

CS FOR HOUSE BILL NO. 50(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/18/24

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to carbon storage on state land; relating to the powers and duties of the**
2 **Alaska Oil and Gas Conservation Commission; relating to carbon storage exploration**
3 **licenses; relating to carbon storage leases; relating to carbon storage operator permits;**
4 **relating to enhanced oil or gas recovery; relating to long-term monitoring and**
5 **maintenance of storage facilities; relating to carbon oxide sequestration tax credits;**
6 **relating to the duties of the Department of Natural Resources; relating to carbon dioxide**
7 **pipelines; and providing for an effective date."**

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

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 SHORT TITLE. This Act may be known as the Carbon Capture, Utilization, and
12 Storage Act.

13 * **Sec. 2.** AS 31.05.027 is amended to read:

1 **Sec. 31.05.027. Land subject to commission's authority.** The authority of the
 2 commission applies to all land in the state lawfully subject to its police powers,
 3 including land of the United States and land subject to the jurisdiction of the United
 4 States. The authority of the commission further applies to all land included in a
 5 voluntary cooperative or unit plan of development or operation entered into in
 6 accordance with AS 38.05.180(p) **or 38.05.725.**

7 * **Sec. 3.** AS 31.05.030(m) is amended to read:

8 (m) The commission has jurisdiction and authority over all persons and
 9 property, public and private, necessary to carry out the purposes and intent of
 10 AS 41.06, except for provisions in **AS 41.06.005 - 41.06.060 and 41.06.305**
 11 [AS 41.06] for which the Department of Natural Resources has jurisdiction.

12 * **Sec. 4.** AS 37.05.146(c) is amended by adding new paragraphs to read:

13 (86) carbon dioxide storage facility administrative fund
 14 (AS 41.06.160);

15 (87) carbon storage closure trust fund (AS 37.14.850).

16 * **Sec. 5.** AS 37.14 is amended by adding a new section to read:

17 **Article 11. Carbon Storage Closure Trust Fund.**

18 **Sec. 37.14.850. Carbon storage closure trust fund.** (a) The carbon storage
 19 closure trust fund is established as a separate trust fund of the state outside and
 20 separate from the general fund. The legislature may appropriate the principal and
 21 earnings of the fund for the purpose of protecting the public interest in maintaining
 22 and closing carbon storage facilities in the state. Money in the fund does not lapse.

23 (b) The carbon storage closure trust fund consists of payments received under
 24 AS 41.06.175 and earnings on the fund. The payments received for each storage
 25 facility shall be separately accounted for under AS 37.05.142. The commissioner of
 26 revenue is a fiduciary of the fund. The commissioner of revenue shall manage and
 27 invest the fund assets as provided in AS 37.10.071.

28 (c) The commissioner of natural resources may make expenditures from the
 29 carbon storage closure trust fund for the purpose of conducting long-term monitoring
 30 and maintenance of a storage facility under AS 41.06.305. If a storage operator is
 31 unable to fulfill the storage operator's duties and the financial assurance provided by

1 the storage operator under AS 41.06.110(c)(2) is exhausted or insufficient, the Alaska
 2 Oil and Gas Conservation Commission may make expenditures from the fund for the
 3 purposes allowed under AS 41.06.105 - 41.06.210.

4 (d) Nothing in this section creates a dedicated fund.

5 (e) In this section,

6 (1) "fund" means the carbon storage closure trust fund;

7 (2) "storage facility" and "storage operator" have the meanings given
 8 in AS 41.06.210.

9 * **Sec. 6.** AS 38.05.069(e) is amended to read:

10 (e) Nothing in (c) of this section affects the disposal of minerals under
 11 AS 38.05.135 - 38.05.183 **or carbon storage under AS 38.05.700 - 38.05.795.**

12 * **Sec. 7.** AS 38.05.070(a) is amended to read:

13 (a) Land, including tide, submerged, or shoreland, to which the state holds title
 14 or to which **the state** [IT] may become entitled, may be leased, except for the
 15 extraction of natural resources **and for carbon storage under AS 38.05.700 -**
 16 **38.05.795,** in the manner provided in AS 38.05.070 - 38.05.105.

17 * **Sec. 8.** AS 38.05.130 is amended to read:

18 **Sec. 38.05.130. Damages and posting of bond.** Rights may not be exercised
 19 by the state, its lessees, successors, or assigns under the reservation as set out in
 20 AS 38.05.125 until the state, its lessees, successors, or assigns make provision to pay
 21 the owner of the land full payment for all damages sustained by the owner, by reason
 22 of entering **onto** [UPON] the land. If the owner for any cause refuses or neglects to
 23 settle the damages, the state, its lessees, successors, assigns, or an applicant for a lease
 24 or contract from the state for the purpose of prospecting for valuable minerals, or
 25 option, contract, or lease for **carbon storage or** mining coal or **a** lease for extracting
 26 geothermal resources, petroleum, or natural gas, may enter **onto** [UPON] the land in
 27 the exercise of the reserved rights after posting a surety bond determined by the
 28 director, after notice and an opportunity to be heard, to be sufficient as to form,
 29 amount, and security to secure to the owner payment for damages, and may institute
 30 legal proceedings in a court where the land is located, as may be necessary to
 31 determine the damages **that** [WHICH] the owner may suffer.

1 * **Sec. 9.** AS 38.05.135(a) is amended to read:

2 (a) Except as otherwise provided, valuable mineral deposits in land belonging
3 to the state shall be open to exploration, development, and the extraction of minerals.
4 All land, together with tide, submerged, or shoreland, to which the state holds title to
5 or to which the state may become entitled, may be obtained by permit or lease for the
6 purpose of exploration, development, and the extraction of minerals. Except as
7 specifically limited by AS 38.05.131 - 38.05.181 and 38.05.700 - 38.05.795, land may
8 be withheld from lease application on a first-come, first-served basis, and offered only
9 on a competitive bid basis when determined by the commissioner to be in the best
10 interests of the state.

11 * **Sec. 10.** AS 38.05.135(c) is amended to read:

12 (c) Payment of a royalty or a net profit share payment to the state under a lease
13 issued under AS 38.05.135 - 38.05.181 or an injection charge under AS 38.05.700 -
14 38.05.795 becomes due on the date and in the manner specified in the lease or in a
15 regulation adopted by the commissioner.

16 * **Sec. 11.** AS 38.05.135(d) is amended to read:

17 (d) If a royalty or net profit share payment to which the state is entitled under
18 AS 38.05.135 - 38.05.181 or an injection charge under AS 38.05.700 - 38.05.795 is
19 not paid or is underpaid when it becomes due under (c) of this section, the unpaid
20 amount of the royalty, [OR] net profit share payment, or injection charge bears
21 interest in a calendar quarter at the rate of five percentage points above the annual rate
22 charged member banks for advances by the 12th Federal Reserve District as of the
23 first day of that calendar quarter, or at the annual rate of 11 percent, whichever is
24 greater, compounded quarterly as of the last day of that quarter.

25 * **Sec. 12.** AS 38.05.135(e) is amended to read:

26 (e) If a royalty or net profit share payment to which the state is entitled under
27 AS 38.05.135 - 38.05.181 or an injection charge under AS 38.05.700 - 38.05.795 is
28 overpaid, interest at the rate and compounded in the manner provided in (d) of this
29 section shall be allowed and paid on the overpayment. The interest allowance is
30 subject to the following:

31 (1) if the state grants a credit against future payments for the

1 overpayment, the state shall pay interest on the overpayment

2 (A) from the date that is the later of the date the overpayment

3 was

4 (i) due; or

5 (ii) received;

6 (B) to the date that is the earlier of the date

7 (i) of notice to the lessee of the credit; or

8 (ii) on which the lessee actually takes the credit;

9 (2) if the state refunds the overpayment, the state shall pay interest on
10 the overpayment

11 (A) from the date that is the later of the date the overpayment

12 was

13 (i) due; or

14 (ii) received;

15 (B) to the date the state issues the refund.

16 * **Sec. 13.** AS 38.05.140(a) is amended to read:

17 (a) A person may not take or hold coal leases or permits during the life of coal
18 leases on state land exceeding an aggregate of 92,160 acres, except that a person may
19 apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding
20 a total of 5,120 additional acres of state land. The additional area applied for shall be
21 in multiples of 40 acres, and the application shall contain a statement that the granting
22 of a lease for additional land is necessary for the person to carry on business
23 economically and is in the public interest. On the filing of the application, except as
24 provided by AS 38.05.180(ff)(3) or 38.05.180(gg) and 38.05.700 - 38.05.795, the coal
25 deposits in the land covered by the application shall be temporarily set aside and
26 withdrawn from all other forms of disposal provided under AS 38.05.135 - 38.05.181.

27 * **Sec. 14.** AS 38.05.184 is amended by adding a new subsection to read:

28 (h) A department or other state agency may not issue a carbon storage license
29 or lease on state-owned land and water seaward of the mean higher high water line,
30 beginning at Anchor Point; then around the perimeter of Kachemak Bay, to Point
31 Pogibshi; then west to the three mile limit of state land and water; then north to a point

1 three miles west of Anchor Point; then east to the mean higher high water line of
 2 Anchor Point, the point of beginning.

3 * **Sec. 15.** AS 38.05 is amended by adding new sections to read:

4 **Article 15A. Carbon Storage Exploration Licenses; Leases.**

5 **Sec. 38.05.700. Applicability; regulations.** (a) The provisions of
 6 AS 38.05.700 - 38.05.795 apply to the licensing of state land for carbon storage
 7 exploration and the leasing of state land for carbon storage.

8 (b) The commissioner may adopt regulations necessary to implement
 9 AS 38.05.700 - 38.05.795.

10 (c) The commissioner shall establish in regulation minimum acceptable
 11 commercial terms for carbon storage exploration licenses and carbon storage leases,
 12 including license fees, rental payments, injection charges, other forms of
 13 compensation, and financial assurances. The commissioner shall review and update a
 14 regulation adopted under this subsection at least every five years.

15 **Sec. 38.05.705. Carbon storage exploration licensing.** (a) The commissioner
 16 may issue carbon storage exploration licenses on state land.

17 (b) A carbon storage exploration license gives the licensee

18 (1) the exclusive right to explore, for carbon storage purposes, the state
 19 land described in the license for a five-year term; and

20 (2) the option to convert the license for all or part of the state land
 21 described in the license into a carbon storage lease after the licensee complies with the
 22 lease conversion process described in AS 38.05.715.

23 (c) A carbon storage exploration license must

24 (1) be conditioned on the posting of a bond or other security acceptable
 25 to the department and in favor of the state;

26 (2) be conditioned on an obligation by the licensee to fulfill a specified
 27 work commitment as set out in the license; the work commitment must include
 28 mandatory provisions for

29 (A) an annual fee paid by the licensee to the department in an
 30 amount applicable to a carbon storage exploration license under regulations
 31 adopted under AS 38.05.700(c), subject to the license; and

1 (B) an annual report describing the licensee's exploration
 2 activities in the previous calendar year, which the licensee shall provide to the
 3 department; and

4 (3) include proposed commercial terms that apply if the license is
 5 converted into a carbon storage lease, which must, at a minimum, meet the
 6 requirements of regulations adopted under AS 38.05.700(c).

7 (d) The commissioner may revoke a carbon storage exploration license before
 8 the termination of the five-year term of the license if the licensee fails to comply with
 9 the requirements of (c) of this section or applicable regulations.

10 (e) The department may renew a carbon storage exploration license for a term
 11 sufficient to determine whether the licensee's permit application will be accepted
 12 under AS 41.06.105 - 41.06.210 if the licensee

13 (1) before the expiration of the license, applies for a permit under
 14 AS 41.06.120;

15 (2) is in compliance with the conditions of the license;

16 (3) provides documentation acceptable to the department of the
 17 pending permit application; and

18 (4) submits to the department an executed renewal form affirming the
 19 original terms of the license for the term of the renewed license.

20 (f) A carbon storage exploration license that has been renewed under (e) of
 21 this section terminates immediately if the Alaska Oil and Gas Conservation
 22 Commission denies the licensee's permit application under AS 41.06.105 - 41.06.210.

23 **Sec. 38.05.710. License procedures.** (a) To apply for a carbon storage
 24 exploration license under AS 38.05.705, an applicant shall submit to the commissioner
 25 a proposal that

26 (1) identifies the specific area to be subject to the license;

27 (2) proposes minimum work commitments;

28 (3) proposes commercial terms applicable to a carbon storage lease
 29 under regulations adopted under AS 38.05.700(c);

30 (4) demonstrates the applicant's ability to assume responsibility of a
 31 carbon storage lease;

1 (5) describes how the applicant meets the minimum qualifications for a
2 licensee under applicable regulations; and

3 (6) includes an attestation of the applicant's ability to perform the
4 requirements of (2) - (4) of this subsection.

5 (b) The commissioner shall publish notice of a proposal received under (a) of
6 this section. The notice must include a solicitation for competing proposals. The
7 commissioner shall send a copy of the published notice to each lessee under
8 AS 38.05.135 - 38.05.181 within one-half mile of the area proposed for the
9 exploration license. Any person may submit a competing proposal under the process
10 established by the commissioner in regulation. The regulations must require that a
11 competing proposal be submitted not later than 90 days after the commissioner's
12 notice is published.

13 (c) After the period for submission of competing proposals has passed, the
14 commissioner shall issue a written finding determining whether issuance of a carbon
15 storage exploration license is in the best interests of the state. If the commissioner
16 determines that issuance of a carbon storage exploration license is in the best interests
17 of the state, the finding must

18 (1) describe the limitations, stipulations, and conditions of the license
19 and any changes to the conditions detailed in the proposal submitted under (a) of this
20 section, or a competing proposal, that are required before issuance of the exploration
21 license;

22 (2) set out the commercial terms required for the eventual conversion
23 of the exploration license into a carbon storage lease;

24 (3) if there are competing proposals from multiple applicants, identify
25 which applicants are qualified for the issuance of the exploration license and include
26 information about the competitive bid process as set out in (e) of this section; and

27 (4) include a copy of the exploration license to be issued and the form
28 of lease that will be used for any portion of the exploration license area that is later
29 converted to a lease under AS 38.05.715.

30 (d) If the commissioner determines that issuance of a carbon storage
31 exploration license is in the best interests of the state and that only one applicant is

1 qualified for a license, the applicant may accept or reject the exploration license, as
2 limited or conditioned by the terms of the finding made under (c) of this section and in
3 the form of lease attached to the finding, not later than 30 days after the date the
4 finding was issued. The applicant shall accept or reject the issuance of the carbon
5 storage exploration license in writing. If an applicant fails to respond within 30 days
6 after the finding was issued, the commissioner shall consider the applicant's failure to
7 respond as a rejection of the license.

8 (e) If the commissioner determines that issuance of a carbon storage
9 exploration license is in the best interests of the state and that more than one applicant
10 is qualified for a license, the commissioner shall issue a request for competitive sealed
11 bids, under procedures adopted by regulation, to determine which qualified applicants
12 will receive a license. If the commissioner determines that a competitive bid process is
13 necessary, the best interest finding made under (c) of this section must include notice
14 that the commissioner intends to request competitive bids.

15 (f) The commissioner shall establish in regulation the criteria for the
16 assessment of competitive bids under (e) of this section and for the determination of a
17 successful bidder.

18 (g) If a lessee under AS 38.05.135 - 38.05.181 in the area covered by a
19 proposed carbon storage exploration license participates in a competitive bid process
20 under (e) of this section and is not the successful bidder, before issuing the license, the
21 commissioner shall provide the lessee an opportunity to match the successful bid. If
22 the lessee matches the successful bid, the commissioner shall issue a carbon storage
23 exploration license to the lessee.

24 (h) A carbon storage exploration license issued under this section and a carbon
25 storage lease under AS 38.05.715 or 38.05.720 must include

26 (1) a covenant from the licensee or lessee not to unreasonably interfere
27 with the rights of a lessee under AS 38.05.135 - 38.05.181; and

28 (2) a clause by which the licensee or lessee indemnifies the state for
29 any unreasonable interference the licensee or lessee might cause to the rights of a
30 lessee under AS 38.05.135 - 38.05.181.

31 (i) When notice is required under this section, the department shall follow the

1 requirements for notice under AS 38.05.945(b) and (c).

2 **Sec. 38.05.715. Conversion to lease by licensee.** (a) The commissioner may
3 convert a carbon storage exploration license to a carbon storage lease if the licensee
4 complies with (b) of this section.

5 (b) To convert a carbon storage exploration license to a carbon storage lease, a
6 licensee shall provide to the commissioner a copy of the permit obtained under
7 AS 41.06.120. After receiving a copy of the permit, the commissioner may issue a
8 carbon storage lease for those areas of the exploration license approved for carbon
9 storage by the permit if the licensee has

10 (1) fulfilled the work commitments set out in the license;

11 (2) demonstrated the ability to meet the commercial terms for the lease
12 as set out in the license or in regulation.

13 (c) A lease issued under this section must include

14 (1) commercial terms for the lease as set out in the commissioner's
15 finding under AS 38.05.710(c);

16 (2) the agreements required under AS 38.05.710(h); and

17 (3) any other condition or obligation the commissioner considers
18 necessary or that is required by regulation.

19 **Sec. 38.05.720. Transition from enhanced oil recovery operations to**
20 **carbon storage operations.** (a) A lessee under AS 38.05.180 shall acquire a carbon
21 storage lease before engaging in carbon storage activity that is not associated with
22 enhanced oil or gas recovery.

23 (b) At the commissioner's discretion, the commissioner may issue a carbon
24 storage lease to a lessee under AS 38.05.180 if the lessee is in compliance with
25 regulations adopted under AS 41.06.185(b). The commissioner may consider the
26 qualifications and abilities of the lessee to meet the commercial requirements of a
27 carbon storage lease and whether issuance of the lease is in the best interests of the
28 state.

29 (c) A carbon storage lease issued under this section must include

30 (1) commercial terms acceptable to the department as required by
31 regulations adopted under AS 38.05.700(c);

1 (2) the agreements required under AS 38.05.710(h);

2 (3) any other condition or obligation the commissioner considers
3 necessary or that is required by regulation.

4 (d) Before a carbon storage lease issued under this section may be transferred
5 or assigned to an entity that is not the responsible party under the existing oil and gas
6 lease under AS 38.05.180, the assuming party must provide financial assurance
7 acceptable to the department that the obligations of the lease can be met.

8 (e) The department may adopt regulations that allow all or part of a lease
9 issued under AS 38.05.180 to be transitioned to a lease under this section upon the
10 receipt of a permit issued under AS 41.06.185.

11 **Sec. 38.05.725. Plan of development and operations; unitization.** (a) The
12 commissioner shall require the filing and approval of a plan of development and
13 operation for a carbon storage lease.

14 (b) To prevent or assist in preventing waste, and to protect the correlative
15 rights of persons owning interest in the tracts of land affected, with the approval of the
16 commissioner, a group of lessees may validly integrate the lessees' interests to provide
17 for the unitized management, development, and operation of the tracts of land as a
18 unit. The commissioner may suspend or modify a development plan approved under
19 (a) of this section in accordance with the unit agreement. In this subsection, "unit
20 agreement" means an agreement by lessees with an interest in the unit, the state, and
21 any other carbon storage lessor with an interest in the unit.

22 (c) A lease operated under a plan approved or prescribed by the commissioner
23 under this section is excepted from determining holdings or control under
24 AS 38.05.140. The provisions of this section concerning cooperative or unit plans are
25 in addition to and do not affect AS 31.05 and AS 41.06.

26 **Sec. 38.05.730. Payments from carbon storage exploration licenses and**
27 **carbon storage leases.** Except as otherwise provided under art. IX, sec. 15,
28 Constitution of the State of Alaska, the department shall deposit in the general fund
29 the money it collects under AS 38.05.700 - 38.05.795.

30 **Sec. 38.05.735. Annual report to the legislature.** The commissioner shall
31 prepare an annual report that includes an accounting of the carbon storage closure trust

1 fund established under AS 37.14.850 and information on carbon storage licensing
 2 applications and decisions and the issuance of carbon storage leases. The
 3 commissioner shall submit the report to the senate secretary and the chief clerk of the
 4 house of representatives on or before February 1 of each year and notify the legislature
 5 that the report is available.

6 **Sec. 38.05.795. Definitions.** In AS 38.05.700 - 38.05.795, unless the context
 7 requires otherwise,

8 (1) "carbon storage" means the underground storage of carbon dioxide
 9 in a carbon storage reservoir;

10 (2) "enhanced oil or gas recovery" has the meaning in AS 41.06.210;

11 (3) "reservoir" has the meaning given in AS 41.06.210.

12 * **Sec. 16.** AS 38.35.020(a) is amended to read:

13 (a) Rights-of-way on state land, including rights-of-way over, under, along,
 14 across, or on [UPON] the right-of-way of a public road or highway or the right-of-way
 15 of a railroad or other public utility, or across, on [UPON], over, or under a river or
 16 other body of water or land belonging to or administered by the state may be granted
 17 by noncompetitive lease by the commissioner for pipeline purposes for the
 18 transportation of oil, products, **carbon dioxide**, or natural gas under those conditions
 19 prescribed by law or by administrative regulation. Except to the extent authorized by
 20 an oil and gas lease, a gas only lease, **or a carbon storage lease**, or an oil and gas,
 21 [OR] gas only, **or carbon storage** unit agreement approved by the state, no person
 22 may engage in any construction or operation of any part of an oil, products, **carbon**
 23 **dioxide**, or natural gas pipeline **that is or is proposed to be**, [WHICH] in whole or in
 24 part, [IS OR IS PROPOSED TO BE] on state land unless that person has obtained
 25 from the commissioner a right-of-way lease of the land under this chapter.

26 * **Sec. 17.** AS 38.35.020(b) is amended to read:

27 (b) The commissioner may by regulation exempt **from the requirement of a**
 28 **right-of-way lease under this chapter** the construction or operation of

29 (1) field gathering lines or any reasonable classification of **field**
 30 **gathering lines; and**

31 (2) **a pipeline transporting carbon dioxide within a field for the**

1 **purpose of an enhanced oil or gas recovery project under AS 41.06.185 or field**
 2 **pressurization measures within that same field** [THEM FROM THE
 3 REQUIREMENT OF A RIGHT-OF-WAY LEASE UNDER THIS CHAPTER].

4 * **Sec. 18.** AS 38.35.122 is amended to read:

5 **Sec. 38.35.122. Products pipeline and carbon dioxide transportation**
 6 **pipeline leases.** The commissioner has discretion to include any or all of the terms set
 7 out in AS 38.35.120 in leases of state land for products pipeline right-of-way purposes
 8 **or carbon dioxide transportation pipeline right-of-way purposes.**

9 * **Sec. 19.** AS 38.35.230(3) is amended to read:

10 (3) "lease" means the instrument or extension of an instrument issued
 11 under this chapter granting a leasehold interest in state land for pipeline right-of-way
 12 purposes to a person and authorizing the construction or operation of, or **the**
 13 transportation, service, or sale by, a pipeline for crude oil, natural gas, **carbon**
 14 **dioxide,** or products;

15 * **Sec. 20.** AS 38.35.230(7) is amended to read:

16 (7) "pipeline" or "pipeline facility" means all the facilities of a total
 17 system of pipe, whether owned or operated under a contract, agreement, or lease, used
 18 by a carrier for transportation of crude oil, natural gas, **carbon dioxide,** or products for
 19 delivery, for storage, or for further transportation, and including all pipe, pump or
 20 compressor stations, station equipment, tanks, valves, access roads, bridges, airfields,
 21 terminals and terminal facilities, including docks and tanker loading facilities,
 22 operations control center for both the upstream part of the pipeline and the terminal,
 23 tanker ballast treatment facilities, and fire protection system, communication system,
 24 and all other facilities used or necessary for an integral line of pipe, taken as a whole,
 25 to **carry out** [EFFECTUATE] transportation, including an extension or enlargement
 26 of the line;

27 * **Sec. 21.** AS 38.35.230(10) is amended to read:

28 (10) "transportation" means the shipment or carriage by a pipeline of
 29 crude oil, natural gas, **carbon dioxide,** or products from an upstream terminus in one
 30 or more fields or points of production or supply of the minerals to a downstream
 31 terminus in one or more points for delivery of the minerals to a purchaser or

1 consignee, for storage, or for further carriage or shipment, including shipment or
 2 carriage within the state that may be classified as interstate or foreign transportation to
 3 the extent that the transportation may constitutionally be subjected to the provisions of
 4 this chapter, as well as all services necessary to **carry out** [EFFECTUATE] shipment
 5 or carriage, including [, AMONG OTHER THINGS,] the receipt, storage, processing,
 6 handling, transfer in transit, forwarding, and delivery of the minerals.

7 * **Sec. 22.** AS 38.35.230 is amended by adding a new paragraph to read:

8 (11) "carbon dioxide" has the meaning given in AS 41.06.210.

9 * **Sec. 23.** AS 41.06.005 is amended to read:

10 **Sec. 41.06.005. Jurisdiction over geothermal resources.** (a) The commission
 11 has jurisdiction under **AS 41.06.005 - 41.06.060** [THIS CHAPTER] over geothermal
 12 wells to prevent waste, to protect correlative rights, and to ensure public safety.

13 (b) The Department of Natural Resources has jurisdiction under **AS 41.06.005**
 14 **- 41.06.060** [THIS CHAPTER] over management of geothermal leases and units in the
 15 public interest and to effect development.

16 * **Sec. 24.** AS 41.06.020 is amended to read:

17 **Sec. 41.06.020. Authority of commission; application.** (a) The commission
 18 has jurisdiction over all persons and property, public and private, necessary to carry
 19 out the purposes and intent of **AS 41.06.005 - 41.06.060** [THIS CHAPTER].

20 (b) The authority of the commission applies to all land in the state lawfully
 21 subject to the police power of the state, including private land, municipal land, state
 22 land, land of the United States, and land subject to the jurisdiction of the United
 23 States, and to all land included in a voluntary cooperative or unit plan of development
 24 or operation entered into in accordance with AS 38.05.181. When land that is subject
 25 to the commission's authority is committed to a unit agreement involving land subject
 26 to federal jurisdiction, the operation of **AS 41.06.005 - 41.06.060** [THIS CHAPTER]
 27 or a part of **AS 41.06.005 - 41.06.060** [THIS CHAPTER] may be suspended if

28 (1) the unit operations are regulated by the United States; and

29 (2) the conservation of geothermal resources is accomplished under the
 30 unit agreement.

31 (c) **The provisions of AS 41.06.005 - 41.06.060 apply** [THIS CHAPTER

1 APPLIES]

2 (1) to wells drilled in search of, in support of, or for the recovery or
3 production of geothermal resources;

4 (2) when a person engaged in drilling activity not otherwise subject to
5 the provisions of AS 41.06.005 - 41.06.060 [THIS CHAPTER] encounters geothermal
6 resources, fluid, or water of sufficient heat or pressure to constitute a threat to human
7 life or health unless the drilling operation is subject to oil and gas drilling regulation
8 under AS 31.05;

9 (3) in areas and under conditions in which the commission determines
10 that drilling may encounter geothermal resources, fluid, or water of sufficient heat or
11 pressure to constitute a threat to human life or health.

12 (d) To the extent the provisions of AS 31.05 do not conflict with the
13 provisions of AS 41.06.005 - 41.06.060 [THIS CHAPTER], the provisions of
14 AS 31.05 are applicable to wells drilled in search of, in support of, or for the recovery
15 or production of geothermal resources.

16 (e) Nothing in AS 41.06.005 - 41.06.060 [THIS CHAPTER] limits the
17 authority of the department

18 (1) over geothermal resources under AS 38.05.181; or

19 (2) to approve and manage geothermal units or operations that include
20 state land.

21 * **Sec. 25.** AS 41.06.030(e) is amended to read:

22 (e) The commissioner may adopt regulations under AS 44.62 (**Administrative**
23 **Procedure Act**) to carry out the purposes and intent of AS 41.06.005 - 41.06.060
24 [THIS CHAPTER] for duties assigned to the department, including the promotion of
25 maximum economic recovery.

26 * **Sec. 26.** AS 41.06.035(b) is amended to read:

27 (b) The commission may adopt regulations under AS 44.62 (**Administrative**
28 **Procedure Act**) and issue orders appropriate to carry out the purposes and intent of
29 AS 41.06.005 - 41.06.060 [THIS CHAPTER] for duties assigned to the commission,
30 including orders regarding the establishment of drilling units for pools as set out in
31 AS 31.05.100 and orders regarding unitized operation and integration of interests as

1 set out in AS 31.05.110.

2 * **Sec. 27.** AS 41.06.040(a) is amended to read:

3 (a) The commission shall adopt regulations under AS 44.62 (Administrative
4 Procedure Act), issue orders, and take other appropriate action to carry out the
5 purposes and intent of AS 41.06.005 - 41.06.060 [THIS CHAPTER], including
6 adopting regulations to prevent

7 (1) geothermal resources, water or other fluids, and gases from
8 escaping into strata other than that in which they are found, unless in accordance with
9 an approved reinjection program;

10 (2) contamination of surface and groundwater;

11 (3) premature degradation of a geothermal system by water
12 encroachment or otherwise;

13 (4) blowouts, cavings, and seepage; and

14 (5) unreasonable disturbance or injury to neighboring properties, prior
15 water rights, prior oil or gas rights, human life, health, and the natural environment.

16 * **Sec. 28.** AS 41.06.050(e) is amended to read:

17 (e) In making the determination under (d) of this section, the commission shall
18 consider whether the

19 (1) proposed well will significantly interfere with or substantially
20 impair a prior water, oil, or gas right;

21 (2) proposed well is contrary to a provision of AS 41.06.005 -
22 41.06.060 [THIS CHAPTER], a regulation adopted by the commission, another law,
23 or an order, stipulation, or term of a permit issued by the commission; and

24 (3) applicant is in violation of a provision of AS 41.06.005 - 41.06.060
25 [THIS CHAPTER], a regulation adopted by the commission, another law, or an order,
26 stipulation, or term of a permit issued by the commission; the commission shall
27 consider the magnitude of the violation.

28 * **Sec. 29.** AS 41.06.055(c) is amended to read:

29 (c) The commission shall determine the regulatory cost charges levied under
30 this section so that the total amount to be collected approximately equals the
31 appropriations made for the operating costs of the commission that have been incurred

1 under AS 41.06.005 - 41.06.060 [THIS CHAPTER] for the fiscal year.

2 * **Sec. 30.** AS 41.06.055(d) is amended to read:

3 (d) The commission shall collect the regulatory cost charges imposed under
4 this section. The Department of Administration shall identify the amount of
5 appropriations made for the operating costs of the commission under AS 41.06.005 -
6 41.06.060 [THIS CHAPTER] that lapse into the general fund each year. The
7 legislature may appropriate an amount that is at least equal to the lapsed amount to the
8 commission for its operating costs under AS 41.06.005 - 41.06.060 [THIS
9 CHAPTER] for the next fiscal year. If the legislature makes an appropriation to the
10 commission under this subsection that is equal to or greater than the lapsed amount,
11 the commission shall reduce the total regulatory cost charge collected for that fiscal
12 year by a comparable amount.

13 * **Sec. 31.** AS 41.06.060 is amended to read:

14 **Sec. 41.06.060. Definitions.** In AS 41.06.005 - 41.06.060 [THIS CHAPTER],
15 unless the context otherwise requires,

16 (1) "commercial use" means the sale of heat or power to a third party;

17 (2) "commission" means the Alaska Oil and Gas Conservation
18 Commission created under AS 31.05.005;

19 (3) "correlative rights" means the right of an owner of each property in
20 a geothermal system to produce without waste the owner's just and equitable share of
21 the geothermal resources in the geothermal system; a just and reasonable share is an
22 amount, so far as can be practically determined and so far as can be practically
23 produced without waste, that is substantially in proportion to the quantity of
24 recoverable geothermal resources under the owner's property relative to the total
25 recoverable geothermal resources in the geothermal system;

26 (4) "geothermal fluid" means liquids and steam at temperatures greater
27 than 120 degrees Celsius or any commercial use of liquids and steam naturally present
28 in a geothermal system at temperatures less than 120 degrees Celsius;

29 (5) "geothermal resources"

30 (A) means the natural heat of the earth at temperatures greater
31 than 120 degrees Celsius, or any use of that heat for commercial purposes,

1 measured at the point **at which** [WHERE] the highest-temperature resources
2 encountered enter or contact a well or other resource extraction device or any
3 commercial use of the natural heat of the earth;

4 (B) includes

5 (i) the energy, including pressure, in whatever form
6 present in, resulting from, created by, or that may be extracted from
7 that natural heat;

8 (ii) the material medium, including steam and other
9 gases, hot water, and hot brines constituting the geothermal fluid
10 naturally present, as well as substances artificially introduced to serve
11 as a heat transfer medium; and

12 (iii) all dissolved or entrained minerals and gases that
13 may be obtained from the material medium, but excluding hydrocarbon
14 substances and helium;

15 (6) "geothermal system" means a stratum, pool, reservoir, or other
16 geologic formation containing geothermal resources;

17 (7) "operator" means a person drilling, maintaining, operating,
18 producing, or in control of a well;

19 (8) "owner" means the person who has the right to drill into or produce
20 from a geothermal system and to appropriate the geothermal resources produced from
21 a geothermal system for that person and others;

22 (9) "waste" means, in addition to its ordinary meaning, physical waste,
23 and includes an inefficient, excessive, or improper production, use, or dissipation of
24 geothermal resources, including

25 (A) drilling, transporting, or storage methods that cause or tend
26 to cause unnecessary surface loss of geothermal resources;

27 (B) locating, spacing, drilling, equipping, operating, producing,
28 or venting of a well in a manner that results or tends to result in reducing the
29 ultimate economic recovery of geothermal resources;

30 (10) "well" means a well drilled, converted, or reactivated for the
31 discovery, testing, production, or subsurface injection of geothermal resources.

1 * **Sec. 32.** AS 41.06 is amended by adding new sections to read:

2 **Article 2. Carbon Storage; Injection.**

3 **Sec. 41.06.105. Jurisdiction over storage facilities.** The commission has
4 jurisdiction under AS 41.06.105 - 41.06.210 over storage facilities to prevent waste,
5 protect correlative rights, and ensure public health and safety.

6 **Sec. 41.06.110. Authority of the commission.** (a) The authority of the
7 commission applies to all land

8 (1) in the state lawfully subject to the police power of the state,
9 including private land, municipal land, state land, federal land, and land subject to the
10 jurisdiction of the United States; and

11 (2) included in a voluntary cooperative or unit plan of development or
12 operation entered into in accordance with AS 38.05.725.

13 (b) When land that is subject to the commission's authority is committed to a
14 unit agreement involving land subject to federal jurisdiction, the operation of
15 AS 41.06.105 - 41.06.210 may be suspended if

16 (1) the unit operations are regulated by the United States; and

17 (2) conservation of resources in the reservoir or pool is accomplished
18 in the agreement.

19 (c) The commission has the authority to

20 (1) regulate activities related to a storage facility, including the
21 construction, operation, and closure of the facility;

22 (2) require that storage operators provide assurance, including bonds,
23 that money is available to fulfill the storage operator's duties;

24 (3) enter, at a reasonable time and in a reasonable manner, a storage
25 facility to

26 (A) inspect equipment and facilities;

27 (B) observe, monitor, and investigate operation; and

28 (C) inspect records required to be maintained at the facility;

29 (4) exercise continuing jurisdiction over storage operators and storage
30 facilities, including the authority, after notice and hearing, to amend provisions in a
31 permit and to revoke a permit; and

1 (5) dissolve or change the boundaries of an oil or gas field or unit
2 established by the commission that is within or near the boundaries of a storage
3 reservoir.

4 (d) To the extent AS 31.05 does not conflict with AS 41.06.105 - 41.06.210,
5 the provisions of AS 31.05 are applicable to wells drilled in search of, in support of,
6 and for carbon storage.

7 (e) Nothing in AS 41.06.105 - 41.06.210 limits the authority of the
8 Department of Natural Resources under AS 38.05.700 - 38.05.795 or AS 41.06.305.

9 **Sec. 41.06.115. Waste prohibited; investigation.** Waste in a storage facility
10 or storage reservoir in the state is prohibited. The commission may investigate to
11 determine whether waste exists or is imminent, or whether other facts exist that justify
12 or require action by the commission to prohibit waste. The injection of carbon dioxide
13 and substances commonly associated with carbon dioxide injection is not considered
14 waste.

15 **Sec. 41.06.120. Storage facility permit.** (a) A storage operator is required to
16 obtain a permit from the commission to operate a storage facility.

17 (b) A permit may not be transferred unless the commission consents.

18 (c) A person applying for a permit shall

19 (1) request a preapplication meeting with the commission staff;

20 (2) comply with application requirements;

21 (3) pay a fee in an amount determined by the commission; and

22 (4) pay the commission the cost the commission incurs in reviewing
23 the person's application, publishing notices for hearings, and holding hearings on the
24 person's permit application.

25 (d) A permit application must include sufficient information to enable the
26 commission to determine whether the storage facility will interfere with or impair an
27 existing water, oil, gas, or other mineral interest.

28 (e) The commission shall set the amount of the fee in (c)(3) of this section
29 based on the anticipated cost to the commission associated with processing
30 applications, including preliminary work in advance of receiving an application. The
31 commission may enter into an agreement with a prospective applicant that requires the

1 applicant to reimburse the commission for reasonable costs of work incurred in
2 preparing for activities before the commission receives an application.

3 (f) The commission shall deposit fees collected under this section in the
4 carbon dioxide storage facility administrative fund established in AS 41.06.160.

5 **Sec. 41.06.125. Hearing on permit application.** (a) Before issuing a permit
6 for a storage facility, the commission shall hold a public hearing.

7 (b) The commission shall provide notice of a public hearing under this section.
8 The commission shall provide notice in the same manner as a notice under
9 AS 31.05.050(b) and shall provide notice to

10 (1) each mineral lessee, mineral owner, and mineral right owner of
11 record within the storage reservoir and within one-half mile of the boundaries of the
12 storage reservoir;

13 (2) each surface owner of land overlying the storage reservoir and
14 within one-half mile of the boundaries of the storage reservoir; and

15 (3) any additional persons that the commission considers necessary.

16 (c) A hearing notice required by this section must comply with deadlines set
17 by the commission.

18 **Sec. 41.06.130. Permit requirements.** (a) The commission shall consult with
19 the Department of Environmental Conservation and the Department of Natural
20 Resources before issuing a permit under AS 41.06.120.

21 (b) Before the commission may approve a permit application submitted under
22 AS 41.06.120, the commission must find

23 (1) that the storage operator has complied with all requirements set by
24 the commission;

25 (2) that the proposed storage facility is suitable and feasible for carbon
26 storage;

27 (3) that the carbon dioxide to be stored is of a quality that allows it to
28 be safely and efficiently stored in the storage reservoir;

29 (4) that the storage operator has made a good faith effort to get the
30 consent of all persons with an ownership interest in the proposed storage reservoir and
31 surface owners of land overlying the proposed storage reservoir;

1 (5) if the proposed storage facility contains commercially valuable
 2 minerals, that the interests of the mineral owners or mineral lessees will not be
 3 adversely affected or have been addressed in an arrangement entered into by the
 4 mineral owners or mineral lessees and the storage operator;

5 (6) that the proposed storage facility will not adversely affect surface
 6 water or formations containing fresh water;

7 (7) that carbon dioxide is not reasonably anticipated to escape from the
 8 storage reservoir;

9 (8) that substances that compromise the objectives of AS 41.06.105 -
 10 41.06.210 or the integrity of a storage reservoir will not enter a storage reservoir;

11 (9) that the proposed storage facility will not endanger human health or
 12 unduly endanger the environment;

13 (10) that the proposed storage facility is in the public interest;

14 (11) that the horizontal and vertical boundaries of the proposed storage
 15 reservoir are defined and the boundaries include buffer areas to ensure that the storage
 16 facility is operated safely and as contemplated;

17 (12) that the storage operator will establish monitoring facilities and
 18 protocols to assess the location and migration of carbon dioxide injected for carbon
 19 storage and to ensure compliance with all permit, statutory, and administrative
 20 requirements;

21 (13) that all nonconsenting landowners or holders of mineral rights are,
 22 or will be, equitably compensated; and

23 (14) that the storage operator is not in violation of a provision of
 24 AS 41.06.105 - 41.06.210 or regulations adopted by the commission.

25 **Sec. 41.06.135. Permit provisions.** The commission may include in a permit
 26 or order any parameters necessary to carry out the objectives of AS 41.06.105 -
 27 41.06.210, prevent waste, protect correlative rights, and ensure the health and safety of
 28 persons affected by the permit.

29 **Sec. 41.06.140. Amalgamating property interests.** If a storage operator does
 30 not obtain the consent of all persons with an ownership interest in the storage
 31 reservoir, the commission may order that the pore space rights of nonconsenting

1 owners be included in a storage facility and subject to carbon storage. Before the
2 commission may issue an order forming an amalgamation under this section, the
3 commission shall provide public notice and hold a hearing.

4 **Sec. 41.06.145. Certificate.** When the commission issues a permit under
5 AS 41.06.120, the commission shall also issue a certificate that states that the permit
6 has been issued, describes the area covered, and contains other information the
7 commission considers appropriate. The storage operator may file a copy of the
8 certificate with the office of the recorder in the district in which the storage facility is
9 located.

10 **Sec. 41.06.150. Environmental protection; storage reservoir integrity.** (a)
11 The commission shall take action to ensure that

12 (1) substances that compromise the integrity of a storage reservoir do
13 not enter a storage reservoir; and

14 (2) carbon dioxide does not escape from a storage facility.

15 (b) For the purposes of this section, and in the application of other laws,
16 carbon dioxide that is stored and remains in carbon storage under a permit is not
17 considered a pollutant and does not constitute a nuisance.

18 (c) The commission's authority under (a) of this section does not limit the
19 jurisdiction of the Department of Environmental Conservation.

20 **Sec. 41.06.155. Preservation of rights.** Nothing in AS 41.06.105 - 41.06.210

21 (1) prejudices the rights of a person with a property interest in a
22 storage facility to exercise rights that have not been committed to the storage facility;
23 or

24 (2) prevents a mineral owner or mineral lessee from drilling through or
25 near a storage reservoir to explore for and develop minerals if the drilling, production,
26 and related activities comply with requirements set by the commission to preserve the
27 integrity of the storage facility and protect the objectives of AS 41.06.105 - 41.06.210.

28 **Sec. 41.06.160. Fees; carbon dioxide storage facility administrative fund.**

29 (a) A storage operator shall pay to the commission a fee on each metric ton of carbon
30 dioxide injected for carbon storage. The commission shall set the amount of the fee
31 based on the anticipated expenses the commission will incur in regulating storage

1 facilities during each phase, including the construction, operational, and pre-
 2 completion phases. The commission shall deposit a fee collected under this subsection
 3 in the carbon dioxide storage facility administrative fund established in (b) of this
 4 section.

5 (b) The carbon dioxide storage facility administrative fund is established in
 6 the general fund. The fund consists of

- 7 (1) fees received under (a) of this section;
- 8 (2) fees received under AS 41.06.120 and 41.06.195; and
- 9 (3) interest earned on money in the fund.

10 (c) Money in the carbon dioxide storage facility administrative fund shall be
 11 separately accounted for under AS 37.05.142. The legislature may appropriate the
 12 money in the fund to the commission to carry out the purposes of AS 41.06.105 -
 13 41.06.210.

14 **Sec. 41.06.165. Title to carbon dioxide.** The storage operator has title to the
 15 carbon dioxide injected into and stored in a storage reservoir and holds title until the
 16 commission issues a certificate of completion under AS 41.06.170. While the storage
 17 operator holds title, the operator is liable for any damage the carbon dioxide may
 18 cause, including damage caused by carbon dioxide that escapes from the storage
 19 facility. When a certificate of completion is issued under AS 41.06.170, title to carbon
 20 dioxide injected into and stored in a storage reservoir is transferred to the owner of the
 21 pore space, unless the storage operator and the owner of the pore space have a
 22 contrary agreement.

23 **Sec. 41.06.170. Certificate of completion.** (a) Once a storage operator
 24 discontinues carbon dioxide injections into a storage reservoir, and upon application
 25 by the storage operator, the commission may issue a certificate of completion

- 26 (1) only after public notice and hearing; the commission shall establish
 27 notice requirements for a hearing under this paragraph;
- 28 (2) only after the commission consults with the Department of
 29 Environmental Conservation, the Department of Natural Resources, and all persons
 30 with an ownership interest in the storage reservoir; and
- 31 (3) after a period of at least 50 years, or another period approved by

1 the commission for the storage reservoir based on requirements established in
2 regulation, has elapsed since the last carbon dioxide injection into the storage
3 reservoir.

4 (b) The commission may issue a certificate of completion only if the storage
5 operator

6 (1) has fully complied with all laws governing the storage facility;

7 (2) shows that the operator has addressed all pending claims regarding
8 the operation of the storage facility;

9 (3) shows that the underground place or pore space in which the
10 injected carbon dioxide is stored is not expected to pose a threat to human health,
11 human safety, the environment, or underground sources of drinking water;

12 (4) shows that the stored or injected carbon dioxide is unlikely to cross
13 an underground or pore space boundary and is not expected to endanger an
14 underground source of drinking water or otherwise endanger human health, human
15 safety, or the environment;

16 (5) shows that all wells, equipment, and facilities allowed to remain in
17 place following post-injection site care and site closure are in good condition and
18 retain mechanical integrity;

19 (6) shows that the operator has plugged wells, removed equipment and
20 facilities, and completed reclamation work as required by the commission and the
21 Department of Natural Resources;

22 (7) has paid all fees and surcharges owed for the storage facility; and

23 (8) meets any other regulatory requirements established by the state.

24 (c) Once a certificate of completion is issued, the department assumes primary
25 responsibility for long-term monitoring and maintenance of the storage facility, as
26 provided in AS 41.06.305. The storage operator and all persons who generated
27 injected carbon dioxide are released from liability to the state associated with the
28 storage facility in an amount equal to the amount attributed to the storage facility in
29 the carbon storage closure trust fund established in AS 37.14.850. The state, the
30 department, or the commission is not liable for damages arising out of, or in any
31 manner connected with, long-term monitoring and maintenance of a storage facility if

1 the amount for the storage facility separately accounted for in the carbon storage
 2 closure trust fund established in AS 37.14.850 is unavailable or insufficient. A bond
 3 posted by the storage operator under AS 41.06.110(c)(2) must be released. In this
 4 subsection, "long-term monitoring and maintenance" has the meaning given in
 5 AS 41.06.305(e).

6 **Sec. 41.06.175. Carbon storage facility injection surcharge.** (a) A storage
 7 operator injecting carbon dioxide at a storage facility shall pay to the commission a
 8 surcharge each year for the first 12 years that carbon dioxide is injected at the storage
 9 facility. The commission shall deposit the surcharge into the general fund. The
 10 legislature may appropriate a surcharge collected under this subsection into the carbon
 11 storage closure trust fund established in AS 37.14.850.

12 (b) The annual surcharge in this section is determined by the following
 13 formula: $S = (7,500,000 \times (I/261.78)) / 12$, where

14 (1) S is the dollar amount of the annual surcharge for a storage facility;

15 (2) I is equal to the Consumer Price Index for urban consumers for
 16 urban Alaska, as determined by the United States Department of Labor, Bureau of
 17 Labor Statistics, without seasonal adjustment, for December of the calendar year
 18 immediately preceding the year of issuance of the storage facility permit.

19 **Sec. 41.06.180. Penalties.** (a) In addition to the penalties in (b) - (d) of this
 20 section, a person who violates a provision of AS 41.06.105 - 41.06.210, a regulation
 21 adopted under AS 41.06.105 - 41.06.210, or an order or term of a permit issued by the
 22 commission under AS 41.06.105 - 41.06.210 is liable for a civil penalty of not more
 23 than \$100,000 for the initial violation and not more than \$10,000 for each day
 24 thereafter on which the violation continues.

25 (b) A person who knowingly commits an act specified in AS 11.46.630(a) for
 26 the purpose of evading a provision of AS 41.06.105 - 41.06.210, a regulation adopted
 27 under AS 41.06.105 - 41.06.210, or an order, stipulation, or term of a permit issued by
 28 the commission is guilty of a class A misdemeanor.

29 (c) A person who knowingly violates a provision of AS 41.06.105 - 41.06.210,
 30 a regulation adopted under AS 41.06.105 - 41.06.210, or an order, stipulation, or term
 31 of a permit issued by the commission is guilty of a class A misdemeanor punishable

1 by a fine of not more than \$10,000 a day for each day of violation.

2 (d) A person who knowingly aids or abets another person in the violation of a
3 provision of AS 41.06.105 - 41.06.210, a regulation adopted under AS 41.06.105 -
4 41.06.210, or an order, stipulation, or term of a permit issued by the commission is
5 subject to the same penalty as that prescribed in this section for the violation by the
6 other person.

7 (e) The commission may assess the civil penalties provided in this section,
8 and, if not paid, the penalties are recoverable by suit filed by the attorney general in
9 the name and on behalf of the commission in the superior court. The payment of a
10 penalty does not relieve a person on whom the penalty is imposed from liability to any
11 other person for damages arising out of the violation.

12 (f) In determining the amount of a penalty assessed under (a) of this section,
13 the commission shall consider

14 (1) the extent to which the person committing the violation was acting
15 in good faith in attempting to comply;

16 (2) the extent to which the person committing the violation acted in a
17 wilful or knowing manner;

18 (3) the extent and seriousness of the violation and the actual or
19 potential threat to public health or the environment;

20 (4) the economic or environmental harm or injury to the public caused
21 by the violation;

22 (5) the economic value or other benefits derived by the person
23 committing the violation from the commission of the violation;

24 (6) any history of previous violations by the person committing the
25 violation;

26 (7) the need to deter similar behavior by the person committing the
27 violation and others similarly situated at the time of the violation or in the future;

28 (8) the effort made by the person committing the violation to correct
29 the violation and prevent future violations; and

30 (9) other matters justice requires.

31 **Sec. 41.06.185. Enhanced oil or gas recovery.** (a) Except as provided in (b)

1 of this section, the provisions of AS 41.06.105 - 41.06.210 do not apply to
2 applications filed with the commission proposing to use carbon dioxide for enhanced
3 oil or gas recovery.

4 (b) The commission may adopt regulations that allow enhanced oil or gas
5 recovery and related well activities to be converted to a storage facility. The
6 regulations must require that, in considering whether to approve a conversion, and
7 upon conversion, the provisions of AS 41.06.105 - 41.06.210 apply. The regulations
8 may impose additional requirements to AS 41.06.105 - 41.06.210, or describe specific
9 situations in which the requirements of AS 41.06.105 - 41.06.210 are waived, to
10 ensure that the objectives of AS 41.06.105 - 41.06.210 are met.

11 **Sec. 41.06.190. Cooperative agreements and contracts.** (a) The commission
12 may enter into agreements with other governments, government entities, and state
13 agencies for the purpose of carrying out the objectives of AS 41.06.105 - 41.06.210.

14 (b) The commission may enter into contracts with private persons to assist in
15 carrying out the objectives of AS 41.06.105 - 41.06.210. If an emergency exists, the
16 commission may enter into contracts without public notice and without competitive
17 bidding.

18 **Sec. 41.06.195. Determining capacity of storage reservoir; carbon credits;**
19 **fees.** (a) The commission may adopt a written policy establishing procedures and
20 criteria that the commission will use to determine the carbon storage capacity of a
21 storage reservoir, including for the purpose of enhanced oil or gas recovery.

22 (b) The purpose of determining the carbon storage capacity of a storage
23 reservoir is to facilitate calculating the amount of stored carbon dioxide for matters
24 including carbon credits, allowances, trading, emissions allocations, and offsets. The
25 commission may charge a reasonable fee to a person requesting a capacity
26 determination. The commission shall set the fee by regulation. The commission shall
27 deposit fees received under this subsection in the carbon dioxide storage facility
28 administrative fund established in AS 41.06.160.

29 (c) In this section, "carbon storage capacity of a storage reservoir" means the
30 maximum injected volume in a storage reservoir at which the pressure in the reservoir
31 does not pose a risk to the integrity of the reservoir or its ability to maintain carbon

1 storage.

2 **Sec. 41.06.210. Definitions.** In AS 41.06.105 - 41.06.210, unless the context
3 requires otherwise,

4 (1) "carbon dioxide" means carbon dioxide of a quality that will not
5 compromise

6 (A) the safety of carbon storage; and

7 (B) the properties of a storage reservoir that allow the reservoir
8 to effectively enclose and contain a stored gas or stored supercritical fluid;

9 (2) "carbon storage" means the underground storage of carbon dioxide
10 in a storage reservoir;

11 (3) "commission" means the Alaska Oil and Gas Conservation
12 Commission created under AS 31.05.005;

13 (4) "enhanced oil or gas recovery" means the increased recovery of
14 hydrocarbons, including oil and gas, from a common source of supply achieved by
15 artificial means or by the application of energy extrinsic to the common source of
16 supply, including pressuring, cycling, pressure maintenance or injection of a substance
17 or form of energy, including injection of water, gas, carbon dioxide, or both gas and
18 carbon dioxide, including immiscible and miscible floods, as long as the enhanced oil
19 or gas recovery does not include injection of a substance or form of energy for the sole
20 purpose of

21 (A) aiding in the lifting of fluids in the well; or

22 (B) stimulation of the reservoir at or near the well by
23 mechanical, chemical, thermal, or explosive means;

24 (5) "permit" means a storage facility permit issued under
25 AS 41.06.120;

26 (6) "pore space" means a cavity or void in a subsurface sedimentary
27 stratum;

28 (7) "reservoir" means a subsurface sedimentary stratum, formation,
29 aquifer, cavity, or void, including pore space, oil and gas reservoirs, saline formations,
30 and coal seams that are suitable, or capable of being made suitable, for injection and
31 carbon storage;

1 (8) "storage facility" means the storage reservoir, underground
2 equipment, well, and surface facilities and equipment used in accordance with a
3 permit; "storage facility" does not include pipelines, compressors, surface facilities,
4 and equipment used to transport carbon dioxide to the storage facility that are
5 unrelated to well safety and metering;

6 (9) "storage operator" means a person holding or applying for a permit;

7 (10) "storage reservoir" means a reservoir proposed, authorized, or
8 used for carbon storage;

9 (11) "supercritical fluid" means a substance at or above its critical
10 temperature and critical pressure that is neither a liquid nor a gas but that has
11 properties of both;

12 (12) "waste" means, in addition to its ordinary meaning, physical
13 waste, and includes inefficient, excessive, or improper operation of a storage facility
14 or well;

15 (13) "well" means a well that is drilled, converted, or reactivated for
16 discovery, testing, or subsurface injection into a reservoir.

17 **Article 3. Long-Term Monitoring and Maintenance of Carbon Storage Facilities.**

18 **Sec. 41.06.305. Long-term monitoring and maintenance.** (a) The
19 department shall conduct long-term monitoring and maintenance of a storage facility
20 that has been issued a certificate of completion under AS 41.06.170.

21 (b) Under this section, the authority of the department applies to all land in the
22 state lawfully subject to the police power of the state, including private land,
23 municipal land, state land, land of the United States, and land subject to the
24 jurisdiction of the United States. The department may enter, at a reasonable time and
25 in a reasonable manner, the site of a storage facility that has been issued a certificate
26 of completion under AS 41.06.170.

27 (c) The state, the department, and the commission have no obligation to pay
28 costs associated with long-term monitoring and maintenance of a storage facility in an
29 amount greater than the amount attributable to that storage facility and separately
30 accounted for under AS 37.14.850.

31 (d) The department may adopt regulations under AS 44.62 (Administrative

1 Procedure Act) to carry out the purposes of this section.

2 (e) In this section,

3 (1) "commission" means the Alaska Oil and Gas Conservation
4 Commission created under AS 31.05.005;

5 (2) "long-term monitoring and maintenance" means an activity
6 associated with monitoring and maintenance of a storage facility that has been issued a
7 certificate of completion under AS 41.06.170 and may include

8 (A) operational and long-term inspecting, testing, and
9 monitoring of the storage facility site, wells, and remaining facilities;

10 (B) remediation measures arising from the storage facility site,
11 including remediation of property and mechanical problems associated with
12 wells and remaining facilities;

13 (C) repairing mechanical leaks at the storage facility site;

14 (D) plugging and abandoning wells;

15 (E) converting wells for use as observation wells;

16 (F) purchasing or paying insurance costs for a storage facility,
17 whether commercially or through government funding;

18 (3) "storage facility" has the meaning given in AS 41.06.210.

19 * **Sec. 33.** AS 41.21.167(a) is amended to read:

20 (a) The land and water areas described in AS 41.21.161 are not open to
21 mineral entry under AS 38.05.135 - 38.05.275 **or 38.05.700 - 38.05.795.**

22 * **Sec. 34.** AS 41.21.491(d) is amended to read:

23 (d) Except for oil and gas leasing under AS 38.05.180 **and carbon storage**
24 **licensing and leasing under AS 38.05.700 - 38.05.795,** the mineral estate in the state-
25 owned land and water described in (a) of this section is closed to mineral entry under
26 AS 38.05.181 - 38.05.275.

27 * **Sec. 35.** AS 41.21.502(c) is amended to read:

28 (c) The mineral estate in the state-owned land and water described in (a) of
29 this section is open to oil and gas leasing under AS 38.05.180 **and carbon storage**
30 **licensing and leasing under AS 38.05.700 - 38.05.795.** The mineral estate in the
31 state-owned land and water described in (a) of this section is closed to mineral entry

1 under AS 38.05.181 - 38.05.275.

2 * **Sec. 36.** AS 41.21.617 is amended to read:

3 **Sec. 41.21.617. Other uses generally.** The state land and water described in
 4 AS 41.21.611(b) is closed to mineral entry under AS 38.05.135 - 38.05.275 **and**
 5 **38.05.700 - 38.05.795**, to commercial harvest of timber, and to sale under state land
 6 disposal laws. The commissioner may lease the land described in AS 41.21.611(b)
 7 under AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.21.610(a) and
 8 (b). A municipality may select land within the Alaska Chilkat Bald Eagle Preserve
 9 under law.

10 * **Sec. 37.** AS 43.20.036 is amended by adding a new subsection to read:

11 (k) For purposes of calculating the income tax payable under this chapter, the
 12 taxpayer may not apply as a credit against tax liability the carbon oxide sequestration
 13 credit allowed as to federal taxes under 26 U.S.C. 45Q (Internal Revenue Code).

14 * **Sec. 38.** AS 46.03.020 is amended to read:

15 **Sec. 46.03.020. Powers of the department.** The department may

16 (1) enter into contracts and compliance agreements necessary or
 17 convenient to carry out the functions, powers, and duties of the department;

18 (2) review and appraise programs and activities of state departments
 19 and agencies in light of the policy set out in AS 46.03.010 for the purpose of
 20 determining the extent to which the programs and activities are contributing to the
 21 achievement of that policy and to make recommendations to the departments and
 22 agencies, including environmental guidelines;

23 (3) consult with and cooperate with

24 (A) officials and representatives of any nonprofit corporation or
 25 organization in the state;

26 (B) persons, organizations, and groups, public and private,
 27 using, served by, interested in, or concerned with the environment of the state;

28 (4) appear and participate in proceedings before any state or federal
 29 regulatory agency involving or affecting the purposes of the department;

30 (5) undertake studies, inquiries, surveys, or analyses it may consider
 31 essential to the accomplishment of the purposes of the department; these activities

1 may be carried out by the personnel of the department or in cooperation with public or
2 private agencies, including educational, civic, and research organizations, colleges,
3 universities, institutes, and foundations;

4 (6) at reasonable times, enter and inspect with the consent of the owner
5 or occupier any property or premises to investigate either actual or suspected sources
6 of pollution or contamination or to ascertain compliance or noncompliance with a
7 regulation that may be adopted under AS 46.03.020 - 46.03.040; information relating
8 to secret processes or methods of manufacture discovered during investigation is
9 confidential;

10 (7) conduct investigations and hold hearings and compel the
11 attendance of witnesses and the production of accounts, books, and documents by the
12 issuance of a subpoena;

13 (8) advise and cooperate with municipal, regional, and other local
14 agencies and officials in the state, to carry out the purposes of this chapter;

15 (9) act as the official agency of the state in all matters affecting the
16 purposes of the department under federal laws now or hereafter enacted;

17 (10) adopt regulations necessary to carry out the purposes of this
18 chapter, including regulations providing for

19 (A) control, prevention, and abatement of air, water, or land or
20 subsurface land pollution;

21 (B) safeguard standards for carbon dioxide, petroleum, and
22 natural gas pipeline construction, operation, modification, or alteration;

23 (C) protection of public water supplies by establishing
24 minimum drinking water standards, and standards for the construction,
25 improvement, and maintenance of public water supply systems;

26 (D) collection and disposal of sewage and industrial waste;

27 (E) collection and disposal of garbage, refuse, and other
28 discarded solid materials from industrial, commercial, agricultural, and
29 community activities or operations;

30 (F) control of pesticides;

31 (G) other purposes as may be required for the implementation

1 of the policy declared in AS 46.03.010;

2 (H) handling, transportation, treatment, storage, and disposal of
3 hazardous wastes;

4 (11) inspect the premises of sellers and suppliers of paint, vessels, and
5 marine and boating supplies, and take other actions necessary to enforce
6 AS 46.03.715;

7 (12) notwithstanding any other provision of law, take all actions
8 necessary to receive authorization from the administrator of the United States
9 Environmental Protection Agency to administer and enforce a National Pollutant
10 Discharge Elimination System program in accordance with 33 U.S.C. 1342 (sec. 402,
11 Clean Water Act), 33 U.S.C. 1345 (sec. 405, Clean Water Act), 40 C.F.R. Part 123,
12 and 40 C.F.R. Part 403, as amended;

13 (13) require the owner or operator of a facility to undertake
14 monitoring, sampling, and reporting activities described in 33 U.S.C. 1318 (sec. 308,
15 Clean Water Act);

16 (14) notwithstanding any other provision of law, take all actions
17 necessary to receive federal authorization of a state program for the department and
18 the Department of Natural Resources to administer and enforce a dredge and fill
19 permitting program allowed under 33 U.S.C. 1344 (sec. 404, Clean Water Act) and to
20 implement the program, if authorized.

21 * **Sec. 39.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 TRANSITION: REGULATIONS. The Department of Natural Resources, the
24 Department of Revenue, and the Alaska Oil and Gas Conservation Commission may adopt
25 regulations necessary to implement the changes made by this Act. The regulations take effect
26 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
27 implemented by the regulation.

28 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 REVISOR'S INSTRUCTION. The revisor of statutes is requested to change the
31 chapter heading for AS 41.06 from "Geothermal Resources" to "Geothermal Resources and

1 Carbon Storage."

2 * **Sec. 41.** Section 39 of this Act takes effect immediately under AS 01.10.070(c).