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Referred: Resources and  
Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the State  
Energy Policy Committee)

1 IN THE HOUSE

2 HOUSE BILL NO. 410

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fissionable material located on  
7 state land."

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

9 \* Section 1. AS 38.05 is amended by adding new sections to read:

10 ARTICLE 12. FISSIONABLE MATERIAL.

11 Sec. 38.05.360. FISSIONABLE MATERIAL LAND. (a) The commissioner  
12 shall classify areas containing identified deposits of fissionable  
13 material as fissionable material land.

14 (b) Prior discovery, location, and filing in accordance with  
15 AS 38.05.360 - 38.05.420 shall establish a prior right to explore for,  
16 develop, and extract fissionable material on land owned by the state.  
17 Except as provided in AS 38.05.380(b) and 38.05.390, acquisition of  
18 these rights as they relate to fissionable material is governed by  
19 AS 38.05.360 - 38.05.420 and not by AS 38.05.185 - 38.05.280.

20 Sec. 38.05.365. POWERS AND DUTIES. (a) The commissioner may  
21 issue prospecting permits and leases for the exploration, development,  
22 and extraction of fissionable material from state land administered by  
23 the department.

24 (b) The commissioner shall adopt regulations under the Administra-  
25 tive Procedure Act (AS 44.62) necessary to carry out the provisions of  
26 AS 38.05.360 - 38.05.420. The regulations shall include, without limi-  
27 tation, provisions for

28 (1) the prevention of waste;

29 (2) development and conservation of fissionable material

1 resources;

2 (3) compensatory royalty agreements, supervision of opera-  
3 tions or production, and supervision or reduction of rentals or  
4 royalties;

5 (4) the filing of surety bonds to assure compliance with the  
6 terms of a lease and to protect surface use and resources;

7 (5) use of the surface by a lessee or permittee of the land  
8 embraced in his lease or permit;

9 (6) the maintenance by the lessee of an active development  
10 program.

11 Sec. 38.05.370. ELIGIBILITY FOR PERMIT OR LEASE. Permits and  
12 leases may be held only by

13 (1) an individual who is at least 18 years old and a citizen  
14 of the United States or who has declared his intention of becoming a  
15 citizen or who is a citizen of a country whose laws grant similar  
16 privileges to a citizen of the United States; and

17 (2) a corporation organized and existing under the laws of  
18 the United States or of any of its political subdivisions, including  
19 without limitation, a state, territory, or municipality.

20 Sec. 38.05.375. LAND ADMINISTRATION. The administration of land  
21 under AS 38.05.360 - 38.05.420 shall be governed by the principle of  
22 multiple use of public land and resources. To the extent feasible, a  
23 permit or lease may not preclude other valid uses of the land covered by  
24 the permit or lease; however, operations under coexisting permits or  
25 leases may not unreasonably interfere with or endanger their respective  
26 operations. If the commissioner determines that the production of  
27 fissionable material permits the economic production of a valuable  
28 by-product, he may require the production of the by-product. For the  
29 purpose of conserving the natural resources of any fissionable material

1 land, adjoining lessees may unite with each other or with others and  
2 adopt a cooperative or unit plan of development and operation of the  
3 fissionable material land. The commissioner shall review the plan and  
4 recommend changes necessary to protect the interests of the state.

5 Sec. 38.05.380. UNCLASSIFIED AREAS. (a) The commissioner shall  
6 issue a prospecting permit for land which has not been classified under  
7 AS 38.05.360 to the first qualified applicant. If the land covered by  
8 an application for a permit is classified under AS 38.05.360 before the  
9 date the application is received by the department, the permit may not  
10 be issued. A permit gives the holder the exclusive right, for two  
11 years, to prospect for fissionable material upon the land described in  
12 the permit. The commissioner may extend the term of a permit on an  
13 annual basis for not more than three years.

14 (b) If the holder of a permit discovers, locates, or otherwise  
15 identifies a deposit of fissionable material ore on the land described  
16 in the permit, he is entitled to a lease under this subsection if he  
17 posts the location of the discovery as required by the commissioner  
18 under AS 38.05.195 and files, within 90 days of the posting, a certifi-  
19 cate of location in the recorder's office in the district where the  
20 discovery is made. Upon the posting of the location of the discovery,  
21 the land described in the permit shall be classified under AS 38.05.360.

22 (c) A lease issued under this section shall provide for a royalty  
23 of not less than

24 (1) five per cent of the amount or value of the fissionable  
25 material ore produced from the lease, and

26 (2) two per cent of the amount or value of a by-product  
27 produced from the lease.

28 (d) A lease under this section is subject to AS 38.05.385(c) and  
29 38.05.395 - 38.05.410.

1           Sec. 38.05.385. CLASSIFIED AREAS. (a) Land which has been  
2 classified under AS 38.05.360 and for which no lease has been issued  
3 shall be leased to the highest responsible qualified bidder determined  
4 by competitive bidding under regulations adopted by the commissioner.  
5 Following a pre-lease analysis the commissioner may choose one of the  
6 following lease methods:

7           (1) a cash bonus bid with a fixed royalty share reserved to  
8 the state of not less than five per cent in amount or value of the  
9 production removed or sold from the lease;

10           (2) a cash bonus bid with a fixed royalty share reserved to  
11 the state of not less than five per cent in amount or value of the  
12 production removed or sold from the lease and a fixed share of the net  
13 profit derived from the lease of not less than 15 per cent reserved to  
14 the state;

15           (3) a fixed cash bonus with a royalty share reserved to the  
16 state as the bid variable but not less than five per cent in amount or  
17 value of the production removed or sold from the lease;

18           (4) a fixed cash bonus with the share of the net profit  
19 derived from the lease reserved to the state as the bid variable;

20           (5) a fixed cash bonus with a fixed royalty share reserved to  
21 the state of not less than five per cent in amount or value of the  
22 production removed or sold from the lease with the share of the net  
23 profit derived from the lease reserved to the state as the bid variable.

24           (b) The share of the net profit derived from a lease reserved to  
25 the state under (a)(2), (4), or (5) of this section is royalty sale  
26 proceeds for the purposes of the Alaska permanent fund under AS 37.10.-  
27 065 and the Alaska renewable resources development fund under AS 37.11.-  
28 020.

29           (c) In leasing land under this section, the commissioner may

1 prescribe a development program after considering all applicable eco-  
2 nomic factors, including market conditions, the costs of exploration,  
3 production, processing, and transportation of fissionable material, and  
4 the environmental, biological, ecological, and cultural effects of the  
5 program.

6 (d) A lease under this section is subject to AS 38.05.395 -  
7 38.05.410.

8 Sec. 38.05.390. CONVERSION OF LEASES OR CLAIMS. Notwithstanding  
9 any other provision of AS 38.05.360 - 38.05.420, a lessee or claimant of  
10 land classified under AS 38.05.360 which on the effective date of this  
11 Act is subject to

12 (1) a lease under AS 38.05.135 - 38.05.184, or a claim under  
13 AS 38.05.185 - 38.05.280 based upon the discovery of minerals other than  
14 fissionable material, is entitled to a lease if he agrees to terms equal  
15 to the bid of the highest responsible bidder under AS 38.05.385, plus  
16 the rental for the first year, within 30 days after receiving written  
17 notice of the amount of the highest bid; or

18 (2) a claim under AS 38.05.195 - 38.05.280 based upon the  
19 discovery of fissionable material, is entitled to a lease under  
20 AS 38.05.380.

21 Sec. 38.05.395. ACREAGE. A permit or lease must cover a reason-  
22 ably compact area of at least 640 acres but not more than 5,760 acres of  
23 land or shoreland. However, a permit or lease may be issued for an area  
24 of less than 640 acres if the area is isolated from other areas avail-  
25 able for permit or lease under this section, or if the area is irregu-  
26 larly subdivided. Except as otherwise provided in this section, a  
27 person may not apply for, own, or control whether acquired directly from  
28 the commissioner under this section or otherwise, a direct or indirect  
29 interest in leases exceeding 25,600 acres at any one time. Fifteen

1 years after the effective date of this Act the commissioner may, after  
2 holding public hearings, increase the maximum lease holding, by regula-  
3 tion, to an amount no greater than 51,200 acres.

4 Sec. 38.05.400. SURFACE USE. Subject to the other provisions of  
5 this section, the holder of a permit or lease is entitled to use as much  
6 of the surface of the land covered by his lease or permit as is reason-  
7 ably necessary for the exploration, production, and conservation of  
8 fissionable material. However, any physical alteration of the land  
9 surface or improvement to or fixture placed on the land which is located  
10 within 400 feet of a public road is prohibited. Where several conti-  
11 guous tracts of land are operated as a single lease or operating unit,  
12 "exterior boundary" means the exterior boundary line of the land  
13 included in all the leases or of the unit.

14 Sec. 38.05.405. RENTALS AND ROYALTIES. (a) Each lease shall  
15 provide for an annual rental of \$2 an acre or fraction of an acre for  
16 the first year and increasing by \$2 an acre or fraction of an acre each  
17 succeeding year; annual rental is payable in advance and continues until  
18 income to the state from royalty or net profit share exceeds rental  
19 income to the state for that year.

20 (b) The commissioner may reduce the rental or minimum royalty for  
21 the land included in a permit or lease, or any portion of it, and waive,  
22 suspend, or amend the operating requirements contained in a lease or  
23 regulations adopted under this section affecting the operation of a  
24 lease or permit, if, in the interests of conservation and to encourage  
25 the greatest ultimate recovery of fissionable material, he determines  
26 that such action is necessary to promote development or is in the best  
27 interests of the state.

28 (c) A royalty provided for in AS 38.05.380(c) or 38.05.385(a) may  
29 be taken in kind, rather than in value if the commissioner determines

1 that taking in kind would be in the best interests of the state.

2       Sec. 38.05.410. TERM OF LEASES. A lease is for a term of five  
3 years and may be renewed for an additional five years. If, after 10  
4 years, fissionable material is produced in commercial quantities, the  
5 lease may continue for as long as fissionable material or by-products  
6 are produced in commercial quantities, but in any case not more than an  
7 additional 30 years. If, at the end of 40 years, fissionable material  
8 or by-products may still be produced in commercial quantities and the  
9 land is not needed for other purposes, the commissioner may renew the  
10 lease for successive 10-year periods if he determines, before each  
11 renewal and after holding a public hearing, that such use constitutes  
12 the highest and best uses of the land.

13       Sec. 38.05.415. PREVENTION OF WASTE AND POLLUTION. A lease or  
14 permit is subject to the condition that the holder of the lease or  
15 permit will, in conducting his exploration, development, or production  
16 operations, use reasonable precautions to protect the environment and to  
17 prevent the waste of fissionable material and other resources within the  
18 land leased or under a prospecting permit. The commissioner may require  
19 that before development or production of fissionable material begins  
20 under a lease under this section, a detailed plan of development of the  
21 lease be submitted to and approved by the commissioner. This plan must  
22 include, but is not limited to, locations and designs of roads, pits,  
23 tunnels, mills, processing plants, and other structures to be located on  
24 the lease, procedures for reclamation and disposal of radioactive waste,  
25 and final plans upon abandonment of the lease for dismantling structures  
26 and restoring the surface as close as possible to its original contours  
27 and vegetative cover. A surety bond may be required in an amount deter-  
28 mined by the commissioner to be sufficient to insure compliance with  
29 reclamation procedures specified in an approved plan.

1           Sec. 38.05.420. DEFINITIONS. For the purpose of AS 38.05.360 -  
2 38.05.420

3           (1) "by-products" means any mineral (exclusive of oil,  
4 natural gas, helium or other hydrocarbon substances) which is found in  
5 association with fissionable material and which has a value of less than  
6 75 per cent of the value of the fissionable material, or which is not,  
7 because of quantity, quality, or technical difficulties of production,  
8 of sufficient value to warrant production by itself;

9           (2) "commissioner" means the commissioner of natural re-  
10 sources;

11           (3) "department" means the Department of Natural Resources;

12           (4) "fissionable material" means material that is capable of  
13 undergoing spontaneous nuclear fission, and includes uranium 238,  
14 uranium 235, thorium 232, potassium 40, rubidium 87, their decay pro-  
15 ducts, and all other radionuclides;

16           (5) "fissionable material land" means land upon which a  
17 deposit of fissionable material ore has been identified and located;

18           (6) "lease" means a fissionable material lease issued under  
19 this section;

20           (7) "permit" means a prospecting permit issued under this  
21 section.