

CS FOR SENATE BILL NO. 48(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/5/23

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

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

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

8 * **Section 1.** AS 36.30.850(b) is amended by adding a new paragraph to read:

9 (51) contracts between third parties and the Department of Natural
10 Resources under AS 38.95.400 - 38.95.499, unless the Department of Natural
11 Resources elects to use this chapter and announces at the time it solicits a contract that
12 this chapter will apply to the contract.

13 * **Sec. 2.** AS 37.05.146(c) is amended by adding a new paragraph to read:

1 (85) revenue from the carbon offset program under AS 38.95.400 -
2 38.95.499.

3 * **Sec. 3.** AS 38.05.075(a) is amended to read:

4 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, **38.05.081**,
5 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810, and this
6 section, when competitive interest has been demonstrated or the commissioner
7 determines that it is in the state's best interests, leasing shall be made at public auction
8 or by sealed bid, at the discretion of the director, to the highest qualified bidder as
9 determined by the commissioner. A bidder may be represented by an attorney or agent
10 at a public auction. In the public notice of a lease to be offered at public auction or by
11 sealed bid, the commissioner shall specify a minimum acceptable bid and the lease
12 compensation method. The lease compensation method shall be designed to maximize
13 the return on the lease to the state and shall be a form of compensation set out in
14 AS 38.05.073(m). An aggrieved bidder may appeal to the commissioner within five
15 days for a review of the determination. The leasing shall be conducted by the
16 commissioner, and the successful bidder shall deposit at the public auction or with the
17 sealed bid the first year's rental or other lease compensation as specified by the
18 commissioner, or that portion of it that the commissioner requires in accordance with
19 the bid. The commissioner shall require, under AS 38.05.860, qualified bidders to
20 deposit a sum equal to any survey or appraisal costs reasonably incurred by another
21 qualified bidder acting in accordance with the regulations of the commissioner or
22 incurred by the department under AS 38.04.045 and AS 38.05.840. If a bidder making
23 a deposit of survey or appraisal costs is determined by the commissioner to be the
24 highest qualified bidder under this subsection, the deposit shall be paid to the
25 unsuccessful bidder who incurred those costs or to the department if the department
26 incurred the costs. All costs for survey and appraisal shall be approved in advance in
27 writing by the commissioner. The commissioner shall immediately issue a receipt
28 containing a description of the land or interest leased, the price bid, and the terms of
29 the lease to the successful qualified bidder. If the receipt is not accepted in writing by
30 the bidder under this subsection, the commissioner may offer the land for lease again
31 under this subsection. A lease, on a form approved by the attorney general, shall be

1 signed by the successful bidder and by the commissioner.

2 * **Sec. 4.** AS 38.05 is amended by adding a new section to read:

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

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

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

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

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

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

15 (c) If the director receives two or more applications for the same land, the
16 director shall award the lease to the most qualified applicant. In determining the most
17 qualified applicant, the director shall consider whether the applicant has previous
18 experience with carbon management, the anticipated lease term, how the proposed use
19 would accommodate concurrent use of the land, consistency with existing state area or
20 management plans, and any additional requirement established by the department in
21 regulation. If one or more applicants have proposed different carbon management
22 purposes, the director may evaluate each applicant's proposal and determine which
23 proposed use is more appropriate for the selected state land. An aggrieved applicant
24 may appeal to the commissioner for a review of the director's determination within 20
25 days after receiving notice of the determination.

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

31 (1) the commissioner determines that the land is not being used for the

1 carbon management purpose approved by the commissioner; or

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

5 (e) A lessee under this section is not entitled to a preference right to purchase
6 the leased land.

7 (f) Compensation for a lease under this section

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

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

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

13 (g) The provisions of AS 38.05.070 and 38.05.095 concerning subleasing,
14 assignment, lease renewals, and lease extensions apply to leasing under this section.

15 (h) Before entering into a lease of land under this section, the director must
16 find under AS 38.05.035(e) that leasing the land for the proposed carbon management
17 purpose is in the best interests of the state. The findings must include

18 (1) reasonably foreseeable effects that a project may have on the state
19 or local economy; and

20 (2) anticipated annual revenue that the lease will yield to the state.

21 (i) State land used for carbon management purposes must, to the extent
22 practicable, remain open to the public for access, hunting, fishing, and other generally
23 allowed uses as determined by the department.

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

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

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

- 1 (A) a general description of the location of the lease;
 2 (B) the date the lease was executed;
 3 (C) the identity of each person on the lease;
 4 (D) a summary of the underlying carbon management purpose;
 5 (E) the current status of the leased land with regard to the
 6 carbon management purpose;
 7 (F) the amount of carbon offset credits generated and sold
 8 under the lease cumulatively and during the current fiscal year;
 9 (G) a summary of the compensation agreed on for the lease and
 10 an explanation of how the amount was determined; and
 11 (H) the identity of each individual having an ownership interest
 12 in an entity on the lease;

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

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

19 (k) In this section, "carbon management" means a greenhouse gas mitigation
 20 measure or nongeologic carbon sequestration project.

21 * **Sec. 5.** AS 38.05.102 is amended to read:

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

28 * **Sec. 6.** AS 38.95 is amended by adding new sections to read:

29 **Article 8. Carbon Offset Program.**

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

1 (b) The commissioner shall adopt regulations to implement AS 38.95.400 -
2 38.95.499.

3 (c) Subject to the provisions of AS 38.95.440, the commissioner may enter
4 into a contract with third parties to carry out the purposes of AS 38.95.400 -
5 38.95.499. Under a commission in which a third party sells, markets, or otherwise
6 facilitates a carbon offset project for a percentage of the revenue generated, the cost to
7 the state of the commission may not exceed 30 percent of the revenue generated by the
8 carbon offset project.

9 (d) Nothing in AS 38.95.400 - 38.95.499 may be construed to prevent a
10 private landowner from participating in a registry or exchange or to impose additional
11 legal requirements on a private landowner undertaking the landowner's own carbon
12 offset project.

13 **Sec. 38.95.410. Carbon offset project criteria; evaluation; best interest**
14 **finding.** (a) The commissioner shall adopt criteria for evaluation of a proposed carbon
15 offset project on state land. The evaluation criteria must include, if applicable,

16 (1) consideration of a project's baseline and predicted additionality;

17 (2) whether registry protocols, including validation and verification
18 requirements, are consistent with applicable state law;

19 (3) whether a project would be consistent with AS 38.95.400 -
20 38.95.499 and applicable regulations; and

21 (4) reasonably foreseeable effects that a project may have on the state
22 or local economy.

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

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

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

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

2 (f) State land used for a carbon offset project must remain open to the public
3 for access, hunting, fishing, and other generally allowed uses as determined by the
4 department.

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

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

13 (1) the project term;

14 (2) the anticipated annual carbon offset credits that the carbon offset
15 project will yield;

16 (3) registry agreements; and

17 (4) project administration and technical documentation associated with
18 the valuation of baseline, valuation of additionality, project validation, and project
19 verification.

20 **Sec. 38.95.430. Carbon offset revenue fund.** (a) The carbon offset revenue
21 fund is established as a separate fund outside the general fund for the purpose of
22 providing funding for the carbon offset program. Revenue from the carbon offset
23 program shall be deposited in the carbon offset revenue fund. The carbon offset
24 revenue fund consists of money appropriated to the fund by the legislature and
25 program receipts from the sale of verified carbon offset credits. Appropriations to the
26 fund do not lapse.

27 (b) The commissioner may spend money appropriated to the fund for the
28 purposes of the carbon offset program and to pay the costs of administering the
29 program.

30 **Sec. 38.95.440. Legislative approval for contracts over \$10,000,000.** (a) If
31 the commissioner intends to enter into a contract under AS 38.95.400(c) that has the

1 potential to exceed \$10,000,000 in costs to one of the parties over the life of the
 2 contract, the commissioner shall submit the contract to the legislature for approval.
 3 The commissioner shall provide a legislative committee any information that the
 4 committee requests during its review of the contract.

5 (b) A contract submitted under this section

6 (1) during a regular session may be executed only if the legislature
 7 approves the contract by law within 45 days after submission;

8 (2) when the legislature is not in a regular session may be executed
 9 only if the legislature approves the contract by law during the first 45 days of the next
 10 regular session or during a special session convened to address the contract, whichever
 11 occurs first.

12 (c) The cost to a party over the life of a contract includes the

13 (1) value of option provisions;

14 (2) value of known or reasonably foreseeable contract addenda or
 15 additional durational terms or time extensions; and

16 (3) combined value of two or more contracts that are reasonably
 17 related to one another based on contractor, subject matter, or locale.

18 **Sec. 38.95.450. Annual report.** By February 1 of each year, the commissioner
 19 shall prepare a report on the carbon offset program established in AS 38.95.400 -
 20 38.95.499, transmit the report to the senate secretary and the chief clerk of the house
 21 of representatives, and notify the legislature that the report is available. The report
 22 must contain the following information:

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

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

26 (B) the date a contract for a project was executed and the
 27 duration of the project;

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

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

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

1 (F) the amount of carbon offset credits generated and sold
2 cumulatively and anticipated during the current fiscal year for each carbon
3 offset project;

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

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

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

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

14 (3) a description of revenue generated to the carbon offset revenue
15 fund (AS 38.95.430) cumulatively over the life of the fund, during the preceding fiscal
16 year, and the anticipated revenue that will be generated to the fund in the current fiscal
17 year; and

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

22 **Sec. 38.95.499. Definitions.** In AS 38.95.400 - 38.95.499, unless the context
23 requires otherwise,

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

27 (2) "baseline" means the amount of carbon sequestration that would
28 occur if the present situation is maintained in the absence of a carbon offset project;

29 (3) "carbon offset credit" means a transferrable instrument issued by a
30 registry for a validated and verified project that represents an emission reduction of
31 one metric ton of carbon dioxide or other greenhouse gases;

1 (4) "carbon offset project" includes seaweed farming, afforestation,
2 reforestation, and similar land and resource management measures that mitigate
3 greenhouse gases by increasing the carbon stock on state land;

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

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

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

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

10 (9) "project term" means the length of time required by a registry for a
11 carbon offset project to yield carbon offset credits;

12 (10) "registry" means an organization or program that brokers carbon
13 offset credits and develops standardized protocols for

14 (A) registering, validating, and verifying carbon offset projects;

15 and

16 (B) issuing carbon offset credits for validated and verified
17 carbon offset projects;

18 (11) "shoreland" means land covered by nontidal water that is
19 navigable under the laws of the United States up to ordinary highwater mark as
20 modified by accretion, erosion, or reliction;

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

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

26 (14) "tideland" means land that is periodically covered by tidal water
27 between the elevation of mean high water and mean low water;

28 (15) "validate" or "validation" means a registry's initial approval of a
29 project plan before verification of the project;

30 (16) "verify" or "verification" means a third party's review of a
31 validated project to confirm the project's greenhouse gas net emission reduction or

1 removals for the issuance of carbon offset credits by the registry that has validated the
2 project.

3 * **Sec. 7.** AS 41.15.300 is amended by adding a new subsection to read:

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

7 * **Sec. 8.** AS 41.15.315(d) is amended to read:

8 (d) The state land and water described in AS 41.15.305(a) are closed to sale
9 under state land disposal laws. The commissioner may lease the land described in
10 AS 41.15.305(a) under AS 38.05.070 - 38.05.105 for a purpose consistent with
11 AS 41.15.300(a) and a municipality may select land in the Haines State Forest
12 Resource Management Area under law. **The commissioner may manage the land**
13 **and water described in AS 41.15.305(a) for purposes consistent with AS 38.95.400**
14 **- 38.95.499.**

15 * **Sec. 9.** AS 41.15.315 is amended by adding a new subsection to read:

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

21 * **Sec. 10.** AS 41.17.200 is amended by adding a new subsection to read:

22 (c) A carbon offset project under AS 38.95.400 - 38.95.499 may be
23 undertaken on land identified in AS 41.17.200 - 41.17.230.

24 * **Sec. 11.** AS 41.17.220 is amended to read:

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

27 (1) the sustained yield principle;

28 (2) this chapter; [AND]

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

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

1 * **Sec. 12.** AS 41.17.230(a) is amended to read:

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

20 * **Sec. 13.** AS 41.17.230 is amended by adding a new subsection to read:

21 (g) A carbon offset project undertaken under AS 38.95.400 - 38.95.499 within
22 a state forest must be consistent with the applicable forest management plan, and the
23 applicable forest management plan must identify the land appropriate for the carbon
24 offset project. The department may amend a forest management plan to allow for a
25 carbon offset project.

26 * **Sec. 14.** AS 43.55.165(e) is amended to read:

27 (e) For purposes of this section, lease expenditures do not include
28 (1) depreciation, depletion, or amortization;
29 (2) oil or gas royalty payments, production payments, lease profit
30 shares, or other payments or distributions of a share of oil or gas production, profit, or
31 revenue, except that a producer's lease expenditures applicable to oil and gas produced

1 from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net
2 profit paid to the state under that lease;

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

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

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

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

10 (7) fines or penalties imposed by law;

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

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

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

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

20 (12) an expenditure otherwise deductible under (b) of this section that
21 is a result of an internal transfer, a transaction with an affiliate, or a transaction
22 between related parties, or is otherwise not an arm's length transaction, unless the
23 producer establishes to the satisfaction of the department that the amount of the
24 expenditure does not exceed the fair market value of the expenditure;

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

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

30 (15) costs incurred for dismantlement, removal, surrender, or
31 abandonment of a facility, pipeline, well pad, platform, or other structure, or for the

1 restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in
2 conjunction with dismantlement, removal, surrender, or abandonment; a cost is not
3 excluded under this paragraph if the dismantlement, removal, surrender, or
4 abandonment for which the cost is incurred is undertaken for the purpose of replacing,
5 renovating, or improving the facility, pipeline, well pad, platform, or other structure;

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

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

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

19 (19) costs incurred for repair, replacement, or deferred maintenance of
20 a facility, a pipeline, a structure, or equipment, other than a well, that results in or is
21 undertaken in response to a failure, problem, or event that results in an unscheduled
22 interruption of, or reduction in the rate of, oil or gas production; or costs incurred for
23 repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or
24 equipment, other than a well, that is undertaken in response to, or is otherwise
25 associated with, an unpermitted release of a hazardous substance or of gas; however,
26 costs under this paragraph that would otherwise constitute lease expenditures under (a)
27 and (b) of this section may be treated as lease expenditures if the department
28 determines that the repair or replacement is solely necessitated by an act of war, by an
29 unanticipated grave natural disaster or other natural phenomenon of an exceptional,
30 inevitable, and irresistible character, the effects of which could not have been
31 prevented or avoided by the exercise of due care or foresight, or by an intentional or

1 negligent act or omission of a third party, other than a party or its agents in privity of
 2 contract with, or employed by, the producer or an operator acting for the producer, but
 3 only if the producer or operator, as applicable, exercised due care in operating and
 4 maintaining the facility, pipeline, structure, or equipment, and took reasonable
 5 precautions against the act or omission of the third party and against the consequences
 6 of the act or omission; in this paragraph,

7 (A) "costs incurred for repair, replacement, or deferred
 8 maintenance of a facility, a pipeline, a structure, or equipment" includes costs
 9 to dismantle and remove the facility, pipeline, structure, or equipment that is
 10 being replaced;

11 (B) "hazardous substance" has the meaning given in
 12 AS 46.03.826;

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

14 (20) costs incurred to construct, acquire, or operate a refinery or crude
 15 oil topping plant, regardless of whether the products of the refinery or topping plant
 16 are used in oil or gas exploration, development, or production operations; however, if
 17 a producer owns a refinery or crude oil topping plant that is located on or near the
 18 premises of the producer's lease or property in the state and that processes the
 19 producer's oil produced from that lease or property into a product that the producer
 20 uses in the operation of the lease or property in drilling for or producing oil or gas, the
 21 producer's lease expenditures include the amount calculated by subtracting from the
 22 fair market value of the product used the prevailing value, as determined under
 23 AS 43.55.020(f), of the oil that is processed;

24 (21) costs of lobbying, public relations, public relations advertising, or
 25 policy advocacy;

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

29 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).