

By: Senator(s) Dearing, Montgomery, Butler  
(36th), Brown, Butler (38th), Gollott,  
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To: Oil, Gas and Other  
Minerals

SENATE BILL NO. 2723  
(As Sent to Governor)

1 AN ACT TO CREATE THE MISSISSIPPI GEOLOGIC SEQUESTRATION OF  
2 CARBON DIOXIDE ACT; TO ARTICULATE LEGISLATIVE INTENT; TO ENACT  
3 DEFINITIONS; TO SPECIFY DUTIES AND POWERS OF THE OIL AND GAS BOARD  
4 IN RESPECT TO GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE; TO REQUIRE  
5 BOARD APPROVAL FOR USE OF A RESERVOIR FOR CARBON DIOXIDE STORAGE;  
6 AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** The following shall be codified as Section  
9 53-11-1, Mississippi Code of 1972:

10 53-11-1. **Short title.** This chapter shall be known and may  
11 be cited as the "Mississippi Geologic Sequestration of Carbon  
12 Dioxide Act."

13 **SECTION 2.** The following shall be codified as Section  
14 53-11-3, Mississippi Code of 1972:

15 53-11-3. **Legislative findings; jurisdiction.** (1) It is  
16 declared to be in the public interest for a public purpose and the  
17 policy of Mississippi that:

18 (a) The geologic sequestration of carbon dioxide will  
19 benefit the citizens of the state and the state's environment.

20 (b) Carbon dioxide is a valuable commodity to the  
21 citizens of the state.

22 (c) Geologic sequestration of carbon dioxide may allow  
23 for orderly withdrawal as appropriate or necessary, thereby  
24 allowing carbon dioxide to be available for commercial,  
25 industrial, or other uses, including the use of carbon dioxide for  
26 enhanced recovery of oil and gas.



27           (d) The state has substantial and valuable oil and gas  
28 reserves not producible by traditional recovery techniques, but  
29 which may be producible by enhanced recovery methods.

30           (e) The enhanced recovery of oil and gas by the  
31 injection of carbon dioxide into oil and gas reservoirs is a  
32 proven enhanced recovery method which results in additional  
33 production of oil and gas in the State of Mississippi and the  
34 sequestration of carbon dioxide.

35           (f) It is for the public benefit and in the public  
36 interest that the maximum amount of the state's oil and gas  
37 reserves be produced to the extent that it is economically and  
38 technologically feasible.

39           (g) It is for the public benefit and in the public  
40 interest that, to the extent that it is economically and  
41 technologically feasible, carbon dioxide be injected into and  
42 stored in oil and gas reservoirs and other geologic formations in  
43 a manner protective of waters of the state as defined in Section  
44 49-17-5(f).

45           (h) Providing at the election of the operator for a  
46 current or former enhanced oil or gas recovery project to qualify  
47 as a geologic sequestration project for the incidental storage of  
48 carbon dioxide will encourage enhanced oil or gas recovery  
49 projects and geologic sequestration projects and will be  
50 beneficial to the citizens of this state and will serve the public  
51 interest.

52           (i) Geologic sequestration of carbon dioxide is an  
53 emerging industry that has the potential to provide jobs,  
54 investment, and other economic opportunities for the people of  
55 Mississippi, and is a valuable incentive for Mississippi to  
56 attract new industry.

57           (j) It is the public policy of Mississippi and the  
58 purpose of this chapter to provide for a coordinated statewide  
59 program related to the geologic sequestration of carbon dioxide in



60 reservoirs defined in this chapter and to also fulfill the state's  
61 primary responsibility for assuring compliance with the federal  
62 Safe Drinking Water Act, including any amendments thereto related  
63 to the underground injection of carbon dioxide for geologic  
64 sequestration.

65 (2) The commission and permit board shall have jurisdiction  
66 and authority over all persons and property necessary to enforce  
67 effectively the provisions of this chapter relating to the  
68 geologic sequestration of carbon dioxide streams and subsequent  
69 withdrawal of stored carbon dioxide streams. The department, as  
70 staff of the commission and the permit board and on behalf of the  
71 State of Mississippi, shall seek primacy from the U.S.  
72 Environmental Protection Agency for Class VI underground injection  
73 control wells. The commission shall enforce the law pursuant to  
74 Sections 49-17-1, et seq. Except for Class VI underground  
75 injection control wells for which the board shall be the  
76 permitting agency: (a) the permit board shall serve as the  
77 permitting agency for Class VI underground injection control wells  
78 pursuant to Sections 49-17-28 and 49-17-29; and (b) the commission  
79 and permit board are authorized to promulgate such rules and  
80 regulations as are necessary for the development and  
81 administration of the Class VI underground injection control well  
82 program consistent with federal statutes, rules and regulations  
83 pertaining to geologic sequestration of carbon dioxide streams and  
84 assessment of fees for the development and administration of the  
85 Class VI underground injection control well program. Underground  
86 formations or strata not included in the term "reservoir" as  
87 defined in this chapter shall be subject to the jurisdiction of  
88 the commission and the permit board. Notwithstanding the  
89 foregoing, the board has primacy for Class II underground  
90 injection control wells and, through a written memorandum of  
91 understanding with the department, the board will have  
92 jurisdiction and authority over Class II underground injection



93 control wells converted to Class VI underground injection control  
94 wells and Class VI underground injection control wells within  
95 reservoirs as defined in this chapter. All rules, regulations and  
96 standards promulgated by the commission, permit board and the  
97 board shall be consistent with the requirements of federal  
98 statutes, rules and regulations related to Class VI underground  
99 injection control wells.

100 **SECTION 3.** The following shall be codified as Section  
101 53-11-5, Mississippi Code of 1972:

102 53-11-5. **Definitions.** As used in this chapter, the  
103 following terms shall have the meanings ascribed unless the  
104 context clearly indicates otherwise:

105 (a) "Board" means the State Oil and Gas Board created  
106 by Section 53-1-5.

107 (b) "Carbon dioxide" means: (i) naturally occurring  
108 carbon dioxide; (ii) geologically sourced carbon dioxide; (iii)  
109 anthropogenic carbon dioxide; or (iv) carbon dioxide stream. The  
110 term includes phases of carbon dioxide, whether fluid, liquid or  
111 gaseous, stripped, segregated, or divided from any other fluid  
112 stream thereof.

113 (c) "Carbon dioxide stream" means carbon dioxide that  
114 has been captured from an emission source (e.g., a power plant),  
115 plus incidental associated substances derived from the source  
116 materials and the capture process, and any substances added to the  
117 stream to enable or improve the injection process. This paragraph  
118 (c) does not apply to any carbon dioxide stream that meets the  
119 definition of hazardous waste under federal environmental laws and  
120 regulations.

121 (d) "Class VI underground injection control wells"  
122 means wells that are not experimental in nature, that are used for  
123 geologic sequestration of a carbon dioxide stream, either alone or  
124 in combination with injection of carbon dioxide in other forms,



125 and which inject beneath the lowermost formation containing an  
126 underground source of drinking water.

127 (e) "Commission" means the Mississippi Commission on  
128 Environmental Quality created by Section 49-2-5.

129 (f) "Department" means the Mississippi Department of  
130 Environmental Quality created by Section 49-2-4.

131 (g) "Enhanced oil or gas recovery project" means  
132 secondary recovery, pressure maintenance, repressuring operations,  
133 cycling operations, water flooding operations, injection of carbon  
134 dioxide or other gaseous substances or any combination thereof, or  
135 any other form of effort calculated to increase the ultimate  
136 recovery of oil or gas or both from a reservoir.

137 (h) "Gas" has the same meaning as provided in Section  
138 53-1-3(d).

139 (i) "Geologic sequestration" means the long-term  
140 containment of a gaseous, liquid, or supercritical carbon dioxide  
141 stream in subsurface geologic formations. For purposes of this  
142 chapter, "storage" and "sequestration" have the same meaning.  
143 This term does not apply to carbon dioxide capture or transport.

144 (j) "Geologic sequestration facility" means a facility  
145 that receives and contains or sequesters carbon dioxide, or has  
146 done so, including:

147 (i) The reservoir into which carbon dioxide is  
148 injected;

149 (ii) Sequestration wells, monitoring wells,  
150 underground equipment, and surface buildings and equipment  
151 utilized in geologic sequestration, owned by or under the control  
152 of the storage operator; and

153 (iii) Other property identified by the board or  
154 the commission, as applicable, as part of the facility.

155 The reservoir component of the geologic sequestration  
156 facility includes any necessary and reasonable buffer and  
157 subsurface monitoring zones designated by the board for the



158 purpose of ensuring the safe and efficient operation of the  
159 geologic sequestration facility for the containment or  
160 sequestration of carbon dioxide and shall be chosen to protect  
161 against escape or migration of carbon dioxide. Nothing in this  
162 definition shall prevent orderly withdrawal of the contained  
163 carbon dioxide as appropriate or necessary to allow carbon dioxide  
164 to be available for enhanced oil or gas recovery projects or other  
165 authorized commercial, and industrial uses.

166 (k) "Oil" has the same meaning as provided in Section  
167 53-1-3(c).

168 (l) "Oil and gas reservoir" shall mean a pool or field  
169 as defined in Section 53-1-3(e) and (f).

170 (m) "Owner," except when used in the phrases "working  
171 owner" or "royalty owner," shall have its ordinary, accepted  
172 meaning.

173 (n) "Permit board" means the Mississippi Environmental  
174 Permit Board created by Section 49-17-28.

175 (o) "Person" means any natural person, corporation,  
176 association, partnership, limited liability company, or other  
177 entity, receiver, executor, administrator, fiduciary or  
178 representative of any kind.

179 (p) "Reservoir" means oil and gas reservoirs and  
180 formations above and below oil and gas reservoirs suitable for or  
181 capable of being made suitable for the injection and storage of  
182 carbon dioxide therein, but only those formations for which the  
183 boundaries have been or can be delineated as provided in this  
184 chapter.

185 (q) "Royalty owner" means any person who possesses an  
186 interest in production of oil, gas or other commercial minerals,  
187 but who is not a "working owner" as defined in this section.

188 (r) "Safe Drinking Water Act" means the Safe Drinking  
189 Water Act, as amended, Title 42, Chapter 6A, Subchapter XII (42  
190 USCS Section 300(f) et seq.).



191 (s) "Sequestration" means geologic sequestration as  
192 used in this chapter and may include the incidental storage of  
193 carbon dioxide associated with enhanced oil recovery or gas  
194 recovery project operations.

195 (t) "State" means the State of Mississippi.

196 (u) "Storage operator" means the person authorized by  
197 the board to operate a geologic sequestration facility.

198 (v) "Underground source of drinking water" means an  
199 aquifer or portion of an aquifer that supplies any public water  
200 system or that contains a sufficient quantity of ground water to  
201 supply a public water system, and currently supplies drinking  
202 water for human consumption, or that contains fewer than ten  
203 thousand (10,000) milligrams per liter total dissolved solids and  
204 is not an exempted aquifer.

205 (w) "Working owner" means the person who has the right  
206 to drill into and produce from any pool of oil, gas or other  
207 commercial minerals, and to appropriate the production either for  
208 himself or for himself and another or others.

209 **SECTION 4.** The following shall be codified as Section  
210 53-11-7, Mississippi Code of 1972:

211 53-11-7. **Duties and powers of the board; rules and**  
212 **regulations; permits.** (1) The board shall have authority to  
213 regulate and promulgate rules and regulations governing geologic  
214 sequestration of carbon dioxide and underground injection wells  
215 under this chapter within reservoirs. Rules and regulations  
216 governing injection wells for geologic sequestration not regulated  
217 under the board's authority for Class II wells shall be subject to  
218 approval of the commission to be included in a memorandum of  
219 understanding between the board and the commission.

220 (2) The board shall have authority to:

221 (a) Approve geologic sequestration of carbon dioxide  
222 and the operation of a geologic sequestration facility within a  
223 reservoir as defined in this chapter.



224 (b) Regulate the development and operation of geologic  
225 sequestration facilities and pipelines within geologic  
226 sequestration facilities, provided those pipelines serving such  
227 facilities approved hereunder are not otherwise covered under  
228 applicable law.

229 (c) Perform any and all acts necessary to carry out the  
230 purposes and requirements of the federal Safe Drinking Water Act,  
231 as amended, with respect to the sequestration of carbon dioxide  
232 within reservoirs.

233 (d) Approve conversion of an existing enhanced oil or  
234 gas recovery operation into a geologic sequestration facility and  
235 continuing of the authority and prior approvals of the board  
236 regarding unit operations.

237 (e) Approve use of carbon dioxide for enhanced oil or  
238 gas recovery and for simultaneous geologic sequestration within a  
239 reservoir.

240 (f) Establish requirements for reasonable performance  
241 bonds, deposits, or other assurances of performance consistent  
242 with federal statutes, rules and regulations connected with Class  
243 VI underground injection control wells to be posted as a condition  
244 to or requirement for approving an application by the storage  
245 operator, and requirements for the sufficiency and character of  
246 the surety and guarantors of performance bonds, deposits, or other  
247 assurances of performance and reasonable conditions under which  
248 the bonds or deposits shall be released.

249 (g) Make, after notice and hearings as provided in  
250 Sections 53-1-19 through 53-1-37, any reasonable rules,  
251 regulations and orders that are necessary from time to time in the  
252 proper administration and enforcement of this chapter. To that  
253 end, the board is authorized and empowered to adopt, modify,  
254 repeal and enforce procedural, interpretive and administrative  
255 rules in accordance with the provisions of this chapter.





256 (3) Only a storage operator shall be held or deemed  
257 responsible for the performance of any actions required by the  
258 board under this chapter.

259 (4) The board shall issue such orders, rules and regulations  
260 as may be necessary for the purpose of protecting any reservoir,  
261 strata, or formation against the escape of carbon dioxide  
262 therefrom, including any necessary rules and regulations as may  
263 pertain to the drilling into or through a geologic sequestration  
264 reservoir within the board's jurisdiction.

265 **SECTION 5.** The following shall be codified as Section  
266 53-11-9, Mississippi Code of 1972:

267 53-11-9. **Approval of reservoir storage; title to carbon**

268 **dioxide.** (1) The board may enter an order, after notice and  
269 hearing pursuant to the provisions of Sections 53-1-19 through  
270 53-1-37, approving any proposed geologic sequestration of carbon  
271 dioxide. The board shall be authorized to issue an order upon  
272 finding the following:

273 (a) That the reservoir sought to be used as a reservoir  
274 for the injection, storage and withdrawal of carbon dioxide is  
275 suitable and feasible for such use and in the public interest;

276 (b) That a majority interest, as provided in this  
277 chapter, have consented to such use in writing;

278 (c) That there is no reasonable risk that the use of  
279 the reservoir for the storage of carbon dioxide will injure or  
280 endanger other formations containing fresh water, oil, gas or  
281 other commercial mineral deposits;

282 (d) That there is no reasonable risk that the proposed  
283 storage will endanger human lives or cause a hazardous condition  
284 to property; and

285 (e) In the case of a reservoir that may contain oil,  
286 gas or other commercial minerals, that either:

287 (i) The reservoir has been substantially depleted  
288 of all volumes of reservoir oil, gas or other commercial minerals



289 and the requirements of Sections 53-11-11 and 53-11-13 have been  
290 satisfied; or

291 (ii) The reservoir has a greater value or utility as a  
292 reservoir for carbon dioxide storage than for the production of  
293 the remaining volumes of reservoir oil, gas, condensate or other  
294 commercial mineral, if any, and the requirements of Sections  
295 53-11-11 and 53-11-13 have been satisfied. Approval of a geologic  
296 sequestration facility by the board shall provide full and  
297 complete authority for the construction, equipping and operation  
298 of the geologic sequestration facility without need of further  
299 action or grant by any person.

300 (2) Neither injection nor an order of the board shall affect  
301 ownership of the carbon dioxide or inhibit the voluntary  
302 conveyance of title to the carbon dioxide by the owner. The board  
303 may issue any necessary order to protect the title of an owner to  
304 carbon dioxide injected into a geologic sequestration facility.  
305 The carbon dioxide shall not be subject to the right of any person  
306 other than the owner of the carbon dioxide to produce, take,  
307 reduce to possession, or otherwise interfere with or exercise any  
308 control thereover. The owner of the carbon dioxide shall have no  
309 right to gas, liquid hydrocarbons, salt or other commercial  
310 minerals in any stratum or portion thereof not determined by the  
311 board to constitute an approved sequestration reservoir which are  
312 not otherwise owned or leased by the owner.

313 **SECTION 6.** The following shall be codified as Section  
314 53-11-11, Mississippi Code of 1972:

315 53-11-11. **Protection of correlative rights.** (1) Upon  
316 application by an operator to unitize for a geologic sequestration  
317 facility in an oil or gas reservoir that is not unitized either  
318 under this chapter or by board order under the provisions of  
319 Sections 53-3-103 or 53-3-155, after notice as provided in Section  
320 53-3-115, the board shall hold a hearing to consider the operation  
321 of the reservoir for the storage of carbon dioxide to determine



322 whether the predominant result of the injection operations will be  
323 the storage of carbon dioxide or will result in an increase in the  
324 ultimate recovery of oil or gas, or both, from the proposed  
325 geologic sequestration facility. After the hearing the board may:

326 (a) Determine from the evidence that the reservoir has  
327 more value as a geologic sequestration facility than as an  
328 enhanced oil or gas recovery project, and as a result, the board  
329 shall enter an order for the operation of the unit as a geologic  
330 sequestration facility upon making the additional findings set  
331 forth in Section 53-11-13.

332 (b) Determine from the evidence that the predominant  
333 result of the injection operations will be an increase in the  
334 ultimate recovery of oil or gas or both, and as a result, the  
335 board shall not approve the application for a geologic  
336 sequestration facility. However, this shall not prevent the  
337 board, upon application of the operator, from approving operation  
338 of an existing enhanced oil or gas recovery project simultaneously  
339 as a geologic sequestration project, recognizing the incidental  
340 storage of carbon dioxide under the provisions set forth in  
341 Section 53-11-15(1) (d).

342 (2) Upon application by an operator to unitize for a  
343 geologic sequestration facility in any other nonoil, nongas or  
344 noncommercial mineral-bearing reservoir that needs to be unitized,  
345 after notice as provided, the board shall hold a hearing to  
346 consider the evidence, and shall enter an order for the operation  
347 of the reservoir as a geologic sequestration facility upon making  
348 the findings set forth in Sections 53-11-9(1) and 53-11-13.

349 (3) An order requiring unit operations of a geologic  
350 sequestration facility shall be effective only when the unit for  
351 the geologic sequestration facility and the agreements  
352 incorporating the pertinent provisions of Section 53-11-15 have  
353 been signed, ratified, adopted or approved in writing by a  
354 majority interest of the surface interest, on the basis of, and in



355 proportion to, the surface acreage content of the unit area, and,  
356 if separately owned, a majority interest of all rights of the  
357 subsurface reservoir, on the basis of and in proportion to the  
358 surface acreage content of the unit area, and the board has made a  
359 finding to that effect, either in the order or in a supplemental  
360 order.

361 (4) If the board finds under Section 53-11-9(1)(e) that a  
362 reservoir has been substantially depleted of commercially  
363 recoverable quantities of oil or gas or other commercial minerals  
364 or that the reservoir has greater utility as a reservoir for  
365 carbon dioxide storage and that the remaining conditions of  
366 Section 53-11-9(1) have been satisfied; or if the board finds that  
367 a nonoil, nongas or noncommercial mineral-bearing reservoir  
368 satisfies the conditions of Section 53-11-9(1)(a) through (d) and  
369 all other conditions the board shall require have been satisfied,  
370 the board shall issue an order approving the reservoir for the  
371 injection and storage of carbon dioxide in connection with  
372 operation of a geologic sequestration facility. An order  
373 approving any geologic sequestration facility shall be effective  
374 only when the storage rights agreement has been signed, ratified,  
375 adopted or approved in writing by a majority interest of the  
376 surface interest, on the basis of, and in proportion to, the  
377 surface acreage content of the unit area under the terms of the  
378 order; and, if separately owned, a majority interest of all rights  
379 in the underground reservoir, on the basis of, and in proportion  
380 to, the surface acreage content of the unit area. If oil, gas or  
381 commercial minerals are expected to be produced and sold or used  
382 in connection with the geologic sequestration facility in a  
383 depleted oil, gas or commercial mineral-bearing reservoir, or such  
384 a reservoir that has greater utility as a geologic sequestration  
385 facility, then a majority interest of all working owners of such  
386 oil, gas or commercial minerals, on the basis of, and in  
387 proportion to, the surface acreage content of the unit area under



388 the terms of the order, must also consent to the allocation of the  
389 production in writing before an order approving the geologic  
390 sequestration facility shall be effective.

391 (5) In the event the required percentages set forth in this  
392 section have not signed, ratified or approved the respective  
393 agreements within twelve (12) months from and after the date of  
394 the order, the order requiring unit operation shall be  
395 automatically revoked.

396 **SECTION 7.** The following shall be codified as Section  
397 53-11-13, Mississippi Code of 1972:

398 53-11-13. **Order requiring unit operation of a geologic**  
399 **sequestration facility.** If the board finds pursuant to Section  
400 53-11-9(1) that a reservoir shall be operated as a unit for a  
401 geologic sequestration facility, the board may issue an order  
402 requiring such unit operation, if it finds that:

403 (a) Unit operation of the reservoir is reasonably  
404 necessary in order to create and operate an approved geologic  
405 sequestration facility in the reservoir;

406 (b) The unit for the geologic sequestration facility  
407 and the agreements effectuating the unit are fair and reasonable  
408 under all of the circumstances and protect the rights of all  
409 interests in the oil, gas or other commercial minerals where  
410 applicable, and the owners of interests in the surface acreage of  
411 the unit area, and owners of interests in the carbon dioxide  
412 injected or to be injected in the reservoir;

413 (c) The correlative rights of all owners of interests  
414 in the oil, gas or other commercial minerals where applicable, and  
415 the owners of interests in the surface acreage of the unit area,  
416 and owners of interests in the carbon dioxide injected or to be  
417 injected in the reservoir will be protected;

418 (d) The cost incident to conducting the geologic  
419 sequestration operation will not be borne by the royalty owners of  
420 the oil, gas or other commercial minerals except for



421 post-production treating, processing, transportation, and  
422 marketing expenses when concurrent production occurs with the  
423 geologic sequestration operation; and

424 (e) The storage operator or a predecessor operator of a  
425 proposed sequestration facility has demonstrated the boundaries of  
426 the unit as may be necessary for the board to approve the unit by  
427 the drilling of wells to sufficient depths and locations, or by  
428 other geological or engineering interpretations which may include  
429 those from logging, coring, modeling or monitoring.

430 **SECTION 8.** The following shall be codified as Section  
431 53-11-15, Mississippi Code of 1972:

432 53-11-15. **Board order provisions.** (1) The order issued by  
433 the State Oil and Gas Board shall be fair and reasonable under all  
434 of the circumstances and shall protect the rights of interested  
435 parties and shall include:

436 (a) A description of the geographical area and a  
437 description of the reservoirs or of any portion or portions or  
438 combinations thereof affected which together constitute and are  
439 herein termed the "unit area" of the geologic storage facility.

440 (b) A statement of the nature of the operations  
441 contemplated.

442 (c) A provision for: (i) access to and use of a  
443 reasonable amount of the surface area within the unit area by the  
444 storage operator and his agents in connection with constructing,  
445 equipping, operating, maintaining and terminating operations of  
446 the geologic sequestration facility; and (ii) payment of the  
447 reasonable costs of compensable damages to the surface and  
448 reasonable consideration for use of the surface area.

449 (d) If oil or gas or both are expected to be produced  
450 in connection with operating a unit area as a geologic  
451 sequestration facility and the reservoir is being operated under a  
452 board order obtained pursuant to the requirements of Section  
453 53-3-101 et seq., the geologic sequestration facility may be



454 operated under the existing plan of unitization approved by the  
455 owners therein provided that the unit operator: (i) provides a  
456 method approved by the board for winding down oil and gas  
457 operations for the transition to a carbon dioxide injection only  
458 operation; and (ii) obtains the approval of a majority interest of  
459 the surface interest, on the basis of, and in proportion to, the  
460 surface acreage content of the unit area, prior to the termination  
461 of oil and gas production.

462 (e) If oil or gas or both are expected to be produced  
463 in connection with operating the geologic sequestration facility  
464 and the reservoir has not formerly been unitized by board order  
465 under Sections 53-3-101 et seq., the order shall include:

466 (i) A formula for the allocation among the  
467 separately owned tracts in the geologic sequestration unit area of  
468 all the oil or gas, or both, produced and saved from the geologic  
469 sequestration unit area, and not required in the conduct of such  
470 operation, which formula must expressly be found reasonably to  
471 permit persons otherwise entitled to share in or benefit by the  
472 production from the separately owned tracts to receive, in lieu  
473 thereof, their fair, equitable and reasonable share of the unit  
474 production. A separately owned tract's fair, equitable and  
475 reasonable share of the unit production shall be that  
476 proportionate part of unit production that the contributing value  
477 of the tract for oil and gas purposes in the geologic  
478 sequestration unit area and its contributing value to the unit  
479 bears to the total of all like values of all tracts in the unit,  
480 taking into account all pertinent engineering, geological and  
481 operating factors that are reasonably susceptible of  
482 determination.

483 (ii) A provision for adjustment among the owners  
484 of the geologic sequestration unit area, not including royalty  
485 owners, of their respective investment in wells, tanks, pumps,  
486 machinery, materials, equipment and other things and services of



487 value attributable to the unit operations. The amount to be  
488 charged to unit operations for any such item shall be determined  
489 by a majority of the owners of the geologic sequestration unit  
490 area and a majority of the working owners of the oil and/or gas  
491 interests in the geologic sequestration unit area, not including  
492 royalty owners, but if the owners of the geologic sequestration  
493 unit area and working owners of the oil or gas, or both oil and  
494 gas interests, not including royalty owners, are unable to agree  
495 upon the amount of the charges, or to agree upon the correctness  
496 thereof, the board shall determine the charges after due notice  
497 and hearing upon the application of any interested party. The  
498 amount charged against the owner of a separately owned tract shall  
499 be considered an expense of unit operation chargeable against the  
500 tract. The adjustments provided for in this subparagraph (ii) may  
501 be treated separately and handled by agreements separate from the  
502 unitization agreement.

503 (iii) A provision that the costs and expenses of  
504 unit operations dedicated to producing oil and gas, including  
505 investment past and prospective, shall be borne by the working  
506 owners of each tract, who in the absence of unit operation would  
507 be responsible for the expenses of developing and operating the  
508 oil and gas pools or reservoirs, in the same proportion that the  
509 tracts share in unit production. Each working owner's interest in  
510 the oil or gas or both expected to be produced in connection with  
511 operating the geologic sequestration unit area shall be  
512 responsible for the working owner's proportionate share thereof,  
513 and the unit operator shall have a lien thereon to secure payment  
514 of the working owner's share together with interest at the legal  
515 rate. A transfer or conversion of any working owner's interest or  
516 any portion thereof, however accomplished after the effective date  
517 of the order creating the unit, shall not relieve the transferred  
518 interest of the operator's lien on the interest for the cost and  
519 expense of unit operations, past or prospective.





520 (iv) The designation of, or a provision for the  
521 selection of a successor to, the storage operator.

522 (v) A provision that the conduct of all unit  
523 operations by the storage operator and the selection of a  
524 successor to the storage operator shall be governed by the terms  
525 and provisions of the geologic sequestration facility agreements.

526 (vi) A determination of, or a provision for  
527 determining, the time the oil and gas unit operation is to become  
528 effective.

529 (vii) A determination of, or a provision for  
530 determining, the manner in which, and the circumstances under  
531 which, the unit oil and gas operation shall terminate and the  
532 geologic sequestration facility will no longer be considered  
533 productive of oil and gas or other commercial minerals and the  
534 geologic sequestration facility will be operated solely for the  
535 injection of carbon dioxide.

536 (viii) A requirement that all oil or gas, or both  
537 oil and gas, contained in a unit area shall be produced and sold  
538 as rapidly as possible without decreasing the ultimate recovery of  
539 oil or gas, or both, or causing damage to the reservoir.

540 (2) If oil or gas, or both, are being produced as an  
541 enhanced recovery project operating under a board order obtained  
542 pursuant to the requirements of Section 53-3-101 et seq.,  
543 utilizing the injection of carbon dioxide for enhanced oil or gas  
544 recovery, the board, upon application by the unit operator, may  
545 make an order recognizing the incidental sequestration of carbon  
546 dioxide that is occurring during its enhanced oil or gas recovery  
547 project without requiring the project to qualify as a geologic  
548 sequestration facility or otherwise be subject to the provisions  
549 of this chapter.

550 **SECTION 9.** The following shall be codified as Section  
551 53-11-17, Mississippi Code of 1972:



552           53-11-17.   **Hearings before the board; notice; rules of**  
553 **procedures; emergency; service of process; public records; request**  
554 **for hearings; orders and compliance orders.** All public hearings  
555 before the board under this chapter shall be conducted pursuant to  
556 the provisions of Sections 53-1-19 through 53-1-37.

557           **SECTION 10.** The following shall be codified as Section  
558 53-11-19, Mississippi Code of 1972:

559           53-11-19.   **Compliance and enforcement.** (1) Whenever the  
560 board or an authorized representative of the board determines that  
561 a violation of any requirement of this chapter has occurred or is  
562 threatened, the board shall be authorized to either issue an order  
563 requiring compliance within a specified time period or commence a  
564 civil action for appropriate relief, including a temporary or  
565 permanent injunction.

566           (2) Any compliance order issued by the board under this  
567 chapter shall state with reasonable specificity the nature of the  
568 violation and specify a time for compliance and, in the event of  
569 noncompliance, assess a civil penalty, if any, which the board  
570 determines is reasonable of not more than Five Thousand Dollars  
571 (\$5,000.00) a day for each day of violation and for each act of  
572 violation, taking into account the seriousness of the violation  
573 and any good faith efforts to comply with the applicable  
574 requirements.

575           (3) Except as otherwise provided by law, any person to whom  
576 a compliance order is issued and who fails to take corrective  
577 action within the time specified in the order or any person found  
578 by the board to be in violation of any requirement of this section  
579 may be liable for a civil penalty, to be assessed by the board or  
580 court, of not more than Five Thousand Dollars (\$5,000.00) per day  
581 for each day of violation and for each act of violation. In order  
582 to enforce the provisions of this section, the board may suspend  
583 or revoke any permit, compliance order, license, or variance that  
584 has been issued to a person in accordance with law. No penalty



585 shall be assessed by the board until the person charged has been  
586 given notice and an opportunity for a hearing on the charge. In  
587 determining whether a civil penalty is to be assessed and in  
588 determining the amount of the penalty, or the amount agreed upon  
589 in compromise, the gravity of the violation and the demonstrated  
590 good faith of the person charged in attempting to achieve rapid  
591 compliance, after notification of a violation, shall be  
592 considered.

593 (4) The board, or Attorney General if requested by the  
594 board, shall have charge of and shall prosecute all civil cases  
595 arising out of violation of any provision of this section  
596 including the recovery of penalties.

597 (5) Except as otherwise provided by law, the board may  
598 settle or resolve as the board may deem advantageous to the state  
599 any suits, disputes or claims within the jurisdiction of the board  
600 for any penalty under any provisions of this section or the  
601 regulations or permit license terms and conditions applicable  
602 thereto.

603 **SECTION 11.** The following shall be codified as Section  
604 53-11-21, Mississippi Code of 1972:

605 53-11-21. **Effect of acting as storage operator.** Any  
606 provision in this chapter, or in any rule, regulation or order  
607 issued by the board under this chapter to the contrary  
608 notwithstanding, acting as a storage operator pursuant to this  
609 chapter in compliance with the provisions of this chapter, or with  
610 rules, regulations or orders issued by the board under this  
611 chapter, or voluntarily performing any act or acts which could be  
612 required by the board pursuant to this chapter, or rules,  
613 regulations or orders issued by the board under this chapter,  
614 shall not:

615 (a) Cause any storage operator or transporter of carbon  
616 dioxide for storage to become, or be classified as, a common  
617 carrier or a public utility for any purpose whatsoever.



618 (b) Subject the storage operator or carbon dioxide  
619 transporter to any duties, obligations or liabilities as a common  
620 carrier or public utility, under the Constitution and laws of this  
621 state.

622 **SECTION 12.** The following shall be codified as Section  
623 53-11-23, Mississippi Code of 1972:

624 53-11-23. **Fees; creation of Carbon Dioxide Storage Fund.**

625 (1) (a) The board is authorized to adopt regulations within its  
626 jurisdiction to assess sequestration fees that shall be subject to  
627 the approval of the Legislature.

628 (b) Any monies collected shall be used exclusively:

629 (i) to pay the expenses and other costs connected with  
630 administration and enforcement of this chapter and the rules,  
631 regulations and orders of the board pursuant to this chapter; and  
632 (ii) to fund the Carbon Dioxide Storage Fund established in this  
633 chapter.

634 (c) Any per-ton fee shall first be applied to the  
635 administration and enforcement costs of the board's activities  
636 required or authorized by this chapter, and any amount exceeding  
637 those costs shall be transferred to a separate special fund of the  
638 State Oil and Gas Board which is hereby created and is to be known  
639 as the Carbon Dioxide Storage Fund.

640 (d) Transfers to the Carbon Dioxide Storage Fund from  
641 the per-ton fees shall be made monthly. Transfers from excess  
642 funds collected under subsection (1)(c) of this section may be  
643 made at any time in the fiscal year that the board shall determine  
644 appropriate. At the beginning of the following fiscal year after  
645 the transfer of the excess funds, the rate or rates to be  
646 collected under subsection (1)(c) of this section shall be reduced  
647 to reflect the excess from the prior year.

648 (e) When the balance in the Carbon Dioxide Storage Fund  
649 reaches or exceeds Two Million Five Hundred Thousand Dollars  
650 (\$2,500,000.00) per geologic sequestration facility, the board



651 shall abate the per-ton fee, and may adjust the annual regulatory  
652 fee as prescribed herein. The abatement shall be effective at the  
653 beginning of the ensuing fiscal year. When the Carbon Dioxide  
654 Storage Fund is reduced below Two Million Five Hundred Thousand  
655 Dollars (\$2,500,000.00) per geologic sequestration facility, the  
656 per-ton fee shall again be imposed on all geologic storage  
657 operators until such time as the fund shall reach or exceed Two  
658 Million Five Hundred Thousand Dollars (\$2,500,000.00) per geologic  
659 sequestration facility. The imposition of the per-ton fee shall  
660 be effective at the beginning of the ensuing fiscal year.

661 (f) Monies in the Carbon Dioxide Storage Fund created  
662 in this chapter may be used in the board's discretion but only if  
663 inadequate funds are available from responsible parties including  
664 the financial assurance funds provided in Section 53-11-27(2).  
665 Monies in the Carbon Dioxide Storage Fund shall only be used for  
666 oversight of geologic storage facilities after cessation of  
667 injection at the facility and release of the facility's  
668 performance bond or other assurance of performance and as shall be  
669 necessary or appropriate to satisfy the requirements of the  
670 federal Safe Drinking Water Act, including, without limitation,  
671 matters with respect to closed facilities such as: (i)  
672 inspecting, testing and monitoring of the facility, including  
673 remaining surface facilities and wells; (ii) repairing mechanical  
674 problems associated with remaining wells and surface  
675 infrastructure; and (iii) repairing mechanical leaks at the  
676 facility.

677 (g) The Carbon Dioxide Storage Fund shall be used for  
678 the purposes set forth in this chapter and for no other  
679 governmental purposes, nor shall any portion of the fund ever be  
680 available to borrow from by any branch of government, it being the  
681 intent of the Legislature that this fund and its increments shall  
682 remain intact and inviolate. Any interest earned on monies in



683 this fund shall remain in this fund and shall not lapse into the  
684 General Fund.

685 (2) To facilitate the proper administration of the Class VI  
686 underground injection control program within its jurisdiction, the  
687 commission is authorized to assess and collect fees from Class VI  
688 permit applicants for Class VI underground injection control wells  
689 permitted by the permit board. The commission is further  
690 authorized to promulgate rules and regulations for the assessment  
691 and collection of permit fees for Class VI underground injection  
692 control wells within its jurisdiction.

693 **SECTION 13.** The following shall be codified as Section  
694 53-11-25, Mississippi Code of 1972:

695 53-11-25. **Cessation of storage operations.** (1) After  
696 cessation of injection into a geologic sequestration facility and  
697 upon application by the storage operator, the board shall be  
698 authorized to issue a certificate of completion of injection  
699 operations upon a showing by the storage operator that the  
700 reservoir is reasonably expected to retain mechanical integrity,  
701 and that carbon dioxide will reasonably remain emplaced.

702 (2) Nothing in this chapter shall establish or create any  
703 liability or responsibility on the part of the board or the state  
704 to pay any costs associated with facility restoration from any  
705 source other than the performance bond, deposit, other assurance  
706 of performance, or financial assurances posted or required  
707 pursuant to this chapter, nor shall the board or the state have  
708 any liability or responsibility to make any payments for costs  
709 associated with facility restoration.

710 (3) The board or its agents, on proper identification, may  
711 enter the land of another for purposes of facility assessment or  
712 restoration.

713 (4) The board and its agents are not liable for any damages  
714 arising from an act or omission if the act or omission is part of  
715 a good faith effort to carry out the purpose of this chapter.



716 (5) No party contracting with the state or any of its  
717 political subdivisions under the provisions of this chapter shall  
718 be deemed to be a public employee or agent of the State of  
719 Mississippi or any of its political subdivisions.

720 **SECTION 14.** The following shall be codified as Section  
721 53-11-27, Mississippi Code of 1972:

722 53-11-27. **Release of performance bond, deposit, or other**  
723 **assurance of performance.** (1) The storage operator may file an  
724 application with the board for the release of the performance  
725 bond, deposit or other assurance of performance on or after the  
726 third anniversary of the date the board issued a certificate of  
727 completion for the geologic sequestration facility. An  
728 application for a release shall require a description of the  
729 status of the carbon dioxide plume development or migration  
730 compared to models previously provided to the board, and any other  
731 information the board may reasonably require in accordance with  
732 this chapter. The board shall give notice of the pending release  
733 application by publication as provided in Section 53-3-115.

734 (2) Before the board's release of all or any portion of a  
735 storage operator's performance bond, deposit or other assurance of  
736 performance, the board shall require that the storage operator  
737 satisfy, in the reasonable determination of the board, the  
738 financial assurance requirements of the federal Safe Drinking  
739 Water Act and regulations promulgated thereunder. If the  
740 financial assurance has as any component a trust or standby trust,  
741 the board and the state shall be named as trust beneficiaries.  
742 The trust situs shall be located in the state, and at least one  
743 (1) trustee shall be a legal resident of the state.

744 (3) The board may release, in whole or in part, the  
745 performance bond, deposit or other assurance of performance if it  
746 is satisfied that plume migration has stabilized or is developing  
747 in the manner anticipated in models previously filed with the



748 board and the geologic sequestration facility has met all  
749 necessary mechanical integrity requirements.

750 (4) When the storage operator has successfully completed any  
751 necessary remedial actions required by the board, but not more  
752 than two (2) years beyond the date of the board's initial, partial  
753 release of the performance bond, deposit or other assurance of  
754 performance, the board shall release the remaining portion of the  
755 performance bond, deposit or other assurance of performance.  
756 However, no performance bond, deposit or other assurance of  
757 performance shall be fully released until all requirements of this  
758 chapter are fully met.

759 (5) If the board denies the application for release of the  
760 performance bond, deposit or other assurance of performance or  
761 portion thereof, it shall notify the storage operator, in writing,  
762 stating the reasons for denial and recommending corrective actions  
763 necessary to secure the release.

764 (6) Full release by the board of the performance bond,  
765 deposit or other assurance of performance of the storage operator  
766 or any other party holding title to the stored carbon dioxide,  
767 shall not affect, either to enlarge or diminish in any way, any  
768 legal obligations of the owner of the carbon dioxide or an owner  
769 or operator of any carbon dioxide sequestration facility resulting  
770 from the actions authorized pursuant to this chapter.

771 (7) Substantial compliance with this chapter shall in no way  
772 be construed to be an absolute defense to civil liability.

773 **SECTION 15.** The following shall be codified as Section  
774 53-11-29, Mississippi Code of 1972:

775 53-11-29. **Refusing to monitor or producing false or**  
776 **inaccurate readings.** It shall be a violation of this chapter for  
777 any person to refuse to attach or install a monitor within a  
778 reasonable period of time when ordered to do so by the board, or  
779 in any way to tamper with the monitors so as to produce a false or  
780 inaccurate reading.





781           **SECTION 16.** The following shall be codified as Section  
782 53-11-31, Mississippi Code of 1972:

783           53-11-31. **Appeal to chancery court.** Any interested person  
784 adversely affected by any provision or section of this chapter  
785 within the jurisdiction of the board or by any rule, regulation or  
786 order made by the board thereunder, or by any act done or  
787 threatened thereunder, may obtain court review and seek relief by  
788 appeal to the Chancery Court of the First Judicial District of  
789 Hinds County, Mississippi, or the chancery court of the county in  
790 which the land involved, or any part thereof, is situated. The  
791 term "interested person" shall be interpreted broadly and  
792 liberally and shall include all mineral and royalty owners,  
793 mineral lessees, if any, and the owners of surface on which  
794 injection or re-injection wells and other surface equipment  
795 connected with a geologic sequestration facility is or will be  
796 situated. Any interested party may appeal to the chancery court  
797 of the county in which the land involved or any part thereof is  
798 situated, if appeal is demanded within thirty (30) days from the  
799 date that the rule, regulation or order of the board is filed for  
800 record in the office of the board.

801           The appeal may be taken by filing notice of the appeal with  
802 the board, whereupon the board shall, under its certificate,  
803 transmit to the court appealed to all documents and papers on file  
804 in the matter, together with a transcript of the record, which  
805 documents and papers together with said transcript of the record  
806 shall be transmitted to the clerk of the chancery court of the  
807 county to which the appeal is taken.

808           Except as otherwise provided in this section, the appeal  
809 otherwise shall be made in accordance with the provisions of  
810 Sections 53-1-39 and 53-1-41.

811           **SECTION 17.** The following shall be codified as Section  
812 53-11-33, Mississippi Code of 1972:



813           53-11-33.   **No effect upon enhanced oil or gas recovery**  
814 **operations.**   Notwithstanding anything to the contrary in this  
815 chapter, nothing in this chapter shall prevent an enhanced oil or  
816 gas recovery project utilizing injection of carbon dioxide as  
817 approved by the board under Section 53-1-17 or require compliance  
818 with all or part of this chapter by any enhanced oil or gas  
819 recovery project that is not a geologic sequestration facility.  
820 An operator of an enhanced oil or gas recovery project utilizing  
821 injection of carbon dioxide may request that the board approve  
822 such a project as a geologic sequestration facility under this  
823 chapter or that the board determine that injection activities  
824 constitute the sequestration of carbon dioxide, but nothing in  
825 this chapter shall require that such a request be made. No  
826 provision of this chapter shall affect or govern any aspect of an  
827 enhanced oil or gas recovery project utilizing injection of carbon  
828 dioxide unless and until the operator of such project has  
829 requested that a particular project be approved by the board as a  
830 geologic sequestration facility and the board has granted that  
831 request.

832           **SECTION 18.**   This act shall take effect and be in force from  
833 and after its passage.

