



March 19, 2019

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# ENGROSSED SENATE BILL No. 442

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DIGEST OF SB 442 (Updated March 18, 2019 1:06 pm - DI 109)

**Citations Affected:** IC 14-39; noncode.

**Synopsis:** Underground storage of carbon dioxide. Declares the underground storage of carbon dioxide to be a public use and service, in the public interest, and a benefit to the welfare and people of Indiana. Authorizes the establishment of a carbon sequestration pilot project (pilot project) that will store the carbon dioxide captured at a proposed ammonia production facility and will transport and inject the carbon dioxide into underground strata and formations pursuant to one or more federal permits as an alternative to releasing the carbon dioxide into the air. Provides that if the operator of the pilot project is not able to reach an agreement with an owner of property to acquire: (1) ownership of underground strata and formations located under the surface of the property for purposes of the underground storage of carbon dioxide; or (2) ownership of or other rights to surface areas of the property for purposes of establishing and operating monitoring  
(Continued next page)

**Effective:** Upon passage; July 1, 2019.

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**Ford Jon, Zay, Messmer, Doriot,  
Niezgodski, Tallian, Breaux**  
(HOUSE SPONSORS — MORRISON, EBERHART)

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January 14, 2019, read first time and referred to Committee on Environmental Affairs.  
January 29, 2019, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
February 21, 2019, amended, reported favorably — Do Pass.  
February 25, 2019, read second time, amended, ordered engrossed.  
February 26, 2019, engrossed. Read third time, passed. Yeas 47, nays 2.

HOUSE ACTION

March 7, 2019, read first time and referred to Committee on Environmental Affairs.  
March 12, 2019, reassigned to Committee on Natural Resources.  
March 19, 2019, amended, reported — Do Pass.

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ES 442—LS 6818/DI 55



## Digest Continued

facilities; the operator of the pilot project may use the power of eminent domain to acquire ownership of the strata and underground formations and ownership of or other rights to the surface areas. Provides that the state of Indiana, upon the recommendation of the director of the department of natural resources, may obtain ownership of: (1) the carbon dioxide stored in the underground strata and formations; and (2) the underground strata and formations in which the carbon dioxide is stored; from the operator of the pilot project. Urges the legislative council to assign to an appropriate interim study committee for the 2019 interim the task of studying the geologic storage of carbon dioxide.

**ES 442—LS 6818/DI 55**



March 19, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## ENGROSSED SENATE BILL No. 442

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A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 14-39-1-1, AS ADDED BY P.L.150-2011,  
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 1. As used in this chapter, "carbon dioxide" means  
4 a fluid consisting of more than ninety percent (90%) carbon dioxide  
5 molecules. ~~compressed to a supercritical state.~~  
6 SECTION 2. IC 14-39-1-2.4 IS ADDED TO THE INDIANA CODE  
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2019]: **Sec. 2.4. As used in this chapter, "carbon sequestration  
9 pilot project" refers to the pilot project described in section 3.5 of  
10 this chapter.**  
11 SECTION 3. IC 14-39-1-2.5 IS ADDED TO THE INDIANA CODE  
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2019]: **Sec. 2.5. As used in this chapter, "underground storage of  
14 carbon dioxide" means the injection of carbon dioxide into, and  
15 storage of carbon dioxide in, underground strata and formations**

ES 442—LS 6818/DI 55



1 **pursuant to one (1) or more federal permits issued by the United**  
 2 **States Environmental Protection Agency.**

3 SECTION 4. IC 14-39-1-3, AS ADDED BY P.L.150-2011,  
 4 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2019]: Sec. 3. Because:

6 (1) the movement of **carbon dioxide** conducted for:

7 ~~(1)~~ (A) a person's own use or account; or

8 ~~(2)~~ (B) the use or account of another person or persons;

9 ~~of carbon dioxide by pipeline in Indiana for carbon management~~  
 10 ~~applications can assist efforts to reduce carbon dioxide emissions;~~  
 11 ~~from the manufacture of gas using coal and the generation of~~  
 12 ~~electricity; and~~

13 (2) **the underground storage of carbon can assist efforts to**  
 14 **reduce carbon dioxide emissions;**

15 the use of carbon dioxide transmission pipelines, including their  
 16 routing, construction, maintenance, and operation, **and the**  
 17 **underground storage of carbon dioxide is are** declared as a matter  
 18 of legislative determination to be a public use and service, in the public  
 19 interest, and a benefit to the welfare and people of Indiana.

20 SECTION 5. IC 14-39-1-3.5 IS ADDED TO THE INDIANA CODE  
 21 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 22 1, 2019]: **Sec. 3.5. (a) This chapter authorizes the establishment of**  
 23 **a carbon sequestration pilot project that:**

24 (1) **will transport and store carbon dioxide captured at the**  
 25 **proposed ammonia plant to be located at 444 West Sanford**  
 26 **Avenue, West Terre Haute, Indiana;**

27 (2) **will obtain one (1) or more permits issued by the United**  
 28 **States Environmental Protection Agency for the injection and**  
 29 **underground storage of carbon dioxide; and**

30 (3) **will employ the underground storage of carbon dioxide as**  
 31 **an alternative to releasing the carbon dioxide into the air.**

32 (b) **The director shall designate the operator of the carbon**  
 33 **sequestration pilot project according to the characteristics of the**  
 34 **pilot project set forth in subsection (a).**

35 SECTION 6. IC 14-39-1-7, AS ADDED BY P.L.150-2011,  
 36 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2019]: Sec. 7. (a) If a carbon dioxide transmission pipeline  
 38 company has received a carbon dioxide transmission pipeline  
 39 certificate of authority from the department under this chapter and is  
 40 not able to reach an agreement with a property owner for the  
 41 construction, operation, and maintenance of the carbon dioxide  
 42 transmission pipeline on the owner's property, the company may



1 proceed to condemn a right-of-way or an easement necessary or useful  
2 for:

3 (1) constructing, maintaining, using, operating, and gaining  
4 access to a carbon dioxide transmission pipeline and all necessary  
5 machinery, equipment, pumping stations, appliances, and fixtures  
6 for use in connection with the carbon dioxide transmission  
7 pipeline; and

8 (2) obtaining all necessary rights of ingress and egress to  
9 construct, examine, alter, repair, maintain, operate, or remove a  
10 carbon dioxide transmission pipeline and all of its component  
11 parts.

12 **(b) If the operator of the carbon sequestration pilot project is**  
13 **not able to reach an agreement with an owner of property to**  
14 **acquire:**

15 **(1) ownership of underground strata or formations located**  
16 **under the surface of the property for purposes of the**  
17 **underground storage of carbon dioxide; or**

18 **(2) ownership or other rights to one (1) or more areas of the**  
19 **surface of the property for purposes of establishing and**  
20 **operating monitoring facilities required by the United States**  
21 **Environmental Protection Agency for the underground**  
22 **storage of carbon dioxide;**

23 **the operator of the carbon sequestration pilot project may proceed**  
24 **under subsection (c).**

25 **(c) The operator of the carbon sequestration pilot project may**  
26 **exercise the power of eminent domain to obtain:**

27 **(1) ownership of such underground strata and formations**  
28 **located under the surface of the owner's property as may be**  
29 **necessary or useful for underground storage of carbon**  
30 **dioxide in the strata or formations; and**

31 **(2) ownership or other rights to one (1) or more areas of the**  
32 **surface of the owner's property, including but not limited to**  
33 **one (1) or more rights-of-way or easements, as may be**  
34 **necessary or useful for constructing, maintaining, using,**  
35 **operating, and gaining access to monitoring facilities required**  
36 **by the United States Environmental Protection Agency for the**  
37 **underground storage of carbon dioxide.**

38 SECTION 7. IC 14-39-1-8, AS ADDED BY P.L.150-2011,  
39 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2019]: Sec. 8. Except as otherwise provided in this chapter,  
41 IC 32-24-1 applies to the condemnation of property:

42 **(1) under section 7(a) of this chapter by a carbon dioxide**



1 transmission pipeline company; **and**  
 2 **(2) under section 7(b) and 7(c) of this chapter by the operator**  
 3 **of the carbon sequestration pilot project.**

4 SECTION 8. IC 14-39-1-9, AS ADDED BY P.L.150-2011,  
 5 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2019]: Sec. 9. A carbon dioxide transmission pipeline  
 7 company that exercises the authority set forth in section ~~7~~ **7(a)** of this  
 8 chapter shall:

9 (1) compensate the property owner by making a payment to the  
 10 owner equal to:

11 (A) one hundred twenty-five percent (125%) of the fair market  
 12 value of the interest in the property acquired, if the  
 13 right-of-way or easement involves agricultural land; or

14 (B) one hundred fifty percent (150%) of the fair market value  
 15 of the interest in the property acquired, if the right-of-way or  
 16 easement involves a parcel of property occupied by the owner  
 17 as a residence; and

18 (2) pay to the property owner:

19 (A) any damages determined under IC 32-24-1; and

20 (B) any loss incurred in a trade or business;

21 that are attributable to the exercise of eminent domain.

22 SECTION 9. IC 14-39-1-13 IS REPEALED [EFFECTIVE JULY 1,  
 23 2019]. ~~Sec. 13. This chapter expires July 1, 2021.~~

24 SECTION 10. IC 14-39-1-14 IS ADDED TO THE INDIANA  
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2019]: **Sec. 14. Because the public interest**  
 27 **would be served by the state of Indiana succeeding to the rights of**  
 28 **a person that has conducted the underground storage of carbon**  
 29 **dioxide, the state of Indiana, upon the recommendation of the**  
 30 **director of the department, may obtain ownership of:**

31 **(1) the carbon dioxide stored in underground strata and**  
 32 **formations; and**

33 **(2) the underground strata and formations in which the**  
 34 **carbon dioxide is stored;**

35 **from the operator of the carbon sequestration pilot project.**

36 SECTION 11. [EFFECTIVE UPON PASSAGE] **(a) The legislative**  
 37 **council is urged to assign to an appropriate interim study**  
 38 **committee the task of studying the geologic storage of carbon**  
 39 **dioxide, including the following:**

40 **(1) The suitability of storing carbon dioxide and other**  
 41 **substances in the subsurface geologic strata beneath Indiana's**  
 42 **surface.**



- 1           **(2) The right to inject and store carbon dioxide and other**
- 2           **substances.**
- 3           **(3) The owner of any stored carbon dioxide or other**
- 4           **substances beneath the surface.**
- 5           **(4) The requirements to gain authority of pooling of pore**
- 6           **space.**
- 7           **(5) The financial responsibility when a problem associated**
- 8           **with a Class VI well creates a danger to human health or the**
- 9           **environment.**
- 10          **(6) The adequate testing and monitoring requirements**
- 11          **imposed for a Class VI well.**
- 12          **(7) The financial exposure to the state if the state becomes the**
- 13          **owner of all carbon dioxide and other substances stored**
- 14          **underground.**
- 15          **(b) This SECTION expires December 31, 2019.**
- 16          **SECTION 12. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 442, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 5 through 38.

Page 4, delete lines 2 through 6, begin a new paragraph and insert:

**"Sec. 1. As used in this chapter, "pore space" means the voids in one (1) or more subsurface geologic strata that:**

- (1) are located beneath the surface of a particular tract of land;**
- (2) are suitable for the storage of carbon dioxide;**
- (3) in their natural and undisturbed state, are not:**
  - (A) oil bearing formations; or**
  - (B) gas bearing formations; and**
- (4) are located below the base of the Ordovician formations, as defined by the Indiana geological and water survey established by IC 21-47-2."**

Page 4, delete lines 13 through 15, begin a new paragraph and insert:

**"Sec. 3. As used in this chapter, "reservoir" means a portion of one (1) or more subsurface geologic strata that:**

- (1) in their natural and undisturbed state, are not:**
  - (A) oil bearing formations; or**
  - (B) gas bearing formations; and**
- (2) are located below the base of the Ordovician formations, as defined by the Indiana geological and water survey established by IC 21-47-2;**

**that is suitable for the injection and storage of carbon dioxide."**

Page 5, line 21, after "Sec. 9." insert "(a)".

Page 5, line 34, delete "pooled." and insert **"pooled and all persons known to possess a fee simple estate or leasehold estate in minerals of the pore space proposed to be pooled."**

Page 6, line 10, delete "applies" and insert **"applies:"**.

Page 6, delete lines 11 through 14, begin a new line triple block indented and insert:

**"(i) may submit written comments to the director of the division of oil and gas of the department concerning the prospective storage operator's application for the pooling of pore space at the address set forth in the notice within twenty (20) days after the publication date of the notice; and**





**(ii) may attend the hearing on the prospective storage operator's application for a pooling order; and".**

Page 6, between lines 16 and 17, begin a new line block indented and insert:

**"(4) Satisfy the notification requirements of subsections (b) and (c).**

**(b) A prospective storage operator must serve a written notification describing the proposed underground storage of carbon dioxide personally or by certified mail to each of the following:**

**(1) Each person who controls:**

**(A) a well for oil and gas purposes, including a well having temporary abandonment status under 312 IAC 29-33;**

**(B) a well for oil and gas purposes that is not yet in production; and**

**(C) an unexpired permit to drill a well for oil and gas purposes;**

**if the location of the well is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.**

**(2) The permittee of an underground mine permitted under IC 14-34 if the location of the underground mine is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.**

**(3) A person who files a map under 312 IAC 29-17-1(c) showing the location of commercially minable coal resources if the location of the coal resources is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.**

**(4) Each person who controls an underground gas storage or underground petroleum storage reservoir identified under 312 IAC 29-18-1 if the location of the reservoir is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.**

**(5) Each person having a surface or subsurface property interest (including fee simple or leasehold estate in minerals) in:**

**(A) the pore space proposed to be pooled; or**



**(B) a tract of land located not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.**

**(c) The written notification provided under subsection (b):**

**(1) must specify that a person, within fifteen (15) days after receiving the notification, may submit written comments to the director of the division of oil and gas of the department concerning the prospective storage operator's application for the pooling of pore space; and**

**(2) must include:**

**(A) the address to which the person's written comments may be forwarded;**

**(B) the address from which additional information about the prospective storage operator's application for the pooling of pore space may be obtained; and**

**(C) instructions for obtaining a copy of the prospective storage operator's application for the pooling of pore space."**

Page 6, line 20, delete "and".

Page 6, line 25, after "interest;" insert "**and**

**(3) all persons to whom section 9(b)(1) through 9(b)(5) of this chapter applies;"**.

Page 6, line 26, delete "IC 4-21.5-3-1." and insert "**IC 4-21.5-3-1 or this chapter."**

Page 6, line 29, delete "(a)(1) applies; or" and insert "**(a)(1);"**

Page 6, line 30, delete "(a)(2) applies;" and insert "**(a)(2); or**

**(3) section 9(b)(1) through 9(b)(5) of this chapter;"**.

Page 6, line 31, before "shall" insert "**applies"**.

Page 6, line 41, after "judge," insert "**in light of all written comments submitted before the hearing and all testimony given and written evidence presented at the hearing,"**

Page 7, line 14, delete "apply;" and insert "**apply, and on other property owners and holders of property interests described in section 9(b)(1) through 9(b)(5) of this chapter;"**

Page 8, line 32, delete "oil and gas environmental" and insert "**pore space pooling application"**.

Page 8, line 33, delete "IC 14-37-10-2." and insert "**IC 14-39-2.5-1."**

Page 9, between lines 2 and 3, begin a new paragraph and insert:

**"Sec. 16. (a) Except for the provisions of this chapter concerning:**



- (1) notice being provided to; and
- (2) the submission of written comments, testimony, and written evidence by;

the holders of interests in extractable mineral resources, nothing in this chapter may be construed to apply to extractable mineral resources.

(b) The rights and requirements of this chapter:

- (1) are subordinate to rights pertaining to oil, gas, and coal reserves; and
- (2) shall in no way adversely affect oil, gas, and coal reserves.

(c) Notwithstanding any other law, nothing in this chapter may be construed to preclude the rights provided under IC 14-37-9.

SECTION 17. IC 14-39-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Chapter 2.5. Carbon Dioxide Storage Fees and Funds**

**Sec. 1. (a)** The pore space pooling application fund is established for the purpose of defraying the expenses of the department described in IC 14-39-2-13(b).

(b) The department shall administer the fund.

(c) The fund consists of the following:

- (1) Fees collected under IC 14-39-2-9 from persons applying for pore space pooling orders.
- (2) Accrued interest and other investment earnings of the fund.
- (3) Gifts, grants, donations, or appropriations from any source.

(d) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) The expenses of administering the fund shall be paid from money in the fund.

(g) Money in the fund is annually appropriated for the purpose of defraying the expenses of the department described in IC 14-39-2-13(b).

**Sec. 2. (a)** The definitions in IC 14-39-3 apply throughout this section.

(b) A storage operator that injects carbon dioxide underground at a storage facility shall pay a carbon dioxide storage fee. Subject



to subsection (c), the amount of the fee is ten cents (\$0.10) per metric ton of carbon dioxide injected underground at the storage facility.

(c) When a total of five million dollars (\$5,000,000) has been paid in carbon dioxide storage fees under this section for the injection of carbon dioxide underground at a particular storage facility, the storage operator operating the storage facility is no longer required to pay carbon dioxide storage fees under this section for the injection of carbon dioxide underground at the storage facility.

**Sec. 3. (a) The carbon dioxide storage fund is established.**

**(b) The purpose of the fund is to meet:**

- (1) expenses incurred by the state of Indiana in fulfilling monitoring requirements with respect to Class VI wells under IC 14-39-3-13(b);**
- (2) expenses incurred by the state of Indiana for emergency and remedial response with respect to Class VI wells under IC 14-39-3-12(b); and**
- (3) other expenses incurred by the state of Indiana as owner of storage facilities under IC 14-39-3-15.**

**(c) The department shall administer the fund.**

**(d) The fund consists of the following:**

- (1) Fees collected under section 2 of this chapter.**
- (2) Accrued interest and other investment earnings of the fund.**
- (3) Gifts, grants, donations, or appropriations from any source.**

**(e) Money in the fund does not revert to the state general fund at the end of a state fiscal year.**

**(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.**

**(g) The expenses of administering the fund shall be paid from money in the fund.**

**(h) Money in the fund is annually appropriated for the purposes set forth in subsection (b)."**

Page 11, after line 35, begin a new paragraph and insert:

**"Sec. 16. (a) Notwithstanding any other law, nothing in this chapter may be construed to apply to extractable mineral resources.**

**(b) The rights and requirements of this chapter:**



**(1) are subordinate to rights pertaining to oil, gas, and coal reserves; and**

**(2) shall in no way adversely affect oil, gas, and coal reserves.**

**(c) Notwithstanding any other law, nothing in this chapter may be construed to preclude the rights provided under IC 14-37-9."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 442 as introduced.)

MESSMER, Chairperson

Committee Vote: Yeas 8, Nays 3.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 442, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 442 as printed January 30, 2019.)

MISHLER, Chairperson

Committee Vote: Yeas 10, Nays 2.

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SENATE MOTION

Madam President: I move that Senate Bill 442 be amended to read as follows:

Delete the title and insert the following:

**ES 442—LS 6818/DI 55**



A BILL FOR AN ACT concerning natural resources.

Page 1, delete lines 1 through 15.

Delete pages 2 through 13.

Page 14, delete lines 1 through 35.

Renumber all SECTIONS consecutively.

(Reference is to SB 442 as printed February 22, 2019.)

FORD JON

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 442, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 14-39-1-1, AS ADDED BY P.L.150-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. As used in this chapter, "carbon dioxide" means a fluid consisting of more than ninety percent (90%) carbon dioxide molecules. ~~compressed to a supercritical state.~~

SECTION 2. IC 14-39-1-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2.4. As used in this chapter, "carbon sequestration pilot project" refers to the pilot project described in section 3.5 of this chapter.**

SECTION 3. IC 14-39-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 2.5. As used in this chapter, "underground storage of carbon dioxide" means the injection of carbon dioxide into, and storage of carbon dioxide in, underground strata and formations pursuant to one (1) or more federal permits issued by the United States Environmental Protection Agency.**

SECTION 4. IC 14-39-1-3, AS ADDED BY P.L.150-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2019]: Sec. 3. Because:

(1) the movement of **carbon dioxide** conducted for:

(1) (A) a person's own use or account; or

(2) (B) the use or account of another person or persons;

of **carbon dioxide** by pipeline in Indiana for carbon management applications can assist efforts to reduce carbon dioxide emissions; from the manufacture of gas using coal and the generation of electricity; and

(2) the **underground storage of carbon can assist efforts to reduce carbon dioxide emissions;**

the use of carbon dioxide transmission pipelines, including their routing, construction, maintenance, and operation, **and the underground storage of carbon dioxide is are** declared as a matter of legislative determination to be a public use and service, in the public interest, and a benefit to the welfare and people of Indiana.

SECTION 5. IC 14-39-1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3.5. (a) **This chapter authorizes the establishment of a carbon sequestration pilot project that:**

(1) will transport and store carbon dioxide captured at the proposed ammonia plant to be located at 444 West Sanford Avenue, West Terre Haute, Indiana;

(2) will obtain one (1) or more permits issued by the United States Environmental Protection Agency for the injection and underground storage of carbon dioxide; and

(3) will employ the underground storage of carbon dioxide as an alternative to releasing the carbon dioxide into the air.

(b) **The director shall designate the operator of the carbon sequestration pilot project according to the characteristics of the pilot project set forth in subsection (a).**

SECTION 6. IC 14-39-1-7, AS ADDED BY P.L.150-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) If a carbon dioxide transmission pipeline company has received a carbon dioxide transmission pipeline certificate of authority from the department under this chapter and is not able to reach an agreement with a property owner for the construction, operation, and maintenance of the carbon dioxide transmission pipeline on the owner's property, the company may proceed to condemn a right-of-way or an easement necessary or useful for:

(1) constructing, maintaining, using, operating, and gaining access to a carbon dioxide transmission pipeline and all necessary



machinery, equipment, pumping stations, appliances, and fixtures for use in connection with the carbon dioxide transmission pipeline; and

(2) obtaining all necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove a carbon dioxide transmission pipeline and all of its component parts.

**(b) If the operator of the carbon sequestration pilot project is not able to reach an agreement with an owner of property to acquire:**

**(1) ownership of underground strata or formations located under the surface of the property for purposes of the underground storage of carbon dioxide; or**

**(2) ownership or other rights to one (1) or more areas of the surface of the property for purposes of establishing and operating monitoring facilities required by the United States Environmental Protection Agency for the underground storage of carbon dioxide;**

**the operator of the carbon sequestration pilot project may proceed under subsection (c).**

**(c) The operator of the carbon sequestration pilot project may exercise the power of eminent domain to obtain:**

**(1) ownership of such underground strata and formations located under the surface of the owner's property as may be necessary or useful for underground storage of carbon dioxide in the strata or formations; and**

**(2) ownership or other rights to one (1) or more areas of the surface of the owner's property, including but not limited to one (1) or more rights-of-way or easements, as may be necessary or useful for constructing, maintaining, using, operating, and gaining access to monitoring facilities required by the United States Environmental Protection Agency for the underground storage of carbon dioxide.**

SECTION 7. IC 14-39-1-8, AS ADDED BY P.L.150-2011, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. Except as otherwise provided in this chapter, IC 32-24-1 applies to the condemnation of property:

**(1) under section 7(a) of this chapter by a carbon dioxide transmission pipeline company; and**

**(2) under section 7(b) and 7(c) of this chapter by the operator of the carbon sequestration pilot project.**

SECTION 8. IC 14-39-1-9, AS ADDED BY P.L.150-2011,





SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. A carbon dioxide transmission pipeline company that exercises the authority set forth in section ~~7~~ **7(a)** of this chapter shall:

(1) compensate the property owner by making a payment to the owner equal to:

(A) one hundred twenty-five percent (125%) of the fair market value of the interest in the property acquired, if the right-of-way or easement involves agricultural land; or

(B) one hundred fifty percent (150%) of the fair market value of the interest in the property acquired, if the right-of-way or easement involves a parcel of property occupied by the owner as a residence; and

(2) pay to the property owner:

(A) any damages determined under IC 32-24-1; and

(B) any loss incurred in a trade or business;

that are attributable to the exercise of eminent domain.

SECTION 9. IC 14-39-1-13 IS REPEALED [EFFECTIVE JULY 1, 2019]. ~~Sec. 13. This chapter expires July 1, 2021.~~

SECTION 10. IC 14-39-1-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 14. Because the public interest would be served by the state of Indiana succeeding to the rights of a person that has conducted the underground storage of carbon dioxide, the state of Indiana, upon the recommendation of the director of the department, may obtain ownership of:**

**(1) the carbon dioxide stored in underground strata and formations; and**

**(2) the underground strata and formations in which the carbon dioxide is stored;**

**from the operator of the carbon sequestration pilot project."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 442 as reprinted February 26, 2019.)

EBERHART

Committee Vote: yeas 10, nays 2.

ES 442—LS 6818/DI 55

