

**Representative Stephen G. Handy** proposes the following substitute bill:

**GEOLOGICAL CARBON SEQUESTRATION AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill authorizes the Division of Oil, Gas, and Mining and the Board of Oil, Gas, and Mining to establish regulations for the geologic storage of carbon.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes who has title to pore space with respect to the surface estate;
- ▶ describes the circumstances under which the board and the division will gain jurisdiction over class VI injection wells;
- ▶ authorizes the board to make rules regarding the oversight of class VI injection wells;
- ▶ authorizes the board to establish and collect fees to reimburse the board and division for the costs associated with the regulation of class VI injection wells;
- ▶ describes the permitting process with which an operator must comply in order to operate a class VI injection well;
- ▶ describes the factors a permit must demonstrate for the board to approve the division to issue a permit;
- ▶ requires the board to hold a public hearing before issuing a permit;



- 26 ▶ authorizes the board to order amalgamation of a tract of land for a storage facility if:
- 27 • nonconsenting owners are fairly compensated for the use of the nonconsenting
- 28 owners' pore space;
- 29 • 70% of owners of included tracts have consented to the process; and
- 30 • the board finds it is in the best interest of all owners;
- 31 ▶ requires operators to record the permit;
- 32 ▶ provides for:
- 33 • rights of property owners whose pore space becomes part of a storage facility;
- 34 and
- 35 • the persons who hold title to carbon dioxide injected into and stored within a
- 36 storage facility;
- 37 ▶ requires an operator to follow certain procedures in order to receive a certificate of
- 38 project completion;
- 39 ▶ describes the relation of this chapter to enhanced oil and gas recovery projects;
- 40 ▶ authorizes the board to enter into cooperative agreements with other agencies to
- 41 carry out the objectives of this chapter;
- 42 ▶ authorizes controlling state interests and political subdivisions to participate in
- 43 geologic carbon storage;
- 44 ▶ authorizes the board to adopt a procedure to determine the amount of injected
- 45 carbon dioxide;
- 46 ▶ establishes funds in which the board and division shall deposit fees collected under
- 47 this chapter; and
- 48 ▶ makes technical and conforming changes.

49 **Money Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 None

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **40-6-2**, as last amended by Laws of Utah 2020, Chapter 375

56 **40-6-5**, as last amended by Laws of Utah 2020, Chapter 375

57 ENACTS:

- 58 **40-6-20.5**, Utah Code Annotated 1953
- 59 **40-11-1**, Utah Code Annotated 1953
- 60 **40-11-2**, Utah Code Annotated 1953
- 61 **40-11-3**, Utah Code Annotated 1953
- 62 **40-11-4**, Utah Code Annotated 1953
- 63 **40-11-5**, Utah Code Annotated 1953
- 64 **40-11-6**, Utah Code Annotated 1953
- 65 **40-11-7**, Utah Code Annotated 1953
- 66 **40-11-8**, Utah Code Annotated 1953
- 67 **40-11-9**, Utah Code Annotated 1953
- 68 **40-11-10**, Utah Code Annotated 1953
- 69 **40-11-11**, Utah Code Annotated 1953
- 70 **40-11-12**, Utah Code Annotated 1953
- 71 **40-11-13**, Utah Code Annotated 1953
- 72 **40-11-14**, Utah Code Annotated 1953
- 73 **40-11-15**, Utah Code Annotated 1953
- 74 **40-11-16**, Utah Code Annotated 1953
- 75 **40-11-17**, Utah Code Annotated 1953
- 76 **40-11-18**, Utah Code Annotated 1953
- 77 **40-11-19**, Utah Code Annotated 1953
- 78 **40-11-20**, Utah Code Annotated 1953
- 79 **40-11-21**, Utah Code Annotated 1953
- 80 **40-11-22**, Utah Code Annotated 1953

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82 *Be it enacted by the Legislature of the state of Utah:*

83 Section 1. Section **40-6-2** is amended to read:

84 **40-6-2. Definitions.**

85 For the purpose of this chapter:

- 86 (1) "Board" means the Board of Oil, Gas, and Mining.
- 87 (2) "Correlative rights" means the opportunity of each owner in a pool to produce the

88 owner's just and equitable share of the oil and gas in the pool without waste.

89 (3) "Condensate" means hydrocarbons, regardless of gravity, that:

90 (a) occur naturally in the gaseous phase in the reservoir; and

91 (b) are separated from the natural gas as liquids through the process of condensation

92 either in the reservoir, in the wellbore, or at the surface in field separators.

93 (4) "Consenting owner" means an owner who, in the manner and within the time frame

94 established by the board in rule, consents to the drilling and operation of a well and agrees to

95 bear the owner's proportionate share of the costs of the drilling and operation of the well.

96 (5) "Crude oil" means hydrocarbons, regardless of gravity, that:

97 (a) occur naturally in the liquid phase in the reservoir; and

98 (b) are produced and recovered at the wellhead in liquid form.

99 (6) "Division" means the Division of Oil, Gas, and Mining.

100 (7) (a) "Gas" means natural gas, as defined in Subsection (10), natural gas liquids, as  
101 defined in Subsection (11), other gas, as defined in Subsection (17), or any mixture of them.

102 (b) "Gas" does not include any gaseous or liquid substance processed from coal, oil  
103 shale, or tar sands.

104 (8) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well  
105 within the state in violation of this chapter or any rule or order of the board.

106 (9) "Illegal product" means any product derived in whole or in part from illegal oil or  
107 illegal gas.

108 (10) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in  
109 the reservoir and are produced and recovered at the wellhead in gaseous form, except natural  
110 gas liquids as defined in Subsection (11) and condensate as defined in Subsection (3).

111 (b) "Natural gas" includes coalbed methane gas.

112 (11) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated  
113 from natural gas as liquids in gas processing plants through the process of condensation,  
114 absorption, adsorption, or other methods.

115 (12) "Nonconsenting owner" means an owner who does not, after written notice and in  
116 the manner and within the time frame established by the board in rule, consent to the drilling  
117 and operation of a well or agree to bear the owner's proportionate share of the costs.

118 (13) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in

119 Subsection (3), or any mixture of them.

120 (b) "Oil" does not include any gaseous or liquid substance processed from coal, oil  
121 shale, or tar sands.

122 (14) "Oil and gas operations" means to explore for, develop, or produce oil and gas.

123 (15) (a) "Oil and gas proceeds" means any payment that:

124 (i) derives from oil and gas production from any well located in the state;

125 (ii) is expressed as a right to a specified interest in the:

126 (A) cash proceeds received from the sale of the oil and gas; or

127 (B) the cash value of the oil and gas; and

128 (iii) is subject to any tax withheld from the payment pursuant to law.

129 (b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest,  
130 production payment interest, or working interest.

131 (c) "Oil and gas proceeds" does not include a net profits interest or other interest the  
132 extent of which cannot be determined with reference to a specified share of:

133 (i) the cash proceeds received from the sale of the oil and gas; or

134 (ii) the cash value of the oil and gas.

135 (16) "Operator" means a person who has been designated by the owners or the board to  
136 operate a well or unit.

137 (17) (a) "Other gas" means nonhydrocarbon gases that:

138 (i) occur naturally in the gaseous phase in the reservoir; or

139 (ii) are injected into the reservoir in connection with pressure maintenance, gas cycling,  
140 or other secondary or enhanced recovery projects.

141 (b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

142 (18) "Owner" means a person who has the right:

143 (a) to drill into and produce from a reservoir; and

144 (b) to appropriate the oil and gas produced for that person or for that person and others.

145 (19) "Payor" means the person who undertakes to distribute oil and gas proceeds to the  
146 persons entitled to them, whether as the first purchaser of that production, as operator of the  
147 well from which the production was obtained, or as lessee under the lease on which royalty is  
148 due.

149 (20) "Person" means the same as that term is defined in Section [68-3-12.5](#) and includes

150 an operator or owner as used in this chapter.

151 (21) "Pool" means an underground reservoir containing a common accumulation of oil  
152 or gas or both. Each zone of a general structure that is completely separated from any other  
153 zone in the structure is a separate pool. "Common source of supply" and "reservoir" are  
154 synonymous with "pool."

155 (22) "Pooling" means the bringing together of separately owned interests for the  
156 common development and operation of a drilling unit.

157 (23) (a) "Pore space" means subsurface porous material possessing free space, naturally  
158 or artificially created, between the mineral grains.

159 (b) "Pore space":

160 (i) is expressed as a percentage; and

161 (ii) depends on the size and sorting of the subsurface material's particles as a cubic or  
162 hexagonal package.

163 [~~(23)~~] (24) "Producer" means the owner or operator of a well capable of producing oil  
164 and gas.

165 [~~(24)~~] (25) "Product" means any commodity made from oil and gas.

166 [~~(25)~~] (26) "Surface land" means privately owned land:

167 (a) overlying privately owned oil and gas resources;

168 (b) upon which oil and gas operations are conducted; and

169 (c) owned by a surface land owner.

170 [~~(26)~~] (27) (a) "Surface land owner" means a person who owns, in fee simple absolute,  
171 all or part of the surface land as shown by the records of the county where the surface land is  
172 located.

173 (b) "Surface land owner" does not include the surface land owner's lessee, renter,  
174 tenant, or other contractually related person.

175 [~~(27)~~] (28) "Surface land owner's property" means a surface land owner's:

176 (a) surface land;

177 (b) crops on the surface land; and

178 (c) existing improvements on the surface land.

179 [~~(28)~~] (29) "Surface use agreement" means an agreement between an owner or operator  
180 and a surface land owner addressing:

181 (a) the use and reclamation of surface land owned by the surface land owner; and  
182 (b) compensation for damage to the surface land caused by oil and gas operations that  
183 result in:

- 184 (i) loss of the surface land owner's crops on the surface land;
- 185 (ii) loss of value of existing improvements owned by the surface land owner on the  
186 surface land; and
- 187 (iii) permanent damage to the surface land.

188 [~~(29)~~] (30) "Waste" means:

- 189 (a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or  
190 gas or reservoir energy;
- 191 (b) the inefficient storing of oil or gas;
- 192 (c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a  
193 manner that causes:
  - 194 (i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir  
195 under prudent and economical operations;
  - 196 (ii) unnecessary wells to be drilled; or
  - 197 (iii) the loss or destruction of oil or gas either at the surface or subsurface; or
- 198 (d) the production of oil or gas in excess of:
  - 199 (i) transportation or storage facilities; or
  - 200 (ii) the amount reasonably required to be produced as a result of the proper drilling,  
201 completing, testing, or operating of a well or otherwise utilized on the lease from which it is  
202 produced.

203 Section 2. Section **40-6-5** is amended to read:

204 **40-6-5. Jurisdiction of board -- Rules.**

205 (1) The board has jurisdiction over all persons and property necessary to enforce this  
206 chapter. The board shall make rules in accordance with Title 63G, Chapter 3, Utah  
207 Administrative Rulemaking Act.

208 (2) The board shall make rules and orders as necessary to administer the following  
209 provisions:

- 210 (a) Ownership of all facilities for the production, storage, treatment, transportation,  
211 refining, or processing of oil and gas shall be identified.

212 (b) Well logs, directional surveys, and reports on well location, drilling, and production  
213 shall be made and filed with the division. Logs of wells marked "confidential" shall be kept  
214 confidential for one year after the date on which the log is required to be filed, unless the  
215 operator gives written permission to release the log at an earlier date. Production reports shall  
216 be:

- 217 (i) filed monthly;
- 218 (ii) accurate; and
- 219 (iii) in a form that reasonably serves the needs of state agencies and private fee owners.

220 (c) Monthly reports from gas processing plants shall be filed with the division.

221 (d) Wells shall be drilled, cased, cemented, operated, and plugged in such manner as to  
222 prevent:

223 (i) the escape of oil, gas, or water out of the reservoir in which they are found into  
224 another formation;

225 (ii) the detrimental intrusion of water into an oil or gas reservoir;

226 (iii) the pollution of fresh water supplies by oil, gas, or salt water;

227 (iv) blowouts;

228 (v) cavings;

229 (vi) seepages;

230 (vii) fires; and

231 (viii) unreasonable:

232 (A) loss of a surface land owner's crops on surface land;

233 (B) loss of value of existing improvements owned by a surface land owner on surface  
234 land; and

235 (C) permanent damage to surface land.

236 (e) The drilling of wells may not commence without an adequate and approved supply  
237 of water as required by Title 73, Chapter 3, Appropriation. This Subsection (2)(e) is not  
238 intended to impose additional legal requirements, but to assure that existing legal requirements  
239 concerning the use of water have been met before the commencement of drilling.

240 (f) Subject to Subsection (9), an operator shall furnish a reasonable performance bond  
241 or other good and sufficient surety, conditioned for the performance of the duty to:

242 (i) plug each dry or abandoned well;



- 243 (ii) repair each well causing waste or pollution;
- 244 (iii) maintain and restore the well site; and
- 245 (iv) except as provided in Subsection (8), protect a surface land owner against
- 246 unreasonable:
- 247 (A) loss of a surface land owner's crops on surface land;
- 248 (B) loss of value of existing improvements owned by a surface land owner on surface
- 249 land; and
- 250 (C) permanent damage to surface land.
- 251 (g) Production from wells shall be separated into oil and gas and measured by means
- 252 and upon standards that are prescribed by the board and reflect current industry standards.
- 253 (h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and
- 254 any accumulation of nonmerchantable waste crude oil shall be treated and processed, as
- 255 prescribed by the board.
- 256 (i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or
- 257 processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced
- 258 recovery, or salt water disposal in this state shall maintain complete and accurate records of the
- 259 quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or
- 260 injected for a period of at least six years. The records shall be available for examination by the
- 261 board or the board's agents at any reasonable time. Rules enacted to administer this Subsection
- 262 (2)(i) shall be consistent with applicable federal requirements.
- 263 (j) Any person with an interest in a lease shall be notified when all or part of that
- 264 interest in the lease is sold or transferred.
- 265 (k) The assessment and collection of administrative penalties is consistent with Section
- 266 [40-6-11](#).
- 267 (3) The board has the authority to regulate:
- 268 (a) all operations for and related to the production of oil or gas including:
- 269 (i) drilling, testing, equipping, completing, operating, producing, and plugging of
- 270 wells; and
- 271 (ii) reclamation of sites;
- 272 (b) the spacing and location of wells;
- 273 (c) operations to increase ultimate recovery, such as:

- 274 (i) cycling of gas;
- 275 (ii) the maintenance of pressure; and
- 276 (iii) the introduction of gas, water, or other substances into a reservoir;
- 277 (d) the disposal of salt water and oil-field wastes;
- 278 (e) the underground and surface storage of oil, gas, or products; and
- 279 (f) the flaring of gas from an oil well.
- 280 (4) For the purposes of administering this chapter, the board may designate:
- 281 (a) wells as:
- 282 (i) oil wells; or
- 283 (ii) gas wells; and
- 284 (b) pools as:
- 285 (i) oil pools; or
- 286 (ii) gas pools.
- 287 (5) The board has exclusive jurisdiction over:
- 288 (a) class II injection wells, as defined by the federal Environmental Protection Agency
- 289 or a successor agency; [~~and~~]
- 290 (b) pits and ponds in relation to these injection wells[-];
- 291 (c) when granted primacy by the Environmental Protection Agency, class VI injection
- 292 wells, as defined by the Environmental Protection Agency or a successor agency; and
- 293 (d) storage facilities, as that term is defined in Section [40-11-1](#).
- 294 (6) The board has jurisdiction:
- 295 (a) to hear questions regarding multiple mineral development conflicts with oil and gas
- 296 operations if there:
- 297 (i) is potential injury to other mineral deposits on the same lands; or
- 298 (ii) are simultaneous or concurrent operations conducted by other mineral owners or
- 299 lessees affecting the same lands; and
- 300 (b) to enter the board's order or rule with respect to those questions.
- 301 (7) The board has enforcement powers with respect to operators of minerals other than
- 302 oil and gas as are set forth in Section [40-6-11](#), for the sole purpose of enforcing multiple
- 303 mineral development issues.
- 304 (8) Subsection (2)(f)(iv) does not apply if the surface land owner is a party to, or a

305 successor of a party to:

306 (a) a lease of the underlying privately owned oil and gas;

307 (b) a surface use agreement applicable to the surface land owner's surface land; or

308 (c) a contract, waiver, or release addressing an owner's or operator's use of the surface  
309 land owner's surface land.

310 (9) (a) The board shall review rules made under Subsection (2)(f) to determine whether  
311 the rules provide adequate fiscal security for the fiscal risks to the state related to oil and gas  
312 operations.

313 (b) During the board's review under this Subsection (9), the board may consider the  
314 bonding schemes of other states.

315 Section 3. Section **40-6-20.5** is enacted to read:

316 **40-6-20.5. Title to pore space.**

317 Title to pore space underlying the surface estate is vested in the owner of the surface  
318 estate.

319 Section 4. Section **40-11-1** is enacted to read:

## 320 **CHAPTER 11. GEOLOGIC CARBON STORAGE**

### 321 **40-11-1. Definitions.**

322 As used in this chapter:

323 (1) "Board" means the Board of Oil, Gas, and Mining.

324 (2) (a) "Carbon dioxide" means carbon dioxide (CO<sub>2</sub>) that has been captured from an  
325 emission source or direct air capture, plus incidental associated substances derived from the  
326 source materials and the capture process, and any substances added to the carbon dioxide to  
327 enable or improve the injection process.

328 (b) "Carbon dioxide" does not include hazardous waste as that term is defined in  
329 Section [19-6-102](#).

330 (3) "Class VI injection well" means the same as that term is defined in 40 C.F.R.  
331 146.5(f).

332 (4) "Division" means the Division of Oil, Gas, and Mining.

333 (5) "Geologic carbon storage" means the permanent or short-term underground storage  
334 of carbon dioxide in a storage reservoir.

335 (6) "Geologic carbon storage activity" means activity associated with the development,

336 production, processing, and storage of carbon dioxide as set forth in Title 40, Chapter 11, Utah  
337 Geologic Carbon Sequestration Act, and includes:

338 (a) drilling;

339 (b) development of storage facilities;

340 (c) completion, maintenance, reworking, recompletion, disposal, plugging, and  
341 abandonment of storage facilities;

342 (d) construction activities;

343 (e) recovery techniques;

344 (f) remediation activities; and

345 (g) any other activity related to geologic carbon storage that the board identifies.

346 (7) "Permit" means a permit issued by the division and approved by the board allowing  
347 a person to operate a storage facility.

348 (8) "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or  
349 void, whether natural or artificially created, including oil and gas reservoirs, saline formations,  
350 and coal seams suitable for or capable of being made suitable for geologic carbon storage.

351 (9) (a) "Storage facility" means the reservoir, underground equipment, and surface  
352 facilities and equipment used or proposed to be used in a geologic carbon storage operation.

353 (b) "Storage facility" does not include pipelines used to transport carbon dioxide to a  
354 storage facility.

355 (10) "Storage operator" means a person holding or applying for a permit.

356 Section 5. Section **40-11-2** is enacted to read:

357 **40-11-2. Preemption.**

358 (1) Regulation of geologic carbon storage is of statewide concern and the state  
359 regulation of geologic carbon storage activity occupies the whole field of geologic carbon  
360 storage subject to:

361 (a) the granting of primacy over Class VI geologic sequestration wells; and

362 (b) relevant federal law.

363 (2) The legislative body of a political subdivision may enact, amend, or enforce a local  
364 ordinance, resolution, or rule consistent with the political subdivision's general land use  
365 authority that:

366 (a) regulates only surface activity that is incidental to geologic carbon storage activity;

367 (b) does not effectively or unduly limit, ban, or prohibit geologic carbon storage  
368 activity; and

369 (c) is not otherwise preempted by state or federal law.

370 Section 6. Section **40-11-3** is enacted to read:

371 **40-11-3. Board authority -- Rulemaking authority.**

372 (1) The board and the division have jurisdiction over all persons and property  
373 necessary to enforce this chapter.

374 (2) To enforce this chapter, the board shall make rules in accordance with Title 63G,  
375 Chapter 3, Utah Administrative Rulemaking Act.

376 (3) Subject to the granting of primacy by the Environmental Protection Agency under  
377 the process required in 40 C.F.R. Section 145 and successful application for primacy approval  
378 under Section 1425 of the Safe Drinking Water Act, the board and the division have:

379 (a) exclusive jurisdiction in the state over Class VI injection wells located in the state  
380 on nonfederal lands; and

381 (b) cooperative jurisdiction in the state over Class VI injection wells located in the  
382 state on federal lands.

383 (4) The board shall establish fees in accordance with Section [63J-1-504](#), in an amount  
384 to pay the costs to the board and division of:

385 (a) the permitting process;

386 (b) the regulation of the construction, operation, and pre-closure activities of the  
387 storage facility; and

388 (c) the monitoring of closed storage facilities.

389 Section 7. Section **40-11-4** is enacted to read:

390 **40-11-4. Board and division permit authority.**

391 To the extent required to authorize and issue permits and to regulate geologic carbon  
392 sequestration, the board and the division shall have authority:

393 (1) over all persons and property necessary to administer and enforce this chapter and  
394 this chapter's objectives;

395 (2) to regulate activities relating to a storage facility, including construction, operation,  
396 and closure;

397 (3) to enter, at a reasonable time and manner, a storage facility to:

- 398 (a) inspect equipment and surface storage facilities;
- 399 (b) observe, monitor, and investigate operations; or
- 400 (c) inspect records the board requires the operators maintain at the storage facility;
- 401 (4) to require that storage operators provide assurance, including bonds, that money is
- 402 available to fulfill the storage operator's duties;
- 403 (5) to exercise continuing jurisdiction over storage operators and storage facilities,
- 404 including the authority, after notice and hearing, to amend provisions in a permit and to revoke
- 405 a permit; and
- 406 (6) to dissolve or change the boundaries of any unit that is within or near a storage
- 407 reservoir's boundaries.

408 Section 8. Section **40-11-5** is enacted to read:

409 **40-11-5. Permits.**

410 (1) Subject to the granting of primacy as described in Section [40-11-3](#), the board may

411 authorize the division to issue a permit.

412 (2) A person may only transfer a permit to another person with permission of the

413 board.

414 (3) A person may not engage in geologic carbon storage in the state without a permit.

415 Section 9. Section **40-11-6** is enacted to read:

416 **40-11-6. Permit application requirements.**

417 (1) A person applying for a permit shall:

418 (a) comply with:

419 (i) the application requirements the board establishes through rule; and

420 (ii) the application requirements described in this section; and

421 (b) pay a fee, as established by the board, to cover the administrative costs of

422 considering an application for a permit.

423 (2) The board shall give priority to storage operators who apply for a permit to store

424 carbon dioxide produced in Utah.

425 (3) A permit application shall demonstrate:

426 (a) that the storage operator has complied with all requirements established by the

427 board in rule and in this chapter;

428 (b) that the storage facility is suitable for carbon dioxide injection and storage;

429 (c) that the carbon dioxide the storage operator will store is of a quality that allows the  
430 carbon dioxide to be safely and efficiently stored in the reservoir;

431 (d) that the storage operator has made a good-faith effort to get the consent of all  
432 persons who own the storage reservoir's pore space;

433 (e) that owners who own no less than 70% of the reservoir's pore space have provided  
434 written consent to the use of the owners' pore space for a storage facility;

435 (f) whether the storage facility contains commercially valuable minerals;

436 (g) if the storage facility contains commercially valuable minerals, a plan for  
437 addressing the ownership interests of the mineral owners or mineral lessees;

438 (h) that the storage reservoir meets the integrity requirements described in Section  
439 [40-11-13](#);

440 (i) that the operator has taken reasonable steps to ensure that:

441 (i) the storage facility will not endanger human health;

442 (ii) the storage facility will not endanger the environment;

443 (iii) the storage facility is in the public interest;

444 (iv) the storage facility will not adversely affect surface water or formation containing  
445 fresh water;

446 (v) carbon dioxide will not escape from the storage reservoir at a rate exceeding the  
447 lower of 1% or the standard recommended by the Environmental Protection Agency; and

448 (vi) that substances that compromise the objectives of this chapter or the integrity of a  
449 reservoir will not enter the reservoir;

450 (j) that the storage reservoir has defined horizontal and vertical boundaries;

451 (k) that the boundaries of the storage reservoir include buffer areas to ensure the safe  
452 operation of the storage facility;

453 (l) plans for monitoring the storage facility and procedures to assess the location and  
454 migration of carbon dioxide injected for storage;

455 (m) plans to ensure compliance with geologic carbon storage statutes and rules; and

456 (n) assurance that all nonconsenting pore space owners are or will be equitably  
457 compensated for the use of the pore space of the nonconsenting pore space owners in the  
458 storage facility.

459 Section 10. Section **40-11-7** is enacted to read:

460 **40-11-7. Permit hearing.**

461 (1) The board shall hold a public hearing before authorizing the division to issue a  
462 permit.

463 (2) The board shall conduct the hearing in accordance with Title 63G, Chapter 4,  
464 Administrative Procedures Act.

465 (3) The board shall give notice no fewer than 30 days prior to the hearing by:

466 (a) one publication in a daily newspaper of general circulation in Salt Lake City, Utah;

467 (b) in all newspapers of general circulation published in the county or counties in  
468 which the land affected is situated; and

469 (c) by publication in accordance with Section [45-1-101](#).

470 (4) In addition to the notice required in Subsection (3), an applicant shall provide  
471 notice of the hearing and a copy of the permit application, no fewer than 30 days before the  
472 hearing to:

473 (a) each mineral lessee within one-half mile of the storage reservoir's boundaries;

474 (b) each mineral owner within one-half mile of the storage reservoir's boundaries;

475 (c) each pore space owner within one-half mile of the storage reservoir's boundaries;

476 (d) each surface owner of land within one-half mile of the storage reservoir's  
477 boundaries; and

478 (e) any additional person the board identifies.

479 (5) An applicant shall serve the notice described in Subsection (4) through personal  
480 service.

481 (6) The board may, in accordance with the requirements of Section [63G-6a-116](#),  
482 procure the services of an administrative law judge to conduct the hearing described in  
483 Subsection (1).

484 (7) If the board procures the services of an administrative law judge, the board may  
485 rely on the decision of the administrative law judge when deciding whether to issue a permit.

486 Section 11. Section **40-11-8** is enacted to read:

487 **40-11-8. Findings to issue a permit.**

488 Before issuing a permit, the board shall find that:

489 (1) the application meets all of the requirements described in Section [40-11-6](#); and

490 (2) the interested parties described in Subsection [40-11-7\(4\)](#) all received proper notice.



491 Section 12. Section **40-11-9** is enacted to read:

492 **40-11-9. Permit provisions.**

493 (1) A permit shall require that:

494 (a) an operator remain in compliance with all of the permit requirements described in

495 Subsection [40-11-6\(3\)](#); and

496 (b) an operator comply with any additional provisions the board imposes.

497 (2) The board may make a permit contingent upon:

498 (a) the payment of fair compensation to pore space owners who do not consent to the

499 use of the owners' pore space for geologic carbon storage;

500 (b) the recording of the permit as described in Section [40-11-12](#); and

501 (c) additional provisions to protect the environment and the property interests of the

502 parties described in Subsection [40-11-\(4\)](#).

503 Section 13. Section **40-11-10** is enacted to read:

504 **40-11-10. Amalgamation of interests -- Board may order amalgamation --**

505 **Payment of costs and interests -- Accounting.**

506 (1) Two or more owners of contiguous pore space may bring together the owners'

507 interests for the development of a storage facility.

508 (2) (a) In the absence of a written agreement for amalgamation, including a joint

509 operating agreement, the board may enter an order combining all interests in the contiguous

510 pore space for the development of a storage facility.

511 (b) The order shall be made upon terms and conditions that are just and reasonable.

512 (c) The board may adopt terms appearing in a joint operating agreement:

513 (i) for the storage facility that is in effect between the consenting owners;

514 (ii) submitted by any party to the proceeding; or

515 (iii) submitted by the board on the board's own motion.

516 (3) Operations incident to the construction or operation of a storage facility upon any

517 portion of an area included in an amalgamation order shall be deemed for all purposes to be the

518 conduct of the operations upon each separately owned tract in the area by the several orders.

519 (4) (a) (i) Each amalgamation order shall provide for the payment of just and

520 reasonable costs incurred in the construction and operation of the storage facility, including:

521 (A) the costs of constructing, marketing, completing, and operating the storage facility;

522 (B) reasonable charges for the administration and supervision of operations; and

523 (C) other costs customarily incurred in the industry.

524 (ii) An owner is not liable under an amalgamation order for costs or losses resulting  
525 from the gross negligence or willful misconduct of the operator.

526 (b) Each amalgamation order shall provide for reimbursement to the consenting owners  
527 for any nonconsenting owner's share of the costs of operation of the storage facility attributable  
528 to the nonconsenting owner's tract.

529 (c) Each amalgamation order shall provide that each consenting owner shall own and  
530 be entitled to receive, subject to taxes, fees, fines, and other obligations:

531 (i) the share of the profits of the storage facility applicable to the consenting owner's  
532 interest in the storage facility; and

533 (ii) unless the consenting owner has agreed otherwise, the consenting owner's  
534 proportionate part of the nonconsenting owner's share of the profits until the recovery of costs  
535 provided for in Subsection (4)(d).

536 (d) (i) Each amalgamation order shall provide that each nonconsenting owner shall be  
537 entitled to receive, subject to obligations, the share of the profits from the storage facility  
538 applicable to the nonconsenting owner's interest in the storage facility after the consenting  
539 owners have recovered from the nonconsenting owner's share of the profits the following  
540 amounts less any cash contributions the nonconsenting owner has made:

541 (A) 100% of the nonconsenting owner's share of the cost of storage facility  
542 construction and maintenance;

543 (B) 100% of the nonconsenting owner's share of the estimated cost to close the storage  
544 facility as the board determines;

545 (C) 100% of the nonconsenting owner's share of the cost of operation of the storage  
546 facility commencing with the first injection of carbon dioxide and continuing until the  
547 consenting owners have recovered all costs; and

548 (D) 100% of the nonconsenting owner's share of the costs of preparing the storage  
549 facility, rights-of-way, and equipment.

550 (ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is  
551 that interest which would have been chargeable to the nonconsenting owner had the

552 nonconsenting owner initially agreed to pay the nonconsenting owner's share of the costs of the

553 storage facility from commencement of the operation.

554 (iii) The board may include a reasonable interest charge if the board finds it  
555 appropriate.

556 (e) The board shall determine the proper costs to resolve any dispute about costs.

557 (5) The operator of a storage facility under an amalgamation order in which there is a  
558 nonconsenting owner shall furnish the nonconsenting owner with monthly statements  
559 specifying:

560 (a) costs incurred; and

561 (b) profit realized.

562 (6) Each amalgamation order shall provide that when the consenting owners recover  
563 from a nonconsenting owner's relinquished interest the amounts provided for in Subsection  
564 (4)(d):

565 (a) the relinquished interest of the nonconsenting owner shall automatically revert to  
566 the nonconsenting owner;

567 (b) the nonconsenting owner shall from that time:

568 (i) own the same interest in the storage facility; and

569 (ii) be liable for the further costs of the operation as if the nonconsenting owner had  
570 participated in the initial drilling and operations; and

571 (iii) costs are payable out of profits unless otherwise agreed between the nonconsenting  
572 owner and the operator.

573 (7) Each amalgamation order shall provide that in any circumstance where the  
574 nonconsenting owner has relinquished the nonconsenting owner's share of profits to consenting  
575 owners or at any time fails to take the nonconsenting owner's share of benefits when the  
576 nonconsenting owner is entitled to do so, the nonconsenting owner is entitled to:

577 (a) an accounting of the profits applicable to the nonconsenting owner's relinquished  
578 share of the storage facility; and

579 (b) payment of the profits applicable to that share of the profits not taken in-kind, net  
580 of costs.

581 (8) A nonconsenting owner who does not take the nonconsenting owner's share of the  
582 profits is not liable for the costs described in Subsection (4)(d) and is not liable for any actions  
583 the operator takes with respect to the storage facility.

584 Section 14. Section **40-11-11** is enacted to read:

585 **40-11-11. Geologic carbon storage amalgamation unit -- Procedure for**  
586 **establishment -- Operation.**

587 (1) The board may hold a hearing to consider the need for the amalgamation of a tract  
588 for geologic carbon storage.

589 (2) The board shall make an order providing for the amalgamation of a tract for  
590 geologic carbon storage, if the board finds that:

591 (a) amalgamation is reasonably necessary for the purposes of this chapter; and

592 (b) the value of amalgamation justifies proceeding against the nonconsenting owner's  
593 wishes.

594 (3) The amalgamation order shall include:

595 (a) a description of the lands and of the reservoir to become a storage facility;

596 (b) a statement of the nature of the operations contemplated;

597 (c) an allocation to the separately owned tracts in the amalgamation unit of the profits  
598 the storage facility receives, considering:

599 (i) agreements among interested parties; and

600 (ii) the relative value of the separately owned tracts within the amalgamation area;

601 (d) a provision for adjustment among the owners of the amalgamation area for  
602 investments made prior to the amalgamation order;

603 (e) a provision determining the allocation of costs among owners, and how the owners  
604 shall pay those costs;

605 (f) any necessary provision for:

606 (i) financing an owner; or

607 (ii) carrying an owner;

608 (g) a provision for the supervision and conduct of the storage facility operations,  
609 including a percentage vote for each owner;

610 (h) additional provisions that are necessary and appropriate for carrying on the  
611 operation of the amalgamation unit; and

612 (i) the designation of an operator of the amalgamation unit.

613 (4) An amalgamation order described in Subsection (3) shall only be effective after the  
614 plan for operating the storage facility is approved in writing by:

615 (a) owners whose obligations under the amalgamation order require them to pay not  
616 less than 70% of the costs for operating and constructing the facility; and

617 (b) owners whose combined interest under the amalgamation order is not less than 70%  
618 of the profits from the operation of the storage facility.

619 Section 15. Section **40-11-12** is enacted to read:

620 **40-11-12. Requirement to record.**

621 An operator shall file a record of the permit and a description of the impacted land with  
622 the recorder's office in each county where the storage facility is located.

623 Section 16. Section **40-11-13** is enacted to read:

624 **40-11-13. Reservoir integrity.**

625 (1) Carbon dioxide injected into and stored in a reservoir in compliance with the  
626 requirements of this section is not:

627 (a) pollution, as that term is defined in Section [4-18-103](#); or

628 (b) a nuisance, as that term is defined in Section [4-44-102](#).

629 (2) A reservoir is only appropriate for geologic carbon storage if the board determines  
630 and the operator demonstrates that:

631 (a) carbon dioxide cannot escape the reservoir at a rate exceeding the lower of 1% or  
632 the standard recommended by the Environmental Protection Agency;

633 (b) no additional substances will be introduced into the storage facility that could  
634 compromise the integrity of the storage reservoir; and

635 (c) the operator has a plan to maintain the integrity of the reservoir.

636 (3) When making a determination described in Subsection (2), the board may rely  
637 upon:

638 (a) a finding from the Utah Geological Survey, created in Section [79-3-201](#) that the  
639 reservoir is appropriate for the storage of carbon dioxide; and

640 (b) reports and findings from the Department of Environmental Quality, created in  
641 Section [19-1-104](#).

642 (4) The board shall take action to enforce the provisions of this section.

643 Section 17. Section **40-11-14** is enacted to read:

644 **40-11-14. Preservation of rights.**

645 Nothing in this chapter or in a permit may be interpreted to:

646 (1) prejudice the rights of property owners who own property that hosts a storage  
647 facility to the extent that those property rights are not committed to the storage facility;

648 (2) prevent a mineral owner or mineral lessee from drilling through or near a storage  
649 reservoir to explore or develop mineral resources to the extent that the exploration and  
650 development;

651 (a) preserves the integrity of the storage facility; and

652 (b) complies with requirements described in this chapter.

653 Section 18. Section **40-11-15** is enacted to read:

654 **40-11-15. Title to injected carbon dioxide.**

655 (1) The storage operator has title to the carbon dioxide injected into and stored in a  
656 storage reservoir and holds title until the board issues a certificate of project completion.

657 (2) The storage operator is liable for any damage the stored carbon dioxide may cause,  
658 including damage caused by escaping stored carbon dioxide until the board issues a certificate  
659 of completion.

660 (3) An owner of pore space does not incur liability for geologic carbon storage activity  
661 by virtue of ownership of or of leasing out the pore space.

662 Section 19. Section **40-11-16** is enacted to read:

663 **40-11-16. Certificate of project completion.**

664 (1) To request a certificate of project completion, a storage operator shall submit:

665 (a) a demonstration that the last carbon dioxide injection was no fewer than 10 years  
666 preceding the filing;

667 (b) a statement of compliance with all statutes and rules regulating the storage facility;

668 (c) a demonstration of the resolution of all pending claims regarding the storage  
669 facility;

670 (d) a demonstration of the present and future physical integrity of the storage reservoir;

671 (e) a demonstration that any carbon dioxide in the storage reservoir:

672 (i) is essentially stationary; or

673 (ii) if the carbon dioxide migrates or will migrate, is highly unlikely to cross the  
674 storage reservoir boundary;

675 (f) a demonstration that all wells, equipment, and facilities necessary for maintaining  
676 the continued integrity of the storage reservoir are currently in good condition and will

677 maintain that good condition;

678 (g) a demonstration that the operator has:

679 (i) plugged wells;

680 (ii) removed equipment and facilities not necessary to maintaining the integrity of the

681 reservoir; and

682 (iii) completed any other reclamation work the board requires.

683 (2) Immediately after the board issues a certificate of completion:

684 (a) title to the storage facility and the stored carbon dioxide transfers to the state;

685 (b) liability with respect to the storage facility and the stored carbon dioxide transfers  
686 to the state;

687 (c) the storage operator and any person who is not the state who has property rights in  
688 the storage facility is released from any obligation to comply with regulatory requirements  
689 associated with the storage facility;

690 (d) the board shall release any bonds the storage operator has posted; and

691 (e) the division shall oversee the monitoring and managing of the storage facility.

692 Section 20. Section **40-11-17** is enacted to read:

693 **40-11-17. Application of this chapter to enhanced recovery projects.**

694 (1) This chapter does not apply to the injection of carbon dioxide for an enhanced oil or  
695 gas recovery project.

696 (2) (a) This chapter does apply to the conversion of an enhanced oil or gas recovery  
697 project to a storage facility.

698 (b) To accommodate the conversion described in Subsection (2)(a), the board may  
699 make additional rules to allow for circumstances unique to the conversion of an enhanced oil  
700 and gas recovery project to a storage facility and not otherwise anticipated under this chapter.

701 Section 21. Section **40-11-18** is enacted to read:

702 **40-11-18. Cooperative agreements and contracts.**

703 (1) The board may enter into an agreement with another government, government  
704 entity, or state agency for the purpose of carrying out the objectives described in this chapter.

705 (2) The board may enter into a contract with a private person in order for the board to  
706 carry out the board's objectives.

707 (3) The board shall follow Title 63G, Chapter 6a, Utah Procurement Code, when

708 entering into an agreement or contract described in Subsection (1) or (2).

709 Section 22. Section **40-11-19** is enacted to read:

710 **40-11-19. Participation of public interests.**

711 The governing body of a controlling state interest or interest of a political subdivision is

712 authorized to consent to and participate in a geologic carbon storage project.

713 Section 23. Section **40-11-20** is enacted to read:

714 **40-11-20. Adoption of procedure.**

715 (1) The board may adopt procedures and criteria to determine the amount of injected

716 carbon dioxide:

717 (a) stored in a reservoir that has been or is being used for an enhanced oil or gas

718 recovery project; or

719 (b) stored in a reservoir that is a part of a storage facility.

720 (2) The board may charge a fee to cover the costs of making a determination described

721 in Subsection (1).

722 (3) The division shall deposit a fee collected in accordance with Subsection (2) into the

723 Geologic Carbon Storage Facility Administrative Fund created in Section [40-11-21](#).

724 Section 24. Section **40-11-21** is enacted to read:

725 **40-11-21. Fees -- Geologic Carbon Storage Facility Administrative Fund.**

726 (1) There is levied a fee per ton of carbon dioxide injected into a reservoir.

727 (2) The board shall establish the fee described in Subsection (1) in accordance with

728 Section [63J-1-504](#), in an amount to pay the costs to the division of the regulation of storage

729 facility:

730 (a) construction;

731 (b) operation; and

732 (c) pre-closure activities.

733 (3) Money the board collects in accordance with this section shall be deposited into the

734 Geologic Carbon Storage Facility Administrative Fund created in Subsection (4).

735 (4) There is created an expendable special revenue fund known as the "Geologic

736 Carbon Storage Facility Administrative Fund."

737 (5) The fund shall consist of the money specified in Subsections (1) through (3),

738 Section [40-11-20](#), and interest earned on the fund.



739 (6) The division shall only use the money deposited into the Geologic Carbon Storage  
740 Facility Administrative Fund to:

741 (a) defray the division's regulatory expenses incurred during the regulation of storage  
742 facility:

743 (i) construction;

744 (ii) operation; and

745 (iii) pre-closure activities;

746 (b) make determinations in accordance with Section [40-11-20](#); and

747 (c) reimburse a regulatory agency with whom the board has entered into a cooperate  
748 agreement described in Section [40-11-18](#) for expenses the cooperating agency incurs in  
749 conducting the activities described in Subsections (6)(a) and (6)(b).

750 Section 25. Section **40-11-22** is enacted to read:

751 **40-11-22. Fees -- Geologic Carbon Storage Facility Trust Fund.**

752 (1) There is levied a fee per ton of carbon dioxide injected into a storage facility.

753 (2) The board shall establish the fee described in Subsection (1) in accordance with  
754 Section [63J-1-504](#), in an amount to pay the costs to the division of the long-term monitoring  
755 and management of a closed storage facility.

756 (3) Money the division collects as a result of the fee described in Subsection (1) shall  
757 be deposited in the Geologic Carbon Storage Facility Trust Fund created in Subsection (4).

758 (4) There is created an expendable special revenue fund known as the "Geologic  
759 Carbon Storage Facility Trust Fund."

760 (5) The fund shall consist of the money specified in Subsections (1) through (3) and  
761 interest earned on the fund.

762 (6) The division shall only use the money deposited into the Geologic Carbon Storage  
763 Facility Trust Fund to:

764 (a) defray the expenses the division incurs in the long-term monitoring and  
765 management of a closed storage facility; or

766 (b) to reimburse a regulatory agency with whom the board has entered into a  
767 cooperative agreement described in Section [40-11-18](#) for expenses the cooperating agency  
768 incurs in the long-term monitoring and management of a closed storage facility.