
5 of-way are the only persons having standing to contest the commissioner's  
6 decisions in court.

7 Sec. 38.35.220. DEFINITIONS. In this chapter, unless the context  
8 otherwise requires,

9 (1) "association" means

10 (A) a trust or partnership, whether created or operated  
11 for profit or not for profit, or

12 (B) a group or organization of two or more individuals  
13 having a joint or common economic interest or jointly or commonly  
14 promoting their individual economic interests, whether or not the  
15 group or organization was created or is operated for profit or  
16 not for profit;

17 (2) "carrier" means a person who undertakes, whether directly  
18 or indirectly or by a lease or any other arrangement, to engage in  
19 operation of or transportation, service, or sale by pipeline for  
20 crude oil, natural gas, or products;

21 (3) "certificate" means the instrument of authorization  
22 required by this chapter of a carrier before it can engage in construc-  
23 tion, acquisition, or operation of or transportation, service, or sale  
24 by a pipeline on state public land or on other land subject to a lease;

25 (4) "commission" means the Alaska Oil and Gas Transportation  
26 Commission;

27 (5) "commissioner" means the commissioner of natural  
28 resources;

29 (6) "coordinate agencies" includes the Department of Labor,

1 Department of Highways, Department of Environmental Conservation, and  
2 the Alaska Oil and Gas Transportation Commission;

3 (7) "corporation" includes a nonprofit corporation, joint-  
4 stock company, and professional association, but shall not include a  
5 municipality;

6 (8) "crude oil" or "oil" means crude petroleum oil in its  
7 natural state as produced and crude petroleum oil from which only the  
8 basic sediment and water and/or solution gas have been removed;

9 (9) "lease" means the instrument or extension of an instru-  
10 ment issued under this chapter granting a leasehold interest in state  
11 public land for pipeline right-of-way purposes to a carrier and  
12 authorizing upon issuance of certificates the construction, acquisition,  
13 or operation of, or transportation, service or sale by a pipeline for  
14 crude oil, natural gas, or products;

15 (10) "lessee carrier" means a carrier holding a valid lease  
16 and certificates thereunder issued by the commissioner;

17 (11) "municipality" includes all classes of organized boroughs  
18 and cities whether home rule or otherwise;

19 (12) "natural gas" or "gas" means natural gas, including  
20 bradenhead gas, casinghead gas, and gas produced from an oil or gas  
21 well, or any mixture of natural and artificial gas;

22 (13) "pipeline" or "pipeline facility" means all the facili-  
23 ties of a total system of pipe (whether owned or operated under a  
24 contract, agreement, or lease) used by a carrier for transportation of  
25 crude oil, natural gas, or products for delivery, for storage, or for  
26 further transportation, and including all pipe, pump or compressor  
27 stations, station equipment, tanks, valves, access roads, bridges,  
28 airfields, terminal and terminal facilities, including docks and tanker  
29 loading facilities, operations control center for both the upstream

1 part of the pipeline and the terminal, tanker ballast treatment facili-  
2 ties, and fire protection system, communication system, and all other  
3 facilities used or necessary for an integral line of pipe, taken as a  
4 whole, to effectuate transportation, including an extension or enlarge-  
5 ment of the line;

6 (14) "pipeline incident" means any occurrence, including  
7 an extraordinary pipeline occurrence, within the state causing, within  
8 or outside the state, bodily injury, sickness, disease, or death, or  
9 loss of or damage to property, or loss of use of property, or damage  
10 to the natural environment, arising out of or resulting from the toxic,  
11 explosive, or other hazardous properties of a pipeline operation or of  
12 the crude oil, natural gas, or products carried by the pipeline;

13 (15) "product" means refined crude oil, crude tops, topped  
14 crude, processed crude petroleum, residue from crude petroleum, cracking  
15 stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas  
16 oil, casinghead gasoline, natural gas gasoline, naphtha, distillate,  
17 gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline,  
18 lubricating oil, blends or mixtures of petroleum and any liquid pro-  
19 ducts or by-product derived from crude petroleum oil or natural gas;

20 (16) "public land of the United States" means the land owned  
21 by the United States as defined in Title 43, secs. 2, 931a, and 931c,  
22 USC, as amended, and Title 30, sec. 185, USC, as amended;

23 (17) "right-of-way" means the land covered by a lease;

24 (18) "state public land" means

25 (A) "state lands" as defined in AS 38.05.365;

26 (B) public land of the United States selected by the  
27 state under sec. 6 of the Alaska Statehood Act of 1958, 72 Stat.  
28 399, as amended, and real property of the United States transferred  
29 to the state under secs. 21, 35 and 45 of the Alaska Omnibus Act

1 of 1959, 73 Stat. 141, as amended;

2 (C) any interest owned by the state in land;

3 (19) "subject to the lease" means, in the context of a refer-  
4 ence to a pipeline, or the construction, acquisition, or operation of,  
5 or transportation, service, or sale by it, that the pipeline or the  
6 performance of the above acts relative to it are specified in the lease  
7 or certificate issued by the commissioner as being subjected to the  
8 jurisdiction or coverage of that lease, certificates, this chapter,  
9 and any other applicable state or federal law;

10 (20) "transportation" means the shipment or carriage by a  
11 pipeline of crude oil, natural gas, or products from an upstream ter-  
12 minus in one or more fields or points of production or supply of the  
13 minerals to a downstream terminus in one or more points for delivery  
14 of the minerals to a purchaser or consignee, for storage, or for  
15 further carriage or shipment, including shipment or carriage within the  
16 state that may be classified as interstate or foreign transportation  
17 to the extent that the transportation may constitutionally be subjected  
18 to the provisions of this chapter, as well as all services necessary  
19 to effectuate shipment or carriage including among other things, the  
20 receipt, storage, processing, handling, transfer in transit, forwarding,  
21 and delivery of the minerals.

22 Sec. 38.35.230. SHORT TITLE. This chapter may be cited as the  
23 Alaska Right-of-Way Leasing Act of 1972.

24 \* Sec. 2. AS 09.55.240(a)(12) is amended to read:

25 (12) subject to the requirements of the Alaska Right-of-Way  
26 Lease Act of 1972 (AS 38.35), for the location of pipelines for  
27 gathering, transmitting, transporting, storing, or delivering natural  
28 or artificial gas or oil or any liquid or gaseous hydrocarbons, in-  
29 cluding, but not limited to, pumping stations, terminals, storage

1 tanks, or reservoirs, and related installations.

2 \* Sec. 3. AS 38.05.020 is amended by adding a new subsection to read:

3 (c) The commissioner shall have all powers necessary and proper  
4 to implement the policy and powers of the Alaska Right-of-Way Lease  
5 Act of 1972, AS 38.35, including but not limited to:

6 (1) granting leases of state public land and issuing  
7 certificates for pipeline right-of-way purposes;

8 (2) leasing, purchasing or acquiring easements on private  
9 or federal land in this state for the purpose of utilizing or granting  
10 leases of the land or easements for pipeline right-of-way purposes;

11 (3) purchasing interests in pipelines in accordance with  
12 options included in right-of-way leases as provided in AS 38.35.

13 \* Sec. 4. AS 38.05.330 is amended to read:

14 Sec. 38.05.330. PERMITS. The director, without the prior ap-  
15 proval of the commissioner, may issue permits, rights-of-way or ease-  
16 ments on state lands for secondary roads, trails, ditches, [PIPELINES,]  
17 telephone and transmission lines, log storage, oil well drilling sites  
18 and production facilities for the purposes of recovering minerals  
19 from adjacent lands under valid lease, and other similar uses or im-  
20 provements, or for the limited personal use of timber or materials.  
21 The commissioner, upon recommendation of the director, shall establish  
22 a reasonable rate or fee schedule to be charged for these uses. In  
23 the granting, suspension or revocation of a permit or easement of lands,  
24 the director shall give preference to that use of the land which will  
25 be of greatest economic benefit to the state and the development of  
26 its resources. However, first preference shall be granted to the  
27 upland owner for the use of a tract of tideland, or tideland and  
28 contiguous submerged land, which is seaward of the upland property of  
29

1 the upland owner and which is needed by the upland owner for any of  
2 the purposes for which the use may be granted.

3 \* Sec. 5. This Act takes effect on the day after its passage and approval  
4 or on the day it becomes law without approval.  
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