

Original sponsor: Rules Committee by  
request of the Governor

Offered: 11/2/73  
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 3 *Finance*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

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

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

10 \* Section 1. AS 38.35.020 is amended to read:

11 Sec. 38.35.020. GRANT OF RIGHT-OF-WAY LEASE. (a) Rights-of-way  
12 on state [STATE-OWNED] land including rights-of-way [RIGHT-OF-WAY ON,]  
13 over, under, along, across, or upon the right-of-way of a public road  
14 or highway or the right-of-way of a railroad or other public utility,  
15 or [ON,] across, upon, over, or under a river or other body of water  
16 or land belonging to or administered by the state may be granted by  
17 noncompetitive lease by the commissioner for pipeline purposes for the  
18 transportation of oil, products or natural gas under those conditions  
19 prescribed by law and by administrative regulation. No person may  
20 engage in any construction [, ACQUISITION] or operation of any  
21 [, OR TRANSPORTATION, SERVICE, OR SALE BY THE WHOLE OR A] part of an  
22 oil, products, or natural gas pipeline, which in whole or in part is  
23 or is proposed to be on state [PUBLIC] land, except in conformity with  
24 the terms of a right-of-way lease of that land, issued by the commis-  
25 sioner under this chapter [UNLESS THAT PERSON IS A CARRIER AND HAS  
26 OBTAINED FROM THE COMMISSIONER A RIGHT-OF-WAY LEASE OF THE LAND UNDER  
27 THIS CHAPTER AS WELL AS A CERTIFICATE THAT THE CONSTRUCTION, ACQUISITION,  
28 OPERATION, TRANSPORTATION, SERVICE, OR SALE, IF SUBJECT TO THE LEASE,  
29 WILL BE IN ACCORDANCE WITH ITS TERMS].

1           (b) The commissioner may by regulation exempt the construction  
2 or operation of field gathering lines or any reasonable classification  
3 of them from the requirement of a right-of-way lease under this  
4 chapter.

5 \* Sec. 2. AS 38.35.030 is amended to read:

6           Sec. 38.35.030. ABANDONMENT, [OF OR] REDUCTION OR IMPAIRMENT OF  
7 SERVICE OF PIPELINE [BY LESSEE CARRIER]. No lessee [CARRIER] may  
8 abandon any portion of a pipeline that is [ON STATE PUBLIC LAND OR]  
9 subject to a a [THE] lease granted under this chapter, or operation or  
10 transportation, service, or sale by it, or reduce or impair service,  
11 except in accordance with the terms of the lease or sec. 40 of this  
12 chapter [UNLESS THE CARRIER HAS FIRST APPLIED FOR AND THE COMMISSIONER  
13 HAS GRANTED A CERTIFICATE THAT THE ABANDONMENT, REDUCTION, OR IMPAIR-  
14 MENT IS IN ACCORDANCE WITH THE TERMS OF THE LEASE].

15 \* Sec. 3. AS 38.35.040 is amended to read:

16           Sec. 38.35.040. TEMPORARY OR EMERGENCY SERVICE OR TEMPORARY  
17 ABANDONMENT, REDUCTION OR IMPAIRMENT OF SERVICE BY LESSEE [CARRIER].  
18 The commissioner may, either upon a request made in the form he shall  
19 by regulation require, or upon his own motion without request, authorize  
20 or require temporary or emergency rendering of service or temporary  
21 or emergency abandonment, reduction or impairment of service by a  
22 pipeline of a lessee [CARRIER] without compliance with secs. 30 and  
23 50 - 100 of this chapter. Nothing in this section prevents a carrier  
24 from temporarily suspending operations in the event of an emergency  
25 which threatens public health or safety; however, notice shall be  
26 given the commissioner as soon as possible.

27 \* Sec. 4. AS 38.35.050 is repealed and re-enacted to read:

28           Sec. 38.35.050. APPLICATIONS FOR RIGHT-OF-WAY LEASES. (a) A  
29 person or persons desiring to engage in construction, acquisition or

1 operation of a pipeline which is proposed to be located in whole or  
2 in part on state land, shall apply for a noncompetitive right-of-way  
3 lease of the state land under this chapter.

4 (b) Applications under (a) of this section shall be made in a  
5 form and manner prescribed by regulation, and shall include any and  
6 all data, information, plans and exhibits which the commissioner  
7 determines are necessary to prepare the analysis required by sec. 80  
8 of this chapter and to make a decision under sec. 100 of this chapter.

9 (c) The application filed under this section shall be incorporated  
10 into any right-of-way lease issued in response to it and shall become  
11 a part of the terms and conditions of the lease.

12 (d) Any amendment to an application filed under this section  
13 which constitutes a substantial change in the application is subject  
14 to all provisions of this chapter applying to an original application.

15 (e) All persons owning or planning to own interest in a pipeline  
16 or proposed pipeline subject to a lease, and every corporation or  
17 association employed or to be employed to operate the pipeline, must  
18 join in the application under (a) of this section.

19 \* Sec. 5. AS 38.35.060 is repealed.

20 \* Sec. 6. AS 38.35.070 is amended to read:

21 Sec. 38.35.070. NOTICE OF APPLICATION. Upon receiving an applica-  
22 tion under sec. 50 [OR 60] of this chapter, the commissioner shall  
23 within 30 days

24 (1) cause notice of it to appear in the daily newspaper  
25 of general circulation published nearest the location of the proposed  
26 pipeline;

27 (2) file copies of the application with the Departments of  
28 Labor, Highways, and Environmental Conservation, and the Alaska Pipeline  
29 Commission [EACH COORDINATE AGENCY]; and

1 (3) make copies available for public inspection [FURNISH  
2 AT COST COPIES OF A NOTICE OR APPLICATION TO PERSONS REQUESTING THEM].

3 \* Sec. 7. AS 38.35.080 is amended to read:

4 Sec. 38.35.080. ANALYSIS OF APPLICATION AND PUBLIC HEARING. (a)  
5 The commissioner shall, within 90 days [A REASONABLE TIME] after  
6 receiving the application, prepare an analysis of the application,  
7 including a proposal for action if feasible; a proposed lease [OR  
8 CERTIFICATE OR BOTH] and a general statement of his basis and purpose,  
9 if favorable action is proposed; or, when a proposal for action is  
10 not feasible before a hearing, a description of the subjects and issues  
11 involved.

12 (b) Upon completion of the analysis but not less than 30 days  
13 before the date set for hearing an application or a substantial amend-  
14 ment to an application, the commissioner shall publish notice, and  
15 make copies available as provided in sec. 70 of this chapter.

16 (c) The commissioner shall hold a public hearing on an applica-  
17 tion within 120 days of receiving it [SET ALL APPLICATIONS FOR PUBLIC  
18 HEARING AS SOON AS PRACTICABLE].

19 \* Sec. 8. AS 38.35.090 is amended to read:

20 Sec. 38.35.090. MULTIPLE APPLICATIONS FOR SAME LEASE. When the  
21 commissioner receives within a 30-day period two or more applications  
22 relating to the same or substantially the same subject matter, he  
23 shall consider the applications upon a comparative basis. [THE  
24 COMMISSIONER MAY EXTEND THE TIME WITHIN WHICH A CARRIER MAY SUBMIT  
25 AN APPLICATION FOR CONSIDERATION UPON A COMPARATIVE BASIS WITH A  
26 PREVIOUSLY FILED APPLICATION.]

27 \* Sec. 9. AS 38.35.100(a) is amended to read:

28 (a) The commissioner shall determine, on an application filed  
29 with him under sec. 50 of this chapter for a right-of-way lease of

1 state [PUBLIC] land [OR FOR A CERTIFICATE] under a lease, whether the  
2 applicant is fit, willing, and able to perform the transportation or  
3 other acts proposed and to conform to the provisions of the proposed  
4 right-of-way lease [OR CERTIFICATE,] and of this chapter, and whether  
5 the proposed construction, acquisition, or operation [OF OR TRANSPORTA-  
6 TION, SERVICE, OR SALE BY THE PIPELINE] is or will be required by  
7 the present or future public interest [AND NECESSITY]. If the commis-  
8 sioner makes these determinations favorably to the applicant, then  
9 he may grant the whole or part of the application. Otherwise, he  
10 shall deny the application. In order to grant the whole or part of  
11 the application the commissioner shall offer a lease [OR CERTIFICATE]  
12 to the applicant for its acceptance through signing of the lease [OR  
13 CERTIFICATE] and agreeing to comply with its terms, conditions, and  
14 obligations and with this chapter. Only upon proper acceptance of  
15 offered lease [OR CERTIFICATE] by the applicant within 30 days after  
16 its having been presented is the grant of the application consummated.

17 \* Sec. 10. AS 38.35.100(b) and (c) are repealed.

18 \* Sec. 11. AS 38.35.110 is amended to read:

19 Sec. 38.35.110. TERM OF LEASE. Each lease of state [PUBLIC]  
20 land for pipeline right-of-way purposes shall contain a provision that  
21 the lease shall run for a specified term of not greater than 30 [25]  
22 years, and shall be renewable for additional periods of up to 10 years  
23 each, so long as the lessee is in full compliance with all state law,  
24 including but not limited to state law pertaining to regulation and  
25 taxation of the pipeline facility, and is in compliance with all terms  
26 of the lease.

27 \* Sec. 12. AS 38.35.120 is repealed and re-enacted to read:

28 Sec. 38.35.120. COVENANTS REQUIRED TO BE INCLUDED IN LEASE. (a)  
29 A noncompetitive lease of state land for a right-of-way for an oil

1 or natural gas pipeline valued at \$1,000,000 or more may be granted  
2 only upon the condition that the lessee expressly covenants in the  
3 lease, in consideration of the rights acquired by it under the lease,  
4 that

5 (1) it assumes the status of and will perform all of its  
6 functions undertaken under the lease as a common carrier and will  
7 accept, convey, and transport without discrimination crude oil or  
8 natural gas, depending on the kind of pipeline involved, delivered  
9 to it for transportation from fields in the vicinity of the pipeline  
10 subject to the lease throughout its route both on state land obtained  
11 under the lease and on other land; however, a lessee who owns or  
12 operates a natural gas pipeline subject to regulation either (A) under  
13 the Natural Gas Act (15 U.S.C. 717 et. seq.) of the United States, or  
14 (B) by the state or political subdivisions with respect to rates and  
15 charges for the sale of natural gas, is, to the extent of that regula-  
16 tion, exempt from the common carrier requirement in this paragraph;  
17 it will accept, convey, and transport crude oil or natural gas without  
18 unjust or unreasonable discrimination in favor of one producer or  
19 person, including itself, as against another in the same field, and  
20 without unjust or unreasonable discrimination as between fields in the  
21 state but will take the crude oil or natural gas, depending on the  
22 kind of pipeline involved, delivered or offered in the proportion that  
23 the Alaska Pipeline Commission shall, after a full hearing with due  
24 notice to the interested parties and a proper finding of facts, deter-  
25 mine to be reasonable;

26 (2) it will exchange crude oil or natural gas, depending  
27 upon the kind of pipeline involved, with each like common carrier and  
28 provide connections and facilities for the interchange of crude oil  
29 or natural gas at every locality reached by both pipelines when the

1 necessity exists, subject to rates and regulations made by the appro-  
2 priate state or federal regulatory agency;

3 (3) the lessee grants the state the right to purchase, upon  
4 reasonable notice, an undivided interest in the entire length of the  
5 pipeline within the state, not to exceed 20 per cent; the purchase  
6 price shall be calculated on the basis of the total value of carrier  
7 property as defined by the ICC uniform system of accounts, plus  
8 accumulated interest during construction and less depreciation after  
9 commencement of operations; interest during construction shall be  
10 calculated at an annual rate equivalent to 125 per cent of the best  
11 interest rate offered during the year by the First National City Bank  
12 of New York on 90-day loans to substantial and responsible commercial  
13 borrowers; each lessee shall additionally agree not to sell, transfer  
14 or otherwise dispose of all or any part of a pipeline subject in any  
15 part to the lease except after offering such interest to the state,  
16 to which the lessee grants a preferential right to purchase such  
17 interest on the same terms offered by or to any bona fide, prospective  
18 purchaser who is ready, willing and able to purchase same; exercise  
19 of an option to purchase an interest in a pipeline project or facility  
20 is subject to the approval of the legislature; the incurring of any  
21 bonded indebtedness by the state to implement the exercise of its  
22 option under this paragraph is subject to voter approval;

23 (4) the lessee shall transfer to the state any throughput  
24 guarantees corresponding to the undivided interest acquired under  
25 (3) of this subsection; the state shall provide for the repayment of  
26 the outstanding debt incurred by the lessee whose undivided interest  
27 share is acquired under (3) of this subsection, either by undertaking  
28 the debt directly if that is acceptable to the lender, or by dis-  
29 charging the applicable outstanding debt, including any penalties for

1 prepayment, and undertaking its own debt;

2 (5) it will maintain and preserve books, accounts, and  
3 records and will make those reports that the state may require under  
4 AS 42.06.430;

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

9 (7) it will provide, if the expense involved will not impair  
10 the ability of the lessee to perform its duty to the public as a  
11 common carrier, connections to facilities on the pipeline subject to  
12 the lease, both on state land and other land in the state, for the  
13 purpose of delivering crude oil or natural gas, depending upon the  
14 kind of pipeline involved, to persons (including the state and its  
15 political subdivisions) contracting for the delivery or purchase at  
16 wholesale or exchange of crude oil or natural gas transported by the  
17 pipeline;

18 (8) it will extend or enlarge the pipeline or storage  
19 facilities if the expense involved will not impair the ability of the  
20 lessee to perform its duty to the public as a common carrier and such  
21 extension or enlargement is determined by the Alaska Pipeline Commis-  
22 sion to be in the public interest;

23 (9) it will, at its own expense, during the term of the  
24 lease

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

26 (B) promptly repair or remedy any damage to the lease-  
27 hold;

28 (C) promptly compensate for any damage to or destruction  
29 of property for which the lessee is liable resulting from damage

1 to or destruction of the leasehold or pipeline;

2 (10) it will not transfer, assign, or dispose of in any  
3 manner, directly or indirectly, or by transfer of control of the  
4 carrier corporation, its interest in a right-of-way lease, or any  
5 rights under the lease or any pipeline subject to the lease to any  
6 person other than another owner of the pipeline (including subsidi-  
7 aries, parents and affiliates of the owners), except to the extent  
8 that the commissioner, after consideration of the public interest,  
9 authorizes; the commissioner shall not unreasonably withhold his  
10 consent to the transfer, assignment or disposal;

11 (11) it will file with the commissioner a written appointment  
12 of a named permanent resident of the state to be its registered agent  
13 in the state and to receive service of notices, regulations, decisions  
14 and orders of the commissioner; if it fails to appoint an agent for  
15 service, service may be made by posting a copy in the office of the  
16 commissioner and filing a copy of it in the office of the lieutenant  
17 governor and by mailing a copy to the lessee's last known address;

18 (12) the applicable law of this state will be used in  
19 resolving questions of interpretation of the lease;

20 (13) the granting of the right-of-way lease is subject to  
21 the express condition that the exercise of the rights and privileges  
22 granted under the lease will not unduly interfere with the management,  
23 administration, or disposal by the state of the land affected by  
24 the lease, and that the lessee agrees and consents to the occupancy  
25 and use by the state, its grantees, permittees, or other lessees of  
26 any part of the right-of-way not actually occupied or required by the  
27 pipeline, or the full and safe utilization of the pipeline, for neces-  
28 sary operations incident to land management, administration, or dis-  
29 posal;

1 (14) it will be liable to the state for damages or  
2 injury incurred by the state caused by the construction, operation  
3 or maintenance of the pipeline and it will indemnify the state  
4 for the liabilities or damages;

5 (15) it will procure and furnish liability and  
6 property damage insurance from a company licensed to do business  
7 in the state or furnish other security or undertaking upon the  
8 terms and conditions the commissioner considers necessary if  
9 the commissioner finds that the net assets of the lessee are  
10 insufficient to protect the public from damage for which the lessee  
11 may be liable arising out of the construction or operation of  
12 the pipeline;

13 (16) it will construct and operate the pipeline in accor-  
14 dance with applicable state laws and lawful regulations and orders  
15 of the Alaska Pipeline Commission; however, the terms of a right-  
16 of-way lease issued under this chapter shall not be considered  
17 to permit or require a lessee, the commissioner, or the Alaska  
18 Pipeline Commission to take any action that is in conflict with  
19 federal law or with lawful regulations or orders of the Interstate  
20 Commerce Commission or the Federal Power Commission.

21 (b) For a right-of-way lease granted under this chapter  
22 for an oil or natural gas pipeline valued at \$1,000,000 or more  
23 to be valid and of legal effect, it must contain the terms required  
24 to be inserted under the provisions of secs. 110 - 150 of this  
25 chapter. An oil or natural gas pipeline right-of-way lease granted  
26 under this chapter that does not contain the required terms is  
27 null and void and without legal effect and does not vest any  
28 interest in state land or any authority in the carrier granted  
29 the lease.

1 (c) The commissioner may, at his discretion, include any or all  
2 of the terms set out in (a) of this section in leases of state land  
3 for products pipeline right-of-way purposes.

4 \* Sec. 13. AS 38.35.130 is repealed and re-enacted to read:

5 Sec. 38.35.130. CONDEMNATION FOR RIGHT-OF-WAY PURPOSES. The  
6 lease shall contain the further express agreement that the state  
7 reserves to itself and the lessee grants to the state the sole right  
8 to condemn real property for right-of-way purposes.

9 \* Sec. 14. AS 38.35.140 is repealed and re-enacted to read:

10 Sec. 38.35.140. PAYMENT OF RENTAL AND COSTS. (a) The lease  
11 price for a right-of-way lease shall be the annual fair market rental  
12 of the state lands included in the right-of-way based on the appraised  
13 fair market value of the land. The appraised fair market value of  
14 the land leased for right-of-way shall be determined without regard  
15 to any enhancement in value attributable solely to the construction  
16 of pipeline facilities on the land or the use of the land for pipe-  
17 line purposes. The lease price is payable annually in advance on or  
18 before the anniversary of the lease. The appraised fair market  
19 rental value shall be adjusted periodically under the provisions of  
20 AS 38.05.105.

21 (b) The lessee shall reimburse the state for all reasonable  
22 costs incurred in monitoring the construction of the pipeline on the  
23 right-of-way.

24 \* Sec. 15. AS 38.35.150 is repealed and re-enacted to read:

25 Sec. 38.35.150. ADDITIONAL PROVISIONS OF LEASE. (a) The com-  
26 missioner may insert in any right-of-way lease other reasonable  
27 provisions and conditions that he determines the public interest  
28 requires.

29 (b) The lease will also contain terms and conditions that are

1 reasonably necessary to obligate the lessee, to the extent reasonably  
2 practicable, to

3 (1) prevent conflicts with other existing uses of the land  
4 involving a superior public interest;

5 (2) protect state and private property interests;

6 (3) prevent any significant adverse environmental impact,  
7 including but not limited to the erosion of the surface of the land,  
8 and damage to fish and wildlife and their habitat;

9 (4) restore and revegetate during the term and at termina-  
10 tion of the lease; and

11 (5) protect the interests of individuals living in the  
12 general area of the right-of-way who rely on the fish, wildlife, and  
13 biotic resources of the area for subsistence purposes.

14 (c) In the event the commissioner proposes to offer a lease or  
15 leases to two or more lessees for the same pipeline, the commissioner  
16 may include terms in the lease or leases which establish the limit  
17 of the obligations and liabilities of each lessee arising under this  
18 chapter or under the lease or leases.

19 \* Sec. 16. AS 38.35.160 is amended to read:

20 Sec. 38.35.160. TRANSFER OF RIGHT-OF-WAY LEASE [, CERTIFICATES,]  
21 OR PIPELINE. No lessee [CARRIER] may transfer, assign, or dispose of  
22 in any manner its right-of-way lease, or any rights under the lease,  
23 or any pipeline subject to the lease, whether on state [PUBLIC] land  
24 or other land in the state, either voluntarily or involuntarily,  
25 directly or indirectly, or by transfer of control of any corporation  
26 holding the lease [OR CERTIFICATE] or owning the pipeline, to any  
27 person other than another owner of the pipeline (including subsidiaries,  
28 parents and affiliates of the owners), except to the extent that the  
29 commissioner, after consideration of the public interest by order

1 authorizes the transfer. The commissioner shall not unreasonably  
2 withhold this authorization. The application shall be disposed of  
3 as if the proposed transferee or assignee were making application  
4 under secs. 50 - 100 of this chapter.

5 \* Sec. 17. AS 38.35.170 is repealed and re-enacted to read:

6 Sec. 38.35.170. FORFEITURE OF LEASE. Failure to begin construc-  
7 tion of the pipeline facility within a reasonable time of the granting  
8 of a right-of-way lease under this chapter for reasons within the  
9 control of the lessee or failure of an owner of an interest in the  
10 granted right-of-way substantially to comply with the terms of the  
11 right-of-way shall be grounds for forfeiture of the right-of-way  
12 interest of the lessee or owner in an action brought by the commis-  
13 sioner in the superior court. Before the commencement of any action  
14 for forfeiture of an interest in a right-of-way under this section,  
15 the commissioner shall give the lessee or owner of the interest notice  
16 in writing of the alleged default and shall not commence the proceeding  
17 unless the lessee or owner of the interest has failed to initiate  
18 good faith efforts to cure the default within 60 days of the notice  
19 of the alleged default.

20 \* Sec. 18. AS 35.38.180(c) is amended to read:

21 (c) Neither this section nor the state's obtaining an injunction  
22 or recovering penalties extinguishes any civil cause of action or  
23 criminal responsibility arising out of a violation of this chapter  
24 or the provisions of [,] a right-of-way lease [, OR CERTIFICATE UNDER  
25 A LEASE]. A person obtaining a money judgment in an action arising  
26 out of a violation is entitled to a reasonable attorney fee, fixed  
27 by the court, to be taxed and collected as costs of the suit.

28 \* Sec. 19. AS 35.38.190(c) and (d) are repealed.

29 \* Sec. 20. AS 35.38.200 is repealed and re-enacted to read:

1           Sec. 35.38.200. JUDICIAL REVIEW. An applicant or competing  
2 applicant or a person who raises objections within 60 days of the filing  
3 of an application for a right-of-way lease under this chapter are the  
4 only persons having standing to contest the commissioner's decisions  
5 in court.

6 \* Sec. 21. AS 35.38.210 is amended to read:

7           Sec. 35.38.210. DELEGATION OF COMMISSIONER'S AUTHORITY. The  
8 commissioner may delegate to an employee of the Department of Natural  
9 Resources or the Department of Law the authority granted under this  
10 chapter, except for the authority to execute leases [AND CERTIFICATES].

11 \* Sec. 22. AS 35.38.220 is repealed and re-enacted to read:

12           Sec. 38.35.220. CONTINUED OPERATION OF EXISTING CARRIER. (a)  
13 Persons holding easements, rights-of-way or permits for natural gas  
14 pipelines on state land on May 20, 1972 are unaffected by this  
15 chapter within the scope of their existing operations, normal expan-  
16 sions and extensions of them so long as their original or present  
17 purpose and function remains unchanged.

18           (b) Subject to (a) of this section if an existing right-of-way  
19 is revocable or for a term of years, then upon revocation or expiration  
20 this chapter applies.

21           (c) Applications for pipeline permits which have been filed  
22 with the division of lands before May 20, 1972 shall be considered  
23 as filed under this chapter but this does not otherwise restrict the  
24 authority of the commissioner in acting on these applications under  
25 this chapter; however, in the event the division of lands has, before  
26 May 20, 1972, granted right-of-entry to an applicant or issued  
27 a letter of no-objection to an applicant, and the applicant thereafter  
28 fully complies with all of the terms and conditions originally speci-  
29 fied by the division of lands or other agency, these applications are

1 an existing valid permit or easement on the effective date of this  
2 chapter.

3 \* Sec. 23. AS 38.35.230(2) and (3) are repealed.

4 \* Sec. 24. AS 38.35.230(9) is amended to read:

5 (9) "lessee [CARRIER]" means a person or persons [CARRIER]  
6 holding a valid lease [AND CERTIFICATES UNDER IT] issued by the commis-  
7 sioner;

8 \* Sec. 25. AS 38.35.230(17) is amended to read:

9 (17) "state [PUBLIC] land" means

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

11 (B) public land of the United States selected by the  
12 state under sec. 6 of the Alaska Statehood Act of 1958 (PL 85-508;  
13 72 Stat. 399), as amended, and real property of the United States  
14 transferred to the state under secs. 21, 35 and 45 of the Alaska  
15 Omnibus Act of 1959 (PL 86-70; 73 Stat. 141), as amended;

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

17 \* Sec. 26. AS 38.35 is amended by adding new sections to read:

18 Sec. 38.35.240. LEASE SAVINGS CLAUSE. A judicial finding that  
19 any term or condition of a right-of-way lease issued under this  
20 chapter is unlawful or invalid may not operate to invalidate the lease  
21 or any other term or condition of the lease.

22 Sec. 38.35.250. FEDERAL PREEMPTION. To the extent that the  
23 application of this chapter affects a pipeline carrier or a pipeline  
24 subject to the Interstate Commerce Act (49 U.S.C. secs. 1 et. seq.)  
25 or the Natural Gas Act (15 U.S.C. 717 et. seq.) this chapter may not  
26 be applied so as to conflict with applicable federal laws and regula-  
27 tions, rules, orders, or other requirements under which jurisdiction  
28 has been expressly assumed by the federal commission or agency charged  
29 with the administration of these federal Acts.

1 \* Sec. 27. AS 38.05.020(c)(1) is amended to read:

2 (1) granting leases of state [PUBLIC] land [AND ISSUING  
3 CERTIFICATES] for pipeline right-of-way purposes;

4 \* Sec. 28. AS 38.05.020(c)(4) is amended to read:

5 (4) investigating any matters concerning any lessee  
6 [CARRIER] with a view to assuring compliance by it with its right-of-  
7 way lease, [CERTIFICATES ISSUED UNDER THAT LEASE,] this chapter, and  
8 any other applicable state or federal law;

9 \* Sec. 29. AS 38.05.330 is amended to read:

10 Sec. 38.05.330. PERMITS. The director, without the prior  
11 approval of the commissioner, may issue permits, rights-of-way or  
12 easements on state land for secondary roads, trails, ditches, field  
13 gathering lines or transmission and distribution pipelines not subject  
14 to AS 38.35, telephone and transmission lines, log storage, oil well  
15 drilling sites and production facilities for the purposes of recovering  
16 minerals from adjacent lands under valid lease, and other similar  
17 uses or improvements, or for the limited personal use of timber or  
18 materials. The commissioner, upon recommendation of the director,  
19 shall establish a reasonable rate or fee schedule to be charged for  
20 these uses. In the granting, suspension or revocation of a permit or  
21 easement of lands, the director shall give preference to that use of  
22 the land which will be of greatest economic benefit to the state and  
23 the development of its resources. However, first preference shall  
24 be granted to the upland owner for the use of a tract of tideland, or  
25 tideland and contiguous submerged land, which is seaward of the upland  
26 property of the upland owner and which is needed by the upland owner  
27 for any of the purposes for which the use may be granted.

28 \* Sec. 30. This Act takes effect on the day after its passage and approval  
29 or on the day it becomes law without approval.