

CS FOR SENATE BILL NO. 48(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/13/23

Referred: Today's Calendar

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers and duties of the Alaska Oil and Gas Conservation**
2 **Commission; authorizing the Department of Natural Resources to lease land for carbon**
3 **management purposes; establishing a carbon offset program for state land; authorizing**
4 **the sale of carbon offset credits; authorizing the use of land and water within the Haines**
5 **State Forest Resource Management Area for a carbon offset project; authorizing the**
6 **undertaking of carbon offset projects on land in legislatively designated state forests;**
7 **relating to oil and gas lease expenditures; and providing for an effective date."**

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

9 * **Section 1.** AS 31.05.030(h) is amended to read:

10 (h) The commission may take all actions necessary to allow the state to
11 acquire primary enforcement responsibility under 42 U.S.C. 300h-1 and 42 U.S.C.
12 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f - 300j-26), for
13 the control of underground injection related to the recovery and production of oil and

1 natural gas and the control of underground injection in Class I wells, as defined in 40
 2 C.F.R. 144.6, as amended, **and the control of underground injection in Class VI**
 3 **wells, as defined in 40 C.F.R. 144.6, as amended.**

4 * **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

5 (51) contracts between a registry and the Department of Natural
 6 Resources under AS 38.95.400 - 38.95.499; in this paragraph, "registry" has the
 7 meaning given in AS 38.95.499.

8 * **Sec. 3.** AS 37.05.146(c) is amended by adding a new paragraph to read:

9 (85) revenue from the carbon offset program under AS 38.95.400 -
 10 38.95.499.

11 * **Sec. 4.** AS 38.05.075(a) is amended to read:

12 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, **38.05.081,**
 13 **38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810,** and this
 14 section, when competitive interest has been demonstrated or the commissioner
 15 determines that it is in the state's best interests, leasing shall be made at public auction
 16 or by sealed bid, at the discretion of the director, to the highest qualified bidder as
 17 determined by the commissioner. A bidder may be represented by an attorney or agent
 18 at a public auction. In the public notice of a lease to be offered at public auction or by
 19 sealed bid, the commissioner shall specify a minimum acceptable bid and the lease
 20 compensation method. The lease compensation method shall be designed to maximize
 21 the return on the lease to the state and shall be a form of compensation set out in
 22 AS 38.05.073(m). An aggrieved bidder may appeal to the commissioner within five
 23 days for a review of the determination. The leasing shall be conducted by the
 24 commissioner, and the successful bidder shall deposit at the public auction or with the
 25 sealed bid the first year's rental or other lease compensation as specified by the
 26 commissioner, or that portion of it that the commissioner requires in accordance with
 27 the bid. The commissioner shall require, under AS 38.05.860, qualified bidders to
 28 deposit a sum equal to any survey or appraisal costs reasonably incurred by another
 29 qualified bidder acting in accordance with the regulations of the commissioner or
 30 incurred by the department under AS 38.04.045 and AS 38.05.840. If a bidder making
 31 a deposit of survey or appraisal costs is determined by the commissioner to be the

1 highest qualified bidder under this subsection, the deposit shall be paid to the
 2 unsuccessful bidder who incurred those costs or to the department if the department
 3 incurred the costs. All costs for survey and appraisal shall be approved in advance in
 4 writing by the commissioner. The commissioner shall immediately issue a receipt
 5 containing a description of the land or interest leased, the price bid, and the terms of
 6 the lease to the successful qualified bidder. If the receipt is not accepted in writing by
 7 the bidder under this subsection, the commissioner may offer the land for lease again
 8 under this subsection. A lease, on a form approved by the attorney general, shall be
 9 signed by the successful bidder and by the commissioner.

10 * **Sec. 5.** AS 38.05 is amended by adding a new section to read:

11 **Sec. 38.05.081. Leases of state land for carbon management purposes.** (a)

12 The commissioner may lease state land for carbon management purposes. A lease
 13 agreement under this section must include land use restrictions and authorizations
 14 consistent with the carbon management purpose of the lease.

15 (b) A person may apply to lease land for a carbon management purpose by
 16 submitting an application to the department. An application to lease land must include

17 (1) the specific location, description, and amount of land the applicant
 18 wants to lease;

19 (2) a detailed summary of the proposed purpose the land will be used
 20 for; and

21 (3) additional information and requirements established by the
 22 department in regulation, including any application fees.

23 (c) Upon receiving an application, the department shall solicit competitive
 24 interest by issuing a public notice in the manner prescribed in AS 38.05.945. The
 25 notice must contain an announcement seeking competitive interest. If competing
 26 carbon management applications are received following notice, the applications will
 27 be awarded under (d) of this section.

28 (d) If the director receives two or more applications for the same land, the
 29 director shall consider reasonable factors in awarding the lease, including proposed
 30 monetary consideration, the value to the state, the potential revenue to the state, and
 31 the qualifications of the applicant, including whether the applicant has previous

1 experience with carbon management, the anticipated lease term, how the proposed use
 2 would accommodate concurrent use of the land, consistency with existing state area or
 3 management plans, and any additional requirement established by the department in
 4 regulation. If one or more applicants have proposed different carbon management
 5 purposes, the director shall consider each applicant's proposal and determine which
 6 proposed use is more appropriate for the selected state land. An application for a lease
 7 of state land under this section, including supporting documentation submitted to the
 8 department for review, is a public record subject to AS 40.25.110 - 40.25.220. An
 9 aggrieved applicant may appeal to the commissioner for a review of the director's
 10 determination within 20 days after receiving notice of the determination.

11 (e) A lease under this section may not exceed a period of 55 years. The lease
 12 must contain terms and conditions for performance, including benchmarks, and must
 13 require the lessee to make progress toward development or continual maintenance of
 14 the leased land sufficient to meet the carbon management purpose of the lease. During
 15 the term of the lease, the commissioner shall terminate the lease if

16 (1) the commissioner determines that the land is not being used for the
 17 carbon management purpose approved by the commissioner; or

18 (2) the lessee fails to meet the requirements of the lease and, after
 19 being given a reasonable opportunity by the commissioner to comply with the lease,
 20 the commissioner determines that the lessee has still failed to comply with the lease.

21 (f) A lessee under this section is not entitled to a preference right to purchase
 22 the leased land.

23 (g) Compensation for a lease under this section

24 (1) shall be designed to maximize the return to the state and be a form
 25 of compensation provided under AS 38.05.073(m);

26 (2) shall be separately accounted for under AS 37.05.142; and

27 (3) may be used by the legislature to make appropriations to the
 28 department to carry out the purposes of this section.

29 (h) The provisions of AS 38.05.070 and 38.05.095 concerning subleasing,
 30 assignment, lease renewals, and lease extensions apply to leasing under this section.

31 (i) Before entering into a lease of land under this section, the director must

1 (1) evaluate information received during a solicitation of competitive
2 interest under (c) of this section; and

3 (2) find under AS 38.05.035(e) that leasing the land for the proposed
4 carbon management purpose is in the best interests of the state; the findings must
5 include

6 (A) reasonably foreseeable effects that a project may have on
7 the state or local economy, including potential effects on mining, timber, and
8 other resource development sectors;

9 (B) anticipated annual revenue that the lease will yield to the
10 state;

11 (C) an assessment and consideration of the known mineral
12 potential, including current claim status, within the project area;

13 (D) the proposed monetary consideration under the agreement,
14 the value to the state, and the potential revenue to the state; and

15 (E) a summary of public comments received in response to the
16 solicitation of competitive interest required under (c) of this section and the
17 department's response to those comments.

18 (j) State land used for carbon management purposes must, to the extent
19 practicable, remain open to

20 (1) the public for access, hunting, fishing, and other generally allowed
21 uses as determined by the department; and

22 (2) other resource development, including mining.

23 (k) Notwithstanding AS 38.05.300, state land used for carbon management
24 purposes must remain open to mineral exploration and development. A lease under
25 this section does not constitute an exception to the requirements of AS 38.05.300(a).

26 (l) By February 1 of each year, the commissioner shall prepare a report on the
27 lease agreements entered into under this section, transmit the report to the senate
28 secretary and the chief clerk of the house of representatives, and notify the legislature
29 that the report is available. The report must contain the following information:

30 (1) the number of total leases entered into each fiscal year from the
31 fiscal year ending June 30, 2024, until the present;

1 (2) a complete list of lease information for each ongoing lease that
2 includes

3 (A) a general description of the location of the lease;

4 (B) the date the lease was executed;

5 (C) the identity of each person on the lease;

6 (D) a summary of the underlying carbon management purpose;

7 (E) the current status of the leased land with regard to the
8 carbon management purpose;

9 (F) the amount of carbon offset credits generated and sold
10 under the lease cumulatively and during the current fiscal year;

11 (G) a summary of the compensation agreed on for the lease and
12 an explanation of how the amount was determined; and

13 (H) the identity of each individual having an ownership interest
14 in an entity on the lease;

15 (3) a complete list of leases that expired or were terminated during the
16 preceding or current fiscal year and the reason the lease expired or was terminated;
17 and

18 (4) a description of the cumulative revenue received by the state from
19 leases, the revenue received by the state from leases during the preceding fiscal year,
20 and the anticipated revenue the state will receive from leases in the current fiscal year.

21 (m) In this section, "carbon management" means a greenhouse gas mitigation
22 measure or nongeologic carbon sequestration project.

23 * **Sec. 6.** AS 38.05.102 is amended to read:

24 **Sec. 38.05.102. Lessee preference. Except for a lease under AS 38.05.081, if**
25 **[IF]** land within a leasehold created under AS 38.05.070 - 38.05.105 is offered for sale
26 or long-term lease at the termination of the existing leasehold, the director may, upon
27 a finding that it is in the best interest of the state, allow **a** **[THE]** holder in good
28 standing of **the existing** **[THAT]** leasehold to purchase or lease the land for its
29 appraised fair market value at the time of the sale or long-term lease.

30 * **Sec. 7.** AS 38.05.945(a) is amended to read:

31 (a) This section establishes the requirements for notice given by the

1 department for the following actions:

2 (1) classification or reclassification of state land under AS 38.05.300
3 and the closing of land to mineral leasing or entry under AS 38.05.185;

4 (2) zoning of land under applicable law;

5 (3) issuance of a

6 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
7 regarding the sale, lease, or disposal of an interest in state land or resources for
8 oil and gas, or for gas only, subject to AS 38.05.180(b);

9 (B) written finding for the sale, lease, or disposal of an interest
10 in state land or resources under AS 38.05.035(e)(6), except a lease sale
11 described in AS 38.05.035(e)(6)(F) for which the director must provide
12 opportunity for public comment under the provisions of that subparagraph;

13 (4) a competitive disposal of an interest in state land or resources after
14 final decision under AS 38.05.035(e);

15 (5) a preliminary finding under AS 38.05.035(e) concerning sites for
16 aquatic farms and related hatcheries;

17 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,
18 lease, or disposal of an interest in state land or resources;

19 (7) an exchange of state land under AS 38.50;

20 **(8) solicitation of competitive interest under AS 38.05.081(c).**

21 * **Sec. 8.** AS 38.95 is amended by adding new sections to read:

22 **Article 8. Carbon Offset Program.**

23 **Sec. 38.95.400. Carbon offset program.** (a) A carbon offset program is
24 established in the department to undertake carbon offset projects on state land.

25 (b) The commissioner shall adopt regulations to implement AS 38.95.400 -
26 38.95.499.

27 (c) Nothing in AS 38.95.400 - 38.95.499 may be construed to prevent a
28 private landowner from participating in a registry or exchange or to impose additional
29 legal requirements on a private landowner undertaking the landowner's own carbon
30 offset project.

31 **Sec. 38.95.410. Carbon offset project criteria; evaluation; best interest**

1 **finding.** (a) The commissioner shall adopt criteria for evaluation of a proposed carbon
2 offset project on state land. The evaluation criteria must include, if applicable,

- 3 (1) consideration of a project's baseline and predicted additionality;
4 (2) whether registry protocols are consistent with applicable state law;
5 (3) whether a project would be consistent with AS 38.95.400 -
6 38.95.499 and applicable regulations;
7 (4) an assessment and consideration of the known mineral potential,
8 including current claim status, within the project area;
9 (5) reasonably foreseeable effects that a project may have on the state
10 or local economy, including potential effects on mining, timber, and other resource
11 development sectors;
12 (6) consideration of the effect of the project on the state's timber
13 industry; and
14 (7) the proposed monetary consideration under the project, the value to
15 the state, and the potential revenue to the state.

16 (b) Except as otherwise provided in statute or regulation, state land shall be
17 available for carbon offset projects.

18 (c) Legislatively withdrawn land may not be used for a carbon offset project
19 without approval by the legislature or as otherwise provided by law. In this subsection,
20 "legislatively withdrawn land" means land set aside by the legislature under
21 AS 16.20.010 - 16.20.162, 16.20.300 - 16.20.360, AS 41.21, or AS 41.23.

22 (d) A carbon offset project may be undertaken on state land if the director,
23 with the consent of the commissioner, makes a written finding that the project will
24 best serve the interests of the state under AS 38.05.035(e).

25 (e) A carbon offset project term may not exceed 55 years.

26 (f) State land used for a carbon offset project must, to the extent practicable,
27 remain open to

- 28 (1) the public for access, hunting, fishing, and other generally allowed
29 uses as determined by the department; and
30 (2) other resource development, including mining.

31 (g) Notwithstanding AS 38.05.300, state land used for a carbon offset project

1 must remain open to mineral exploration and development. A carbon offset project
2 under AS 38.95.400 - 38.95.499 does not constitute an exception to the requirements
3 of AS 38.05.300(a).

4 **Sec. 38.95.420. Registration and sale of carbon offset credits; records.** (a)
5 After a written finding under AS 38.95.410(d), the director may enter into an
6 agreement to register the carbon offset project to generate revenue from the sale of
7 carbon offset credits.

8 (b) The department shall maintain records for a carbon offset project
9 undertaken by the department under AS 38.95.400 - 38.95.499 for the project term and
10 any additional amount of time required by the registry. The records must include, for
11 each carbon offset project,

- 12 (1) the project term;
- 13 (2) the anticipated annual carbon offset credits that the carbon offset
14 project will yield;
- 15 (3) registry agreements; and
- 16 (4) project administration and technical documentation, including
17 documentation related to project implementation, monitoring, and reporting.

18 **Sec. 38.95.430. Carbon offset revenue.** Twenty percent of the revenue
19 generated from the carbon offset program shall be deposited into the renewable energy
20 grant fund (AS 42.45.045). The remaining 80 percent of the revenue from the carbon
21 offset program shall be separately accounted for under AS 37.05.142 and may be
22 appropriated by the legislature.

23 **Sec. 38.95.440. Contracts.** (a) Subject to AS 36.30, the department may enter
24 into a contract to carry out the purposes of AS 38.95.400 - 38.95.499.

25 (b) In evaluating a proposal for a contract, including competing proposals, the
26 department shall consider

- 27 (1) the criteria included in the request for proposals;
- 28 (2) the proposal's cost to the state;
- 29 (3) the revenue the carbon offset project associated with the proposal is
30 expected to generate; and
- 31 (4) the anticipated terms, including monetary terms, of a contract under

1 the proposal.

2 (c) The department may not accept a proposed commission contract that
3 involves a commission that exceeds 30 percent of the revenue generated by the carbon
4 offset project.

5 **Sec. 38.95.450. Annual report.** By February 1 of each year, the commissioner
6 shall prepare a report on the carbon offset program established in AS 38.95.400 -
7 38.95.499, transmit the report to the senate secretary and the chief clerk of the house
8 of representatives, and notify the legislature that the report is available. The report
9 must contain the following information:

10 (1) a list of all carbon offset projects that are generating or eligible to
11 generate carbon offset credits, or that are in development, that includes

12 (A) a general description of each project location;

13 (B) the date a contract for a project was executed and the
14 duration of the project;

15 (C) the identity of each person who contracted with the state
16 for a project;

17 (D) a summary of each carbon offset project;

18 (E) the status of each carbon offset project;

19 (F) the amount of carbon offset credits generated and sold
20 cumulatively and anticipated during the current fiscal year for each carbon
21 offset project;

22 (G) for a project that is in development but is not yet generating
23 carbon offset credits, the anticipated timeline for when the project is expected
24 to generate credits;

25 (H) a summary of the monetary compensation agreed on for a
26 contract or project and an explanation of how the amount was determined; and

27 (I) the identity of each individual having an ownership interest
28 in an entity that has contracted with the state for a project;

29 (2) a complete list of projects that expired or were terminated during
30 the preceding or current fiscal year and the reason the project expired or was
31 terminated;

1 (3) a description of revenue generated by program receipts from the
 2 carbon offset program during the preceding fiscal year, cumulatively over the life of
 3 the program, and the anticipated revenue that will be generated in program receipts in
 4 the current fiscal year; and

5 (4) a list of all other individuals or entities with an ongoing contract
 6 with the state under AS 38.95.400 - 38.95.499 that includes, for each contract, the
 7 term length of the contract, the compensation agreed on under the contract, and a
 8 summary of the service or product provided under the contract.

9 **Sec. 38.95.499. Definitions.** In AS 38.95.400 - 38.95.499, unless the context
 10 requires otherwise,

11 (1) "additionality" means the reduction in greenhouse gas emissions or
 12 increase in carbon storage represented by a carbon offset project that is in addition to
 13 the baseline;

14 (2) "baseline" means the anticipated amount of carbon sequestration
 15 that would occur in the absence of a carbon offset project;

16 (3) "carbon offset credit" means a transferrable instrument that
 17 represents an emission reduction of one metric ton of carbon dioxide or other
 18 greenhouse gases;

19 (4) "carbon offset project" includes seaweed farming, afforestation,
 20 reforestation, and similar land and resource management measures that mitigate
 21 greenhouse gases by maintaining or increasing the carbon stock on state land;

22 (5) "commissioner" means the commissioner of natural resources;

23 (6) "department" means the Department of Natural Resources;

24 (7) "director" means the director of the division of lands;

25 (8) "greenhouse gas" includes carbon dioxide, methane, nitrous oxide,
 26 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and other gases that trap
 27 and emit radiant energy in the earth's atmosphere;

28 (9) "project term" means the duration of the commitment made by the
 29 department for a carbon offset project, ending when the state has no continuing
 30 obligation related to the project;

31 (10) "registry" means an organization or program that registers and

1 issues carbon offset credits for carbon offset projects;

2 (11) "shoreland" means land belonging to the state that is covered by
3 nontidal water and is navigable under the laws of the United States up to ordinary
4 highwater mark as modified by accretion, erosion, or reliction;

5 (12) "state land" means all land, including shoreland, tideland, and
6 submerged land, or resources belonging to or acquired by the state;

7 (13) "submerged land" means land that is covered by tidal water
8 between the line of mean low water and seaward to a distance of three geographical
9 miles or further as may be properly claimed by the state;

10 (14) "tideland" means land that is periodically covered by tidal water
11 between the elevation of mean high water and mean low water.

12 * **Sec. 9.** AS 41.15.300 is amended by adding a new subsection to read:

13 (c) The state land and water designated within the Haines State Forest
14 Resource Management Area under AS 41.15.305(a) may be used for a carbon offset
15 project under AS 38.95.400 - 38.95.499.

16 * **Sec. 10.** AS 41.15.315(d) is amended to read:

17 (d) The state land and water described in AS 41.15.305(a) are closed to sale
18 under state land disposal laws. The commissioner may lease the land described in
19 AS 41.15.305(a) under AS 38.05.070 - 38.05.105 for a purpose consistent with
20 AS 41.15.300(a) and a municipality may select land in the Haines State Forest
21 Resource Management Area under law. **The commissioner may manage the land**
22 **and water described in AS 41.15.305(a) for purposes consistent with AS 38.95.400**
23 **- 38.95.499.**

24 * **Sec. 11.** AS 41.15.315 is amended by adding a new subsection to read:

25 (e) A carbon offset project under AS 38.95.400 - 38.95.499 undertaken on
26 land identified in AS 41.15.305 must be consistent with the applicable management
27 plan under AS 41.15.320, and the management plan must identify the land appropriate
28 for the carbon offset project. The department may amend a management plan under
29 AS 41.15.320 to allow for a carbon offset project.

30 * **Sec. 12.** AS 41.17.200 is amended by adding a new subsection to read:

31 (c) A carbon offset project under AS 38.95.400 - 38.95.499 may be

1 undertaken on land identified in AS 41.17.200 - 41.17.230.

2 * **Sec. 13.** AS 41.17.220 is amended to read:

3 **Sec. 41.17.220. Management of state forests.** Land within a state forest or
4 within a unit of a state forest shall be managed under

5 (1) the sustained yield principle;

6 (2) this chapter; [AND]

7 (3) a forest management plan prepared by the department; **and**

8 **(4) if applicable, a carbon offset project undertaken by the**
9 **department under AS 38.95.400 - 38.95.499.**

10 * **Sec. 14.** AS 41.17.230(a) is amended to read:

11 (a) The commissioner shall prepare a forest management plan consistent with
12 AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to
13 assist in meeting the requirements of this chapter. An operational level forest
14 inventory shall be completed before a forest management plan for the state forest or
15 the unit of a state forest is adopted. The forest management plan shall be adopted,
16 implemented, and maintained within three years of the establishment of a state forest
17 by the legislature. To the extent they are found to be compatible with the primary
18 purpose of state forests under AS 41.17.200, the forest management plan must
19 consider and permit uses of forest land for **other** [NONTIMBER] purposes, including
20 **a carbon offset project under AS 38.95.400 - 38.95.499,** recreation, tourism, mining,
21 mineral exploration, mineral leasing, material extraction, consumptive and
22 nonconsumptive uses of wildlife and fish, grazing and other agricultural activities, and
23 other traditional uses. If the commissioner finds that a permitted use is incompatible
24 with one or more other uses in a portion of a state forest, the commissioner shall
25 affirmatively state in the management plan that finding of incompatibility for the
26 specific area where the incompatibility is anticipated to exist and the time period when
27 the incompatibility is anticipated to exist together with the reasons and benefits for
28 each finding.

29 * **Sec. 15.** AS 41.17.230 is amended by adding a new subsection to read:

30 (g) A carbon offset project undertaken under AS 38.95.400 - 38.95.499 within
31 a state forest must be consistent with the applicable forest management plan, and the

1 applicable forest management plan must identify the land appropriate for the carbon
 2 offset project. The department may amend a forest management plan to allow for a
 3 carbon offset project.

4 * **Sec. 16.** AS 43.55.165(e) is amended to read:

5 (e) For purposes of this section, lease expenditures do not include

6 (1) depreciation, depletion, or amortization;

7 (2) oil or gas royalty payments, production payments, lease profit
 8 shares, or other payments or distributions of a share of oil or gas production, profit, or
 9 revenue, except that a producer's lease expenditures applicable to oil and gas produced
 10 from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net
 11 profit paid to the state under that lease;

12 (3) taxes based on or measured by net income;

13 (4) interest or other financing charges or costs of raising equity or debt
 14 capital;

15 (5) acquisition costs for a lease or property or exploration license;

16 (6) costs arising from fraud, wilful misconduct, gross negligence,
 17 violation of law, or failure to comply with an obligation under a lease, permit, or
 18 license issued by the state or federal government;

19 (7) fines or penalties imposed by law;

20 (8) costs of arbitration, litigation, or other dispute resolution activities
 21 that involve the state or concern the rights or obligations among owners of interests in,
 22 or rights to production from, one or more leases or properties or a unit;

23 (9) costs incurred in organizing a partnership, joint venture, or other
 24 business entity or arrangement;

25 (10) amounts paid to indemnify the state; the exclusion provided by
 26 this paragraph does not apply to the costs of obtaining insurance or a surety bond from
 27 a third-party insurer or surety;

28 (11) surcharges levied under AS 43.55.201 or 43.55.300;

29 (12) an expenditure otherwise deductible under (b) of this section that
 30 is a result of an internal transfer, a transaction with an affiliate, or a transaction
 31 between related parties, or is otherwise not an arm's length transaction, unless the

1 producer establishes to the satisfaction of the department that the amount of the
2 expenditure does not exceed the fair market value of the expenditure;

3 (13) an expenditure incurred to purchase an interest in any corporation,
4 partnership, limited liability company, business trust, or any other business entity,
5 whether or not the transaction is treated as an asset sale for federal income tax
6 purposes;

7 (14) a tax levied under AS 43.55.011 or 43.55.014;

8 (15) costs incurred for dismantlement, removal, surrender, or
9 abandonment of a facility, pipeline, well pad, platform, or other structure, or for the
10 restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in
11 conjunction with dismantlement, removal, surrender, or abandonment; a cost is not
12 excluded under this paragraph if the dismantlement, removal, surrender, or
13 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
14 renovating, or improving the facility, pipeline, well pad, platform, or other structure;

15 (16) costs incurred for containment, control, cleanup, or removal in
16 connection with any unpermitted release of oil or a hazardous substance and any
17 liability for damages imposed on the producer or explorer for that unpermitted release;
18 this paragraph does not apply to the cost of developing and maintaining an oil
19 discharge prevention and contingency plan under AS 46.04.030;

20 (17) costs incurred to satisfy a work commitment under an exploration
21 license under AS 38.05.132;

22 (18) that portion of expenditures, that would otherwise be qualified
23 capital expenditures, as defined in AS 43.55.023, incurred during a calendar year that
24 are less than the product of \$0.30 multiplied by the total taxable production from each
25 lease or property, in BTU equivalent barrels, during that calendar year, except that,
26 when a portion of a calendar year is subject to this provision, the expenditures and
27 volumes shall be prorated within that calendar year;

28 (19) costs incurred for repair, replacement, or deferred maintenance of
29 a facility, a pipeline, a structure, or equipment, other than a well, that results in or is
30 undertaken in response to a failure, problem, or event that results in an unscheduled
31 interruption of, or reduction in the rate of, oil or gas production; or costs incurred for

1 repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or
2 equipment, other than a well, that is undertaken in response to, or is otherwise
3 associated with, an unpermitted release of a hazardous substance or of gas; however,
4 costs under this paragraph that would otherwise constitute lease expenditures under (a)
5 and (b) of this section may be treated as lease expenditures if the department
6 determines that the repair or replacement is solely necessitated by an act of war, by an
7 unanticipated grave natural disaster or other natural phenomenon of an exceptional,
8 inevitable, and irresistible character, the effects of which could not have been
9 prevented or avoided by the exercise of due care or foresight, or by an intentional or
10 negligent act or omission of a third party, other than a party or its agents in privity of
11 contract with, or employed by, the producer or an operator acting for the producer, but
12 only if the producer or operator, as applicable, exercised due care in operating and
13 maintaining the facility, pipeline, structure, or equipment, and took reasonable
14 precautions against the act or omission of the third party and against the consequences
15 of the act or omission; in this paragraph,

16 (A) "costs incurred for repair, replacement, or deferred
17 maintenance of a facility, a pipeline, a structure, or equipment" includes costs
18 to dismantle and remove the facility, pipeline, structure, or equipment that is
19 being replaced;

20 (B) "hazardous substance" has the meaning given in
21 AS 46.03.826;

22 (C) "replacement" includes renovation or improvement;

23 (20) costs incurred to construct, acquire, or operate a refinery or crude
24 oil topping plant, regardless of whether the products of the refinery or topping plant
25 are used in oil or gas exploration, development, or production operations; however, if
26 a producer owns a refinery or crude oil topping plant that is located on or near the
27 premises of the producer's lease or property in the state and that processes the
28 producer's oil produced from that lease or property into a product that the producer
29 uses in the operation of the lease or property in drilling for or producing oil or gas, the
30 producer's lease expenditures include the amount calculated by subtracting from the
31 fair market value of the product used the prevailing value, as determined under

1 AS 43.55.020(f), of the oil that is processed;
2 (21) costs of lobbying, public relations, public relations advertising, or
3 policy advocacy;

4 **(22) costs incurred as part of a capital expenditure or other action**
5 **taken for a carbon management purpose under AS 38.05.081 or a carbon offset**
6 **project under AS 38.95.400 - 38.95.499.**

7 * **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).