

**CARBON CAPTURE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott H. Chew**

Senate Sponsor: David P. Hinkins

**LONG TITLE**

**General Description:**

This bill address regulation of carbon capture.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ repeals two existing funds and replaces the repealed funds with the Carbon Dioxide Storage Fund (fund);
- ▶ addresses the Board of Oil, Gas, and Mining's (board) authority to impose fees and deposit money into the fund;
- ▶ addresses the holding of title by the state of storage facilities including oversight of facilities used to store carbon dioxide after the board issues a certificate of project completion;
- ▶ clarifies fee provisions; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28 [40-11-1](#), as enacted by Laws of Utah 2022, Chapter 62
- 29 [40-11-3](#), as enacted by Laws of Utah 2022, Chapter 62
- 30 [40-11-4](#), as enacted by Laws of Utah 2022, Chapter 62
- 31 [40-11-6](#), as enacted by Laws of Utah 2022, Chapter 62
- 32 [40-11-15](#), as enacted by Laws of Utah 2022, Chapter 62
- 33 [40-11-16](#), as enacted by Laws of Utah 2022, Chapter 62
- 34 [40-11-20](#), as enacted by Laws of Utah 2022, Chapter 62
- 35 [40-11-21](#), as enacted by Laws of Utah 2022, Chapter 62

36 ENACTS:

- 37 [40-11-23](#), Utah Code Annotated 1953

38 REPEALS:

- 39 [40-11-22](#), as enacted by Laws of Utah 2022, Chapter 62



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

42 Section 1. Section [40-11-1](#) is amended to read:

43 **[40-11-1](#). Definitions.**

44 As used in this chapter:

- 45 (1) "Board" means the Board of Oil, Gas, and Mining.
- 46 (2) (a) "Carbon dioxide" means carbon dioxide (CO2) that has been captured from an
- 47 emission source or direct air capture, plus incidental associated substances derived from the
- 48 source materials and the capture process, and any substances added to the carbon dioxide to
- 49 enable or improve the injection process.
- 50 (b) "Carbon dioxide" does not include hazardous waste as that term is defined in
- 51 Section [19-6-102](#).
- 52 (3) "Class VI injection well" means the same as that term is defined in 40 C.F.R.
- 53 146.5(f).
- 54 (4) "Division" means the Division of Oil, Gas, and Mining.
- 55 (5) "Fund" means the Carbon Dioxide Storage Fund created under Section [40-11-23](#).
- 56 ~~[(5)]~~ (6) "Geologic carbon storage" means the permanent or short-term underground
- 57 storage of carbon dioxide in a storage reservoir.
- 58 ~~[(6)]~~ (7) "Geologic carbon storage activity" means activity associated with the

59 development, production, processing, and storage of carbon dioxide as set forth in Title 40,  
60 Chapter 11, Geologic Carbon Storage, and includes:

- 61 (a) drilling;
- 62 (b) development of storage facilities;
- 63 (c) completion, maintenance, reworking, recompletion, disposal, plugging, and  
64 abandonment of storage facilities;
- 65 (d) construction activities;
- 66 (e) recovery techniques;
- 67 (f) remediation activities; and
- 68 (g) any other activity related to geologic carbon storage that the board identifies.

69 ~~[(7)]~~ (8) "Permit" means a permit issued by the division and approved by the board  
70 allowing a person to operate a storage facility.

71 ~~[(8)]~~ (9) "Reservoir" means a subsurface sedimentary stratum, formation, aquifer,  
72 cavity, or void, whether natural or artificially created, including oil and gas reservoirs, saline  
73 formations, and coal seams suitable for or capable of being made suitable for geologic carbon  
74 storage.

75 ~~[(9)]~~ (10) (a) "Storage facility" means the reservoir, underground equipment, and  
76 surface facilities and equipment used or proposed to be used in a geologic carbon storage  
77 operation.

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

80 ~~[(10)]~~ (11) "Storage operator" means a person holding or applying for a permit.

81 Section 2. Section **40-11-3** is amended to read:

82 **40-11-3. Board authority -- Rulemaking authority.**

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

85 (2) To enforce this chapter, the board shall make rules in accordance with Title 63G,  
86 Chapter 3, Utah Administrative Rulemaking Act, including rules establishing penalties for a  
87 violation of this chapter.

88 (3) Subject to the granting of primacy by the Environmental Protection Agency under  
89 the process required in 40 C.F.R. Section 145 and successful application for primacy approval

90 under Section 1425 of the Safe Drinking Water Act, the board and the division have:

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

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

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

97 (a) the permitting process;

98 (b) the regulation of the construction, operation, and pre-closure activities of the  
99 storage facility; [~~and~~]

100 (c) the monitoring and management of closed storage facilities[-]; and

101 (d) administering the fund.

102 (5) In addition to a fee imposed under Subsection (4), the board, in accordance with  
103 Section 63J-1-504:

104 (a) may impose fees under Section 40-11-20; and

105 (b) shall impose a fee under Section 40-11-21.

106 Section 3. Section 40-11-4 is amended to read:

107 **40-11-4. Board and division permit authority.**

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

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

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

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

115 (a) inspect equipment and surface storage facilities;

116 (b) observe, monitor, and investigate operations; or

117 (c) inspect records the board requires the operators maintain at the storage facility;

118 (4) to require that storage operators provide assurance, including bonds, that money is  
119 available to fulfill the storage operator's duties;

120 (5) to exercise continuing jurisdiction over storage operators and storage facilities,

121 including the authority, after notice and hearing, to amend provisions in a permit and to revoke  
122 a permit; [~~and~~]

123 (6) to dissolve or change the boundaries of any unit that is within or near a storage  
124 reservoir's boundaries[-]; and

125 (7) to oversee the expenditure of money from the fund to accomplish the purposes of  
126 this chapter.

127 Section 4. Section **40-11-6** is amended to read:

128 **40-11-6. Permit application requirements.**

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

130 (a) comply with:

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

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

133 (b) pay a fee, as established by the board in accordance with Subsections 40-11-3(4)

134 and (5), to cover the administrative costs of considering an application for a permit and to pay  
135 the expenditures of money from the fund to accomplish the purposes of this chapter.

136 (2) The board shall give priority to storage operators who apply for a permit to store  
137 carbon dioxide produced in Utah.

138 (3) A permit application shall demonstrate:

139 (a) that the storage operator has complied with all requirements established by the  
140 board in rule and in this chapter;

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

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

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

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

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

149 (g) if the storage facility contains commercially valuable minerals:

150 (i) a plan for addressing the ownership interests of the mineral owners or mineral  
151 lessees; and

- 152 (ii) a demonstration that the storage facility will not negatively impact the
- 153 commercially valuable minerals;
- 154 (h) that the storage reservoir meets the integrity requirements described in Section
- 155 40-11-13;
- 156 (i) that the operator has taken reasonable steps to ensure that:
- 157 (i) the storage facility will not endanger human health;
- 158 (ii) the storage facility will not endanger the environment;
- 159 (iii) the storage facility is in the public interest;
- 160 (iv) the storage facility will not adversely affect surface water or formation containing
- 161 fresh water;
- 162 (v) carbon dioxide will not escape from the storage reservoir at a rate exceeding the
- 163 lower of 1% or the standard recommended by the Environmental Protection Agency; and
- 164 (vi) that substances that compromise the objectives of this chapter or the integrity of a
- 165 reservoir will not enter the reservoir;
- 166 (j) that the storage reservoir has defined horizontal and vertical boundaries;
- 167 (k) that the boundaries of the storage reservoir include buffer areas to ensure the safe
- 168 operation of the storage facility;
- 169 (l) plans for monitoring the storage facility and procedures to assess the location and
- 170 migration of carbon dioxide injected for storage;
- 171 (m) plans to ensure compliance with geologic carbon storage statutes and rules; and
- 172 (n) assurance that all nonconsenting pore space owners are or will be equitably
- 173 compensated for the use of the pore space of the nonconsenting pore space owners in the
- 174 storage facility.

175 Section 5. Section 40-11-15 is amended to read:

176 **40-11-15. Title to injected carbon dioxide.**

- 177 (1) The storage operator has title to the carbon dioxide injected into and stored in a
- 178 storage reservoir and holds title until the board issues a certificate of project completion.
- 179 (2) The storage operator is liable for any damage the stored carbon dioxide may cause,
- 180 including damage caused by escaping stored carbon dioxide until the board issues a certificate
- 181 of project completion.
- 182 (3) An owner of pore space does not incur liability for geologic carbon storage activity

183 by virtue of ownership of or of leasing out the pore space.

184 Section 6. Section **40-11-16** is amended to read:

185 **40-11-16. Certificate of project completion.**

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

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

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

190 (c) a demonstration of the resolution of all pending claims regarding the storage  
191 facility;

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

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

194 (i) is essentially stationary; or

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

197 (f) a demonstration that all wells, equipment, and facilities necessary for maintaining  
198 the continued integrity of the storage reservoir are currently in good condition and will  
199 maintain that good condition;

200 (g) a demonstration that the operator has:

201 (i) plugged wells;

202 (ii) removed equipment and facilities not necessary to maintaining the integrity of the  
203 reservoir; and

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

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

206 (a) title to the storage facility and the stored carbon dioxide, including oversight of a  
207 facility used to store the stored carbon dioxide, transfers to the state;

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

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

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

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

215 Section 7. Section 40-11-20 is amended to read:

216 **40-11-20. Adoption of procedure.**

217 (1) The board may adopt procedures and criteria to determine the amount of injected  
218 carbon dioxide:

219 (a) stored in a reservoir that has been or is being used for an enhanced oil or gas  
220 recovery project; or

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

222 (2) The board may charge a fee to cover the costs of making a determination described  
223 in Subsection (1).

224 (3) The division shall deposit a fee collected in accordance with Subsection (2) into the  
225 [~~Geologic Carbon Storage Facility Administrative Fund created in Section 40-11-21~~] fund.

226 Section 8. Section 40-11-21 is amended to read:

227 **40-11-21. Fees related to reservoir or storage facility.**

228 (1) There is levied a fee per ton of carbon dioxide injected into a reservoir or storage  
229 facility.

230 (2) The board shall establish the fee described in Subsection (1) in accordance with  
231 Section ~~63J-1-504~~[in] to equal the sum of:

232 (a) an amount to pay the anticipated costs to the division of the regulation of storage  
233 facility:

234 [~~(a)~~] (i) construction;

235 [~~(b)~~] (ii) operation; and

236 [~~(c)~~] (iii) pre-closure activities~~[-];~~ and

237 (b) an amount to pay the anticipated costs to the division of the long-term monitoring  
238 and management of a closed storage facility.

239 [~~(3) Money the board collects in accordance with this section shall be deposited into~~  
240 ~~the Geologic Carbon Storage Facility Administrative Fund created in Subsection (4).]~~

241 [~~(4) There is created an expendable special revenue fund known as the "Geologic~~  
242 ~~Carbon Storage Facility Administrative Fund."~~]

243 [~~(5) The fund shall consist of the money specified in Subsections (1) through (3),~~  
244 ~~Section 40-11-20, and interest earned on the fund.]~~



245 ~~[(6) The division shall only use the money deposited into the Geologic Carbon Storage~~  
 246 ~~Facility Administrative Fund to:]~~

247 ~~[(a) defray the division's regulatory expenses incurred during the regulation of storage~~  
 248 ~~facility:]~~

249 ~~[(i) construction;]~~

250 ~~[(ii) operation; and]~~

251 ~~[(iii) pre-closure activities;]~~

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

253 ~~[(c) reimburse a regulatory agency with whom the board has entered into a cooperative~~  
 254 ~~agreement described in Section 40-11-18 for expenses the cooperating agency incurs in~~  
 255 ~~conducting the activities described in Subsections (6)(a) and (b).]~~

256 (3) The division shall deposit money collected under this section into the fund.

257 Section 9. Section 40-11-23 is enacted to read:

258 **40-11-23. Carbon Dioxide Storage Fund.**

259 (1) There is created an expendable special revenue fund known as the "Carbon Dioxide  
 260 Storage Fund."

261 (2) The fund shall consist of:

262 (a) money from fees collected under Subsection 40-11-3(4) and Sections 40-11-20 and  
 263 40-11-21;

264 (b) penalties imposed for violations of this chapter; and

265 (c) interest or other earnings for the fund.

266 (3) The state treasurer shall invest the money in the fund according to Title 51, Chapter  
 267 7, State Money Management Act, except that interest or other earnings derived from those  
 268 investments shall be deposited into the fund.

269 (4) The division shall only use the money in the fund to:

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

272 (i) construction;

273 (ii) operation; and

274 (iii) pre-closure activities;

275 (b) make determinations in accordance with Section 40-11-20;

276 (c) reimburse a regulatory agency with whom the board has entered into a cooperative  
277 agreement described in Section 40-11-18 for expenses the cooperating agency incurs in  
278 conducting the activities described in Subsections (4)(a) and (b);

279 (d) permit, inspect, monitor, investigate, record, and report on geologic storage  
280 facilities and associated carbon dioxide injection wells;

281 (e) perform long-term monitoring of geologic storage facilities and associated carbon  
282 dioxide injection wells;

283 (f) remediate mechanical problems associated with geologic storage facilities and  
284 associated carbon dioxide injection wells;

285 (g) repair mechanical leaks at geologic storage facilities;

286 (h) plug abandoned carbon dioxide injection wells used for geologic storage;

287 (i) training and technology transfer related to carbon dioxide injection and geologic  
288 storage;

289 (j) perform compliance and enforcement activities related to geologic storage and  
290 associated man-made carbon dioxide injection wells; and

291 (k) oversee the management of the geologic storage facilities and associated carbon  
292 dioxide injection wells after site closure.

293 Section 10. **Repealer.**

294 This bill repeals:

295 Section 40-11-22, Fees -- Geologic Carbon Storage Facility Trust Fund.

296 Section 11. **Effective date.**

297 This bill takes effect on May 1, 2024.