



Rep. Jay Hoffman

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1 AMENDMENT TO HOUSE BILL 569

2 AMENDMENT NO. _____. Amend House Bill 569 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Climate and Landowner Protection Act.

6 Section 5. Statement of policy. The General Assembly finds
7 that it is in the public interest to promote the permanent
8 underground sequestration of carbon dioxide. Underground
9 sequestration of carbon dioxide benefits the citizens of this
10 State by reducing greenhouse gas emissions and by supporting
11 jobs and economic development in local communities. This State
12 has geology that is particularly well suited for underground
13 sequestration of carbon dioxide, as demonstrated by the
14 presence of the first commercial-scale carbon sequestration
15 project in the United States. Therefore, it is the policy of
16 this State to promote the use and employment of technologies

1 that enable the capture of carbon dioxide for the purpose of
2 storing the carbon dioxide underground in a permanent manner.

3 Section 10. Applicability. This Act applies to the
4 underground sequestration of carbon dioxide.

5 Section 15. Definitions. As used in this Act:

6 "Affected pore space owner" means (1) a pore space owner
7 who does not agree to integrate the pore space owner's
8 interests into a sequestration facility and is required to do
9 so by an order issued by the Department in accordance with
10 Section 25 and (2) any other pore space owner within the
11 sequestration facility who has not granted surface access to
12 the sequestration operator.

13 "Agency" means the Illinois Environmental Protection
14 Agency.

15 "Applicable underground injection control program" means,
16 for each Class VI injection well, the program provided by the
17 federal Safe Drinking Water Act for that class of well in this
18 State, including, but not limited to, the most recent
19 amendments to that program.

20 "Carbon dioxide" means the chemical compound that is
21 composed of one carbon atom and 2 oxygen atoms.

22 "Carbon dioxide pipeline" has the meaning given in Section
23 10 of the Carbon Dioxide Transportation and Sequestration Act.

24 "Carbon dioxide plume" means the subsurface, 3-dimensional

1 extent of an injected carbon dioxide stream.

2 "Carbon dioxide stream" means carbon dioxide that has been
3 captured from an emission source or the atmosphere and
4 incidental associated substances derived from the source
5 materials and the capture process, as well as any substances
6 added to the stream to enable or improve the injection
7 process. "Carbon dioxide stream" does not include any carbon
8 dioxide stream that is "hazardous waste" as defined in 40 CFR
9 261.

10 "Class VI injection well" means a well that is used to
11 inject one or more carbon dioxide streams into a sequestration
12 facility under a Class VI well permit.

13 "Class VI well permit" means a Class VI well permit issued
14 under the applicable underground injection control program
15 that allows a person, trust, corporation, or other entity to
16 inject one or more carbon dioxide streams for underground
17 sequestration of carbon dioxide.

18 "Department" means the Department of Natural Resources.

19 "Mineral lessee" means a lessee who is identified, by the
20 records of the recorder of deeds for each county containing a
21 portion of a proposed or permitted sequestration facility, as
22 a person who holds an interest that has been severed from the
23 surface estate by grant, exception, reservation, lease, or any
24 other means in minerals that are located on real property
25 above, below, or within the proposed or permitted
26 sequestration facility. "Mineral lessee" includes a person who

1 is identified as a successor to a mineral lessee by the records
2 of the recorder of deeds.

3 "Mineral owner" means an owner who is identified, by the
4 records of the recorder of deeds for each county containing a
5 portion of a proposed or permitted sequestration facility, as
6 a person who holds an interest that has been severed from the
7 surface estate by grant, exception, reservation, lease, or any
8 other means in minerals that are located on real property
9 above, below, or within the proposed or permitted
10 sequestration facility. "Mineral owner" includes a person who
11 is identified as a successor to a mineral owner by the records
12 of the recorder of deeds.

13 "Pore space" means subsurface cavities or voids that can
14 be used as containment for underground sequestration of carbon
15 dioxide.

16 "Pore space owner" means, with respect to any parcel of
17 property, the surface owner as set forth in subsection (a) of
18 Section 20.

19 "Project labor agreement" means a pre-hire collective
20 bargaining agreement that covers all terms and conditions of
21 employment on a specific construction project and includes the
22 following:

23 (1) provisions establishing the minimum hourly wage
24 for each class of labor organization employee;

25 (2) provisions establishing the benefits and other
26 compensation for each class of labor organization

1 employee;

2 (3) provisions establishing that no strike or disputes
3 will be engaged in by the labor organization employees;

4 (4) provisions establishing that no lockout or
5 disputes will be engaged in by the general contractor
6 building the project;

7 (5) provisions permitting the selection of the lowest
8 qualified responsible bidder, without regard to union or
9 non-union status at other construction sites; and

10 (6) provisions setting forth goals for apprenticeship
11 hours to be performed by minorities and women, as defined
12 under the Business Enterprise for Minorities, Women, and
13 Persons with Disabilities Act, and setting forth goals for
14 total hours to be performed by minorities and women.

15 "Property Index Number" has the meaning given in Section
16 1-120 of the Property Tax Code.

17 "Property interest owner" means a person who is
18 identified, by the records of the recorder of deeds for each
19 county containing a portion of the proposed sequestration
20 facility or sequestration facility, as a person who holds a
21 fee simple interest, easement, other freehold interest, or
22 leasehold in the surface or subsurface of the property, which
23 may include mineral rights. "Property interest owner" includes
24 a person who is identified as a successor to a property
25 interest owner by the records of the recorder of deeds.

26 "Proposed sequestration facility" means a subsurface

1 sedimentary stratum, formation, aquifer, cavity, or void that
2 is naturally or artificially created, or is capable of being
3 made suitable for receiving and containing a carbon dioxide
4 plume for a long term, as delineated by computational modeling
5 for a Class VI well permit application, and that a
6 sequestration facility permit applicant proposes to develop as
7 a sequestration facility for the underground sequestration of
8 carbon dioxide. "Proposed sequestration facility" does not
9 include an application for the modification of a sequestration
10 facility permit.

11 "Sequestration facility" means the subsurface volume and
12 confining zone capable of receiving and containing a carbon
13 dioxide plume for a long term, as delineated by computational
14 modeling for an approved Class VI well permit or an amendment
15 to a Class VI well permit of a sequestration operator.

16 "Sequestration operator" means a person, trust,
17 corporation, or other entity that operates at least one Class
18 VI injection well and a sequestration facility.

19 "Surface owner" means the fee simple owner of the surface
20 estate of a parcel of property who is identified by the records
21 of the recorder of deeds for a county. "Surface owner"
22 includes a person who is identified as a successor to a surface
23 owner by the records of the recorder of deeds.

24 "Underground sequestration of carbon dioxide" means the
25 injection of one or more carbon dioxide streams into
26 underground geologic formations under at least one Class VI

1 well permit for long-term sequestration.

2 Section 20. Pore space ownership.

3 (a) As to any parcel of property, title to the pore space
4 located below the surface thereof is hereby vested in the
5 surface owner of the overlying surface estate subject to
6 existing rights.

7 (b) A conveyance of title to the surface estate conveys
8 title to the pore space in all strata underlying the surface
9 estate subject to existing rights.

10 (c) Title to pore space may not be severed from the surface
11 estate. An instrument or arrangement that seeks to sever title
12 to pore space from title to the parcel of property is void as
13 to the severance of the pore space from the surface interest.
14 Nothing in this Section affects transactions completed before
15 the effective date of this Act.

16 (d) Neither a grant of an easement to use pore space nor a
17 lease of pore space is a severance prohibited by subsection
18 (c).

19 (e) Neither the grant of an easement to use pore space nor
20 the lease of pore space confers any right to enter upon or
21 otherwise use the surface of the parcel of property unless the
22 grant of easement or the lease expressly so provides.

23 (f) Nothing in this Section shall be construed to change
24 or alter the common law existing as of the effective date of
25 this Act as it relates to the rights belonging to, or the

1 dominance of, the mineral estate.

2 Section 25. Integration and unitization of ownership
3 interests.

4 (a) If at least 2 pore space owners own pore space located
5 within a proposed sequestration facility, the owners may agree
6 to integrate the owners' interests to develop the pore space
7 as a proposed sequestration facility for the underground
8 sequestration of carbon dioxide.

9 (b) If all of the pore space owners within a proposed or
10 permitted sequestration facility do not agree to integrate the
11 pore space owners' interests, a sequestration operator or
12 sequestration facility permit holder may petition the
13 Department to issue an order requiring the pore space owners
14 to integrate their interests and authorizing the sequestration
15 operator or sequestration facility permit holder to develop
16 and use the integrated pore space as a sequestration facility
17 for the underground sequestration of carbon dioxide to serve
18 the public interest subject to subsection (c). The petition
19 shall include, but is not limited to:

20 (1) the name and address of the petitioners;

21 (2) the Property Index Numbers or legal descriptions
22 for the parcels of property and a geologic description of
23 the pore space within the proposed or permitted
24 sequestration facility;

25 (3) the names and addresses of all pore space owners

1 owning property within the proposed or permitted
2 sequestration facility as disclosed by the records of the
3 office of the recorder for the county or counties in which
4 the proposed or permitted sequestration facility is
5 situated and a list of the pore space owners who have not
6 agreed to integrate their interests;

7 (4) a statement that the petitioner has exercised due
8 diligence to locate each pore space owner and to seek an
9 agreement with each for pore space rights for the
10 sequestration facility;

11 (5) a statement of the type of operations for the
12 proposed or permitted sequestration facility;

13 (6) a plan for determining the quantity of pore space
14 sequestration capacity to be assigned to each separately
15 owned parcel of property based on the surface area acreage
16 overlying the proposed or permitted sequestration facility
17 and for using the surface for Class VI well permit
18 required activities under Section 35;

19 (7) the method by which pore space owners will be
20 equitably compensated for use of the pore space; and

21 (8) a nonrefundable application fee of \$2,500.

22 (c) The Department, upon the petition to issue an order to
23 integrate the owners' interests and allow unitization in a
24 proposed or permitted sequestration facility, shall fix a time
25 and place for a public hearing within 90 days. The Department,
26 at the petitioner's expense, shall give notice of such hearing

1 under this Section prior to the hearing by:

2 (1) mailing such notice by certified mail, return
3 receipt requested, directed to the persons named in the
4 petition at their last known addresses at least 30 days
5 before the hearing; and

6 (2) publishing such notice once each week for 2
7 consecutive weeks, with the first notice appearing at
8 least 30 days before the hearing in a newspaper of general
9 circulation that is published in each county containing
10 some portion of the proposed or permitted sequestration
11 facility.

12 (d) All notices for public hearings under this Section
13 shall be issued in the name of the State of Illinois and shall
14 be signed by the Director of Natural Resources. The notices
15 shall specify the number and style of the proceedings, the
16 time and place of the hearing, that the sole purpose of the
17 hearing is for the integration of pore space for the operation
18 of a sequestration facility, the name of the petitioners, and
19 Property Index Numbers or legal descriptions of the parcels of
20 property contained within the proposed or permitted
21 sequestration facility.

22 (e) The Department shall issue an order integrating pore
23 space under subsection (b) within 60 days after the hearing
24 upon a showing that:

25 (1) the petitioner has obtained a Class VI well permit
26 or, if the well permit application is still pending at

1 least one year from the date the application has been
2 filed, that the petitioner has received a Finding of
3 Administrative Completeness from the applicable
4 underground injection control program;

5 (2) the petitioner has made a good faith effort to
6 seek an agreement with all pore space owners located
7 within the proposed or permitted sequestration facility;

8 (3) the petitioner has obtained the rights from pore
9 space owners of pore space underlying at least 71% of the
10 surface area above the proposed or permitted sequestration
11 facility; and

12 (4) all pore space owners who do not agree to
13 integrate their interests to operate the pore space as a
14 proposed or permitted sequestration facility for the
15 underground sequestration of carbon dioxide are or will be
16 equitably compensated for use of the pore space and use of
17 the surface for Class VI well permit required activities
18 in accordance with Section 35.

19 (f) The Department's order under this Section is not
20 effective until the petitioner has been issued a Class VI well
21 permit from the applicable underground injection control
22 program.

23 Section 30. Sequestration facility permits.

24 (a) Sequestration facility permits have the following
25 requirements:

1 (1) Except as provided in Section 75, a sequestration
2 operator may not operate a sequestration facility in this
3 State without:

4 (A) a Class VI well permit; and

5 (B) a valid sequestration facility permit.

6 (2) Each intended sequestration operator of a proposed
7 sequestration facility must obtain a sequestration
8 facility permit. A sequestration facility permit may be
9 transferred or assigned from one sequestration operator to
10 another sequestration operator with notice to the
11 Department, which may adopt rules governing such
12 transfers.

13 (3) Applications for a sequestration facility permit
14 shall be filed with the Department in the form and manner
15 prescribed by the Department.

16 (4) An application under paragraph (3) of this
17 subsection must include:

18 (A) a filing fee of \$1,000;

19 (B) the signature of the applicant;

20 (C) a statement verifying that the information
21 submitted is true, accurate, and complete to the best
22 of the applicant's knowledge;

23 (D) a statement that the interests of mineral
24 lessees or mineral owners will not be adversely
25 affected;

26 (E) documentation describing the scope of the

1 proposed sequestration facility;

2 (F) information on the seismic history including
3 the presence and depth of seismic sources; and

4 (G) an estimate of the amount of carbon dioxide to
5 be injected into a proposed sequestration facility.

6 If a mineral owner or mineral lessee demonstrates a
7 potential for adverse effects, the mineral owner or mineral
8 lessee and the applicant may enter into an agreement or the
9 applicant, mineral owner, or mineral lessee may request the
10 Department to establish sequestration facility permit
11 conditions to mitigate potential adverse effects to the
12 interests of a mineral lessee or mineral owner.

13 (b) The following procedural requirements apply to
14 applications for sequestration facility permits:

15 (1) The Department shall review an application
16 submitted under paragraph (3) of subsection (a) for
17 completeness within 30 days of receipt. If the Department
18 determines that the application is incomplete, inaccurate,
19 or both, the Department shall promptly return the
20 application to the applicant with a written explanation of
21 any deficiencies. Otherwise, the Department shall promptly
22 notify the applicant in writing that the application is
23 complete.

24 (2) If the Department returns an application to an
25 applicant under paragraph (1) of this subsection, the
26 Department shall inform the applicant of the right to file

1 a corrected application with the Department. Upon
2 receiving any corrected application, the Department shall
3 review the application for completeness within 30 days. If
4 the Department determines that the corrected application
5 remains incomplete, inaccurate, or both, the Department
6 shall promptly return the application to the applicant
7 with a written explanation of any deficiencies and an
8 opportunity to resubmit another corrected application to
9 the Department under this paragraph (2). Otherwise, the
10 Department shall promptly notify the applicant in writing
11 that the application is complete.

12 (3) Upon receiving notification that the application
13 or corrected application is complete, the applicant shall:

14 (A) not more than 60 days after receiving the
15 notice that the application or corrected application
16 is complete:

17 (i) place a copy of the application in a
18 public library located in each county in which the
19 sequestration facility is proposed to be located
20 for public inspection;

21 (ii) publish notice under the Notice By
22 Publication Act in each county in which the
23 sequestration facility is proposed to be located
24 and the name and address of each library in which a
25 copy of the application is placed as required by
26 subdivision (i); and

1 (iii) provide mailed notice to each known and
2 locatable surface owner within the proposed
3 sequestration facility; and

4 (B) not more than 30 days after the publication of
5 the notice under subdivision (ii) of subparagraph (A),
6 provide to the Department proof of publication of
7 notice.

8 (4) Not later than 90 days after receiving proof of
9 publication of notice under subparagraph (B) of paragraph
10 (3), the Department shall notify the applicant in writing
11 that the Department has either approved or denied the
12 application with an explanation of the reasons for any
13 denial.

14 (c) If a sequestration facility permit applicant satisfies
15 the requirements of subsection (a) and subsection (b), the
16 Department shall issue a sequestration facility permit to the
17 applicant within 60 days, which shall be effective upon
18 issuance.

19 (d) The Department may adopt rules for the data
20 acquisition necessary to allow the Department to determine
21 whether there is a potential risk that carbon dioxide
22 injection at a proposed or permitted sequestration facility
23 will trigger a seismic event sufficient to compromise
24 subsurface containment.

25 (e) If a sequestration facility permit applicant
26 identifies information as trade secret or confidential and

1 proprietary information in its permit application, the
2 Department shall take all necessary precautions to avoid
3 public disclosure of that information, as set forth in the
4 Illinois Freedom of Information Act.

5 If anyone other than the sequestration facility permit
6 applicant files with the Department a request for release of
7 the confidential information identified in subsection (d),
8 including a statement of the reasons that the information
9 should be disclosed, the Department shall consult with the
10 sequestration facility permit applicant. The Department may
11 release information identified in subsection (d) only if the
12 sequestration facility permit applicant consents.

13 Section 35. Surface access for pore space owners. If a
14 sequestration operator must enter upon the surface property of
15 an affected pore space owner to comply with Class VI well
16 permit requirements for the purposes of monitoring a
17 sequestration facility or to respond to an emergency causing
18 immediate risk to human health, environmental resources, or
19 infrastructure, any such Class VI well permit required
20 activity must be undertaken in such a way as to minimize the
21 impact to the surface of the parcel of property and to ensure
22 that the following requirements are met:

- 23 (1) The Class VI well permit required activity shall
24 be limited to surface monitoring activities, such as
25 geophysical surveys, but does not include the installation

1 of surface infrastructure except as provided in paragraphs
2 (2) and (3).

3 (2) Shallow groundwater monitoring wells shall be
4 allowed to be installed on such property only if the
5 carbon dioxide plume may have unexpectedly migrated and
6 the applicable underground injection control program for
7 the Class VI injection well requires monitoring of
8 groundwater for potential carbon dioxide impact.

9 (3) Injection wells, deep monitoring wells, and
10 surface infrastructure other than shallow groundwater
11 monitoring wells as allowed by paragraph (2) will not be
12 located on the parcel of property of an affected pore
13 space owner without the express written consent of such
14 owner.

15 Section 40. Notice for surface access. Except in an
16 emergency causing immediate risk to human health,
17 environmental resources, or infrastructure, a sequestration
18 operator with a valid Class VI well permit shall not enter upon
19 the surface property for purposes of Class VI well permit
20 required activities of any affected pore space owner until 30
21 days after providing written notice to the affected pore space
22 owner by registered mail and after providing a second notice
23 to the pore space owner of record, as identified in the records
24 of the relevant county tax assessor, by telephone or email or
25 by registered mail in the event the property owner has not been

1 notified by other means, at least 3 days, but not more than 15
2 days, prior to the stated date in the notice, identifying the
3 date when access will first begin on the owner's property and
4 informing the affected pore space owner that the owner or the
5 owner's agent may be present when the access occurs.

6 Section 45. Compensation for damages to the surface.

7 (a) An affected pore space owner is entitled to reasonable
8 compensation from the sequestration operator for damages
9 resulting from surface access to the affected pore space
10 owner's property for Class VI well permit required activities,
11 including:

12 (1) compensation for damage to growing crops, trees,
13 shrubs, fences, roads, structures, improvements, personal
14 property, and livestock thereon and compensation for the
15 loss of the value of a commercial crop impacted by Class VI
16 well permit activities by the sequestration operator; the
17 value of the crop shall be calculated based on local
18 market price by:

19 (A) determining the average per acre yield for the
20 same crop on comparable adjacent acreage;

21 (B) determining the price received for the sale of
22 the same crop on comparable adjacent acreage;

23 (C) determining the acreage of the area impacted
24 by Class VI well permit activities and applying the
25 determined price; and

1 (D) the initial determination of the value of the
2 crop shall be determined by the affected pore space
3 owner and submitted to the sequestration operator;

4 (2) compensation to return the surface estate,
5 including soil conservation practices, such as terraces,
6 grassed waterways, and other conservation practices, to a
7 condition as near as practicable to the condition of the
8 surface prior to accessing the property;

9 (3) compensation for damage to the productive
10 capability of the soil resulting from compaction or
11 rutting, including, but not limited to, compensation for
12 when a sequestration operator accesses a property where
13 excessively wet soil conditions would not allow normal
14 farming operations due to increased risk of soil erosion,
15 rutting, or compaction; if there is a dispute between the
16 sequestration operator and the affected pore space owner
17 regarding the value of the damage to the productive
18 capability of the soil, the sequestration operator shall
19 consult with a representative of the soil and water
20 conservation district in the respective county where the
21 parcel of property is located for recommendations to
22 restore the productive capability of the soil; and

23 (4) compensation for damage to surface and subsurface
24 drainage, including, but not limited to:

25 (A) compensation in that the sequestration
26 operator shall perform immediate and temporary repairs

1 for damage that occurs to subsurface drainage tiles
2 that have water actively flowing through them at the
3 time of damage; and

4 (B) compensation such that the sequestration
5 operator shall compensate the affected pore space
6 owner to permanently restore drainage to a condition
7 as near as practicable to the condition of the
8 drainage prior to accessing the property.

9 (b) The compensation for damages required by subsection
10 (a) shall be paid in any manner mutually agreed upon by the
11 sequestration operator and the affected pore space owners.
12 Unless otherwise agreed, the sequestration operator shall
13 tender to the surface owner payment by check or draft in
14 accordance with this Section 45 no later than 60 days after
15 completing the Class VI well permit activities if the
16 occurrence or value of damages is not disputed. The pore space
17 owner's remedy for unpaid or disputed compensation shall be an
18 action for damages in any court of competent jurisdiction for
19 the parcel of property or the greater part thereof on which the
20 Class VI well permit activities were conducted and shall be
21 entitled to recover reasonable damages and attorney's fees if
22 the pore space owner prevails.

23 Section 50. Fees.

24 (a) Beginning after the adoption of rules under paragraph
25 (4) of subsection (d) of this Section, the sequestration

1 operator shall be assessed the following fees at the
2 conclusion of each State fiscal year:

3 (1) a fee of \$0.16 for every ton of carbon dioxide
4 injected into the sequestration facility that the
5 sequestration operator operates in that fiscal year to be
6 allocated to the Carbon Dioxide Sequestration
7 Administrative Fund;

8 (2) a fee of \$0.04 for every ton of carbon dioxide
9 injected into a sequestration facility in that fiscal year
10 to be allocated to the Carbon Dioxide Sequestration
11 Long-Term Trust Fund; and

12 (3) a fee of \$0.01 for every ton of carbon dioxide
13 injected into a sequestration facility in that fiscal year
14 to be deposited into the Carbon Dioxide Local First
15 Responders Fund.

16 (b) The sequestration operator shall be assessed a
17 one-time fee of \$1,000 upon approval of a sequestration
18 facility permit to be deposited into the Carbon Dioxide First
19 Responders Fund promptly upon approval of the sequestration
20 facility permit.

21 (c) The fee assessed to the sequestration operator under
22 paragraph (1) of subsection (a) shall be reduced to \$0.04 for
23 every ton of carbon dioxide injected into a sequestration
24 facility in that fiscal year if the sequestration operator
25 successfully demonstrates to the Department that the following
26 types of construction and maintenance were conducted in

1 Illinois during that fiscal year by the sequestration operator
2 and were performed by contractors and subcontractors signatory
3 to a project labor agreement used by the building and
4 construction trades council with relevant geographic
5 jurisdiction:

6 (1) construction and maintenance of equipment
7 associated with the capture of carbon dioxide, including,
8 but not limited to, all clearing, site preparation,
9 concrete, equipment, and appurtenance installation;

10 (2) construction and maintenance of carbon dioxide
11 pipelines used to transport carbon dioxide streams to the
12 sequestration facility, including, but not limited to, all
13 clearing, site preparation, and site remediation;

14 (3) construction and maintenance of compressor
15 stations used to assist in the transport of carbon dioxide
16 streams via carbon dioxide pipeline, including, but not
17 limited to, all clearing, site preparation, concrete,
18 equipment, and appurtenance installation; and

19 (4) construction of carbon dioxide injection wells
20 used at the sequestration facility, including, but not
21 limited to, all clearing, site preparation, drilling,
22 distribution piping, concrete, equipment, and appurtenance
23 installation.

24 (d) Annual fees imposed under subsection (a) shall be
25 segregated as follows:

26 (1) 50% of the fees assessed under paragraph (1) of

1 subsection (a) shall be deposited into the Carbon Dioxide
2 Sequestration Administrative Fund, and 50% of the fees
3 assessed under paragraph (1) of subsection (a) shall be
4 held in escrow by the sequestration operator for the
5 Carbon Dioxide Sequestration Administrative Fund under
6 rules adopted by the Department.

7 (2) 100% of the fees assessed by paragraph (2) of
8 subsection (a) shall be held in escrow by the
9 sequestration operator for the Carbon Dioxide Long-Term
10 Trust Fund under rules adopted by the Department.

11 (3) The funds held in escrow by the sequestration
12 operator pursuant to paragraph (1) and (2) shall not be
13 deemed funds of the sequestration operator unless and
14 until refunded to the sequestration operator under
15 subsection (e) below and shall instead be deemed funds
16 escrowed for the sole favor of the Department to be used
17 solely at the direction of the Department pursuant to the
18 terms of this Act and the rules adopted by the Department
19 in connection therewith.

20 (4) The Department shall, within one year after the
21 date of this Act, adopt rules with respect to the escrows
22 to be established under paragraphs (1) and (2). Such rules
23 may require deposit of additional (a)(1) funds into the
24 Carbon Dioxide Sequestration Administrative Fund as needed
25 to meet the requirements of the Act, provided that such
26 rules shall permit and establish requirements regarding

1 investment of the escrowed funds.

2 (e) Upon site closure of the Class VI injection wells, all
3 moneys accumulated by the sequestration operator in escrow
4 pursuant to paragraphs (1) and (2) of subsection (d) in
5 relation to such wells shall be deposited into the Carbon
6 Dioxide Long-Term Trust Fund. The total amount deposited shall
7 not exceed the anticipated cost of oversight and management
8 following closure of the sequestration facility and associated
9 Class VI injection wells, as determined by the Department. Any
10 moneys remaining in the escrow in excess of the anticipated
11 cost shall be refunded promptly to the sequestration operator.

12 (f) The Department may modify, by rule, the fee amounts
13 authorized by paragraph (1) of subsection (a) to ensure that
14 sufficient resources exist to achieve the requirements of this
15 Act. Changes must be based on the anticipated costs to the
16 Department of carrying out the requirements of the Act.

17 (g) If the Department modifies the fee amounts established
18 in this Section, the fees assessed for the Carbon Dioxide
19 Sequestration Administration Fund shall maintain a 4 times
20 higher per ton fee when the storage operator does not
21 demonstrate paragraphs (1), (2), (3), and (4) of subsection
22 (c) to the Department.

23 Section 55. Funds.

24 (a) The Carbon Dioxide Sequestration Administrative Fund
25 is hereby created as a special fund within the State treasury

1 to be administered by the Department. Moneys in the Fund may be
2 used:

3 (1) to defray expenses incurred by the Department for
4 the regulation of sequestration facilities during their
5 construction, operational, and post-injection phases;

6 (2) to transfer funds to the Agency or other State
7 agencies for the purpose of implementing and enforcing the
8 applicable underground injection control program for Class
9 VI injection wells; or

10 (3) if the Carbon Dioxide Long-Term Trust Fund becomes
11 depleted, to defray expenses incurred by the Department
12 for the long-term monitoring and management of
13 sequestration facilities after the Department issues a
14 certificate of project completion.

15 (b) The Carbon Dioxide Sequestration Long-Term Trust Fund
16 is hereby created as a special fund within the State treasury
17 to be administered by the Department. Moneys in the Carbon
18 Dioxide Sequestration Long-Term Trust Fund may only be used to
19 defray expenses incurred by the Department for the long-term
20 monitoring and management of sequestration facilities in this
21 State, after site closure of the Class VI injection wells.
22 Expenses may include response to any liabilities associated
23 with the sequestration facility and sequestered carbon dioxide
24 after the Department issues a certificate of project
25 completion.

26 (c) There is hereby created the Carbon Dioxide Local First

1 Responders Fund to be a fund locally held by the Department
2 outside of the State treasury and administered by the
3 Department. The fund is created to make grants to counties and
4 local municipalities to provide training and support emergency
5 preparedness services to local first responders for localities
6 where sequestration facilities or carbon dioxide pipelines are
7 located and to defray expenses of local first responders in
8 responding to emergencies at sequestration facilities or
9 carbon dioxide pipelines. Grants to support local first
10 responders may be used for:

11 (1) preparing emergency response plans;

12 (2) conducting training and preparing training
13 materials for first responders, residents, businesses, and
14 other local entities; and

15 (3) obtaining equipment for first responders,
16 including personal protective equipment.

17 Section 60. Requirements for drilling near a sequestration
18 facility.

19 (a) Anyone intending to drill a well shall provide written
20 notice to a sequestration operator at least 30 days before
21 drilling a well if the well will be no more than:

22 (1) 330 feet from the surface location of a Class VI
23 injection well; or

24 (2) 500 feet from the uppermost confining zone of a
25 sequestration facility.

1 (b) A well drilled under subsection (a) must be drilled in
2 compliance with the requirements of:

3 (1) the Department to preserve the integrity of the
4 sequestration facility;

5 (2) a well permit issued by the Department or the
6 applicable underground injection program; and

7 (3) any other applicable rules.

8 (c) The Department shall not authorize any well drilled
9 under subsection (a) without either:

10 (1) the consent of the sequestration operator; or

11 (2) if an agreement cannot be reached, an order from
12 the Department, following public hearing, determining that
13 the activity under subsection (a) will not adversely
14 affect the sequestration facility.

15 (d) The rules adopted pursuant to this Section 60 shall
16 establish procedures requiring coordination between anyone
17 intending to drill a well under subsection (a) and potentially
18 affected sequestration operators or sequestration facilities.

19 Section 65. Applicability of certain tort claims.

20 (a) A private claim shall not be actionable against a
21 sequestration operator who is conducting or has conducted
22 underground sequestration of carbon dioxide in accordance with
23 a valid Class VI well permit unless the claimant proves that
24 injection or migration of carbon dioxide (1) constitutes a
25 private nuisance in State common law and (2) has caused

1 physical injury to a person, animal, or tangible property.

2 (b) A private claimant shall only be permitted to recover
3 money damages under subsection (a) for nonspeculative tangible
4 losses.

5 (c) A private claimant may seek punitive damages in
6 accordance with Section 2-604.1 of the Code of Civil Procedure
7 only if the sequestration operator knowingly or willfully
8 violates the requirements of a Class VI well permit and acts
9 with reckless disregard for public safety.

10 Section 70. Certification of project completion.

11 (a) Upon application from a sequestration operator, the
12 Department shall consider whether each of the following
13 factors is satisfied in determining whether to issue a
14 certificate of project completion. The Department shall issue
15 the certificate if the Department finds that the sequestration
16 operator:

17 (1) is in compliance with applicable laws governing
18 the sequestration facility;

19 (2) shows that the sequestration facility is
20 reasonably expected to retain the carbon dioxide stored
21 therein;

22 (3) shows that any long-term monitoring wells,
23 equipment, and facilities intended for future use after
24 the closure period are in good condition and retain
25 mechanical integrity;

1 (4) shows that injection wells have been plugged;

2 (5) shows that equipment and facilities, not including
3 fixed structures and long-term monitoring equipment and
4 wells intended for future use, have been removed; and

5 (6) shows the following with respect to site closure:

6 (A) the sequestration operator has provided a
7 notice of intent for site closure to the applicable
8 underground injection control program;

9 (B) site closure has been authorized by the
10 applicable underground injection control program; and

11 (C) the sequestration operator has provided to the
12 applicable underground injection control program the
13 required site closure report.

14 (b) Not later than 90 days after receiving an application
15 from the sequestration operator, the Department shall either:

16 (1) issue a certificate of project completion; or

17 (2) if the Department determines that the application
18 for a certificate of project completion is incomplete,
19 inaccurate, or both, promptly return the application to
20 the sequestration operator with a written explanation of
21 any deficiencies.

22 (c) If the Department returns the application to the
23 sequestration operator under subsection (b), the Department
24 shall inform the sequestration operator of the right to file a
25 corrected application with the Department. Upon receiving any
26 corrected application, the Department shall take action on the

1 application in accordance with subsection (b).

2 (d) Upon issuance of a certificate of project completion,
3 the sequestration facility and all carbon dioxide stored
4 therein are immediately transferred to the State.
5 Sequestration facility acquisition by the State under this
6 subsection (d) includes all rights and interests in and all
7 responsibilities and potential liability other than criminal
8 or contractual liability associated with the stored carbon
9 dioxide and the sequestration facility, provided, however,
10 that liability is not transferred to the State to the extent
11 that the Department determines, after notice and hearing,
12 that:

13 (1) the sequestration operator violated a duty related
14 to the sequestration facility and carbon dioxide stored
15 therein imposed on the sequestration operator by Illinois
16 law or rule or by the applicable underground injection
17 control program that was not remedied prior to approval of
18 site closure and any applicable statutes of limitation
19 have not run and the liability arises out of that
20 violation;

21 (2) the sequestration operator provided deficient or
22 erroneous information that was material and relied upon by
23 the Agency or the Department to support approval of site
24 closure; and

25 (3) there is fluid migration for which the
26 sequestration operator is responsible that causes or

1 threatens imminent and substantial endangerment to an
2 underground source of drinking water;

3 A sequestration operator may appeal any finding under this
4 subsection in a court of competent jurisdiction; and

5 Notwithstanding any other provision of this subsection
6 (d), no party may transfer to the State, and the State may not
7 accept, any property interests or rights that the party does
8 not own or have legal authority to transfer.

9 (e) Unless there is documentation to the contrary, the
10 sequestration operator holds title to the carbon dioxide
11 injected into and stored in a sequestration facility until and
12 unless:

13 (1) the sequestration operator obtains a certificate
14 of project completion from the Department; or

15 (2) the sequestration operator expressly conveys such
16 title to a third party.

17 Section 75. Preexisting Class VI injection wells. A
18 sequestration operator may operate without a sequestration
19 facility permit issued by the Department under subparagraph
20 (B) of paragraph (1) of subsection (a) of Section 30 if, on or
21 before the effective date of this Act, it has either (1)
22 obtained a Class VI well permit or (2) applied for a Class VI
23 well permit and a Completeness Determination has been issued
24 by the United States Environmental Protection Agency and an
25 order from the Department to require integration of pore space

1 ownership interests under subsection (b) of Section 25 is not
2 required.

3 Section 80. Public participation and environmental
4 justice.

5 (a) The Department shall coordinate with the applicable
6 underground injection control program to ensure meaningful and
7 inclusive public participation procedures for the issuance of
8 Class VI well permits and sequestration facility permits.

9 (b) Public participation procedures may include, but are
10 not limited to:

11 (1) public notice of the submission of permit
12 applications;

13 (2) public notice of any draft and final permitting
14 actions;

15 (3) an opportunity for submission of public comments;

16 (4) an opportunity for public hearing;

17 (5) publication of a summary and response to public
18 comments; and

19 (6) publication of the administrative record for
20 permits in a format and location that is easily accessible
21 to the affected community.

22 (c) Public participation procedures, including additional
23 public participation procedures tailored to communities with
24 potential environmental justice concerns, which are completed
25 by the applicable underground injection control program, are

1 not required to be separately completed by the Department.

2 (d) In addition to those public participation procedures
3 required by the applicable underground injection control
4 program, the applicant shall also hold one informational
5 meeting in each county where the project will be developed.
6 The applicant shall consult with the Agency's Environmental
7 Justice Officer on meeting best practices to ensure meaningful
8 and inclusive public participation.

9 Section 85. Enhanced recovery. A sequestration facility
10 permit shall not authorize the injection of carbon dioxide
11 streams for enhanced oil or gas recovery.

12 Section 90. Primacy. The Agency shall not enforce the
13 rules in 35 Ill. Adm. Code 730 Subpart H until the United
14 States Environmental Protection Agency promulgates final
15 approval to Illinois for Class VI injection well primary
16 enforcement responsibility (primacy), whereby such rules, as
17 may be amended, become the applicable underground injection
18 control program for Class VI injection wells in Illinois.

19 Section 95. Liability of sequestered carbon dioxide
20 release responders.

21 (a) Notwithstanding any other provision of law, a person
22 is not liable for costs or damages that result from action
23 taken or omitted to be taken in the course of rendering care,

1 assistance, or advice as directed by a federal or State
2 official with responsibility for responding to a carbon
3 dioxide release from a sequestration facility.

4 (b) Subsection (a) does not apply:

5 (1) to a responsible party as defined under Section
6 1001 of the U.S. Oil Pollution Act of 1990, Public Law No.
7 101-380;

8 (2) with respect to personal injury or wrongful death;
9 or

10 (3) if such person is grossly negligent or engages in
11 reckless, willful, wanton, or intentional misconduct.

12 Section 100. Rules. The Department shall adopt rules to
13 implement this Act within 180 days after the effective date of
14 this Act.

15 Section 900. The Illinois Administrative Procedure Act is
16 amended by adding Section 5-45.55 as follows:

17 (5 ILCS 100/5-45.55 new)

18 Sec. 5-45.55. Emergency rulemaking; Climate and Landowner
19 Protection Act. To provide for the expeditious and timely
20 implementation of the Climate and Landowner Protection Act,
21 emergency rules implementing the Act may be adopted in
22 accordance with Section 5-45 by the Department of Natural
23 Resources. The adoption of emergency rules authorized by

1 Section 5-45 and this Section is deemed necessary for the
2 public interest, safety and welfare.

3 This Section is repealed one year after the effective date
4 of the Climate and Landowner Protection Act.

5 Section 905. The State Finance Act is amended by adding
6 Section 5.1015 and 5.1016 as follows:

7 (30 ILCS 105/5.1015 new)

8 Sec. 5.1015. The Carbon Dioxide Sequestration
9 Administrative Fund.

10 (30 ILCS 105/5.1016 new)

11 Sec. 5.1016. The Carbon Dioxide Sequestration Long-Term
12 Trust Fund.

13 Section 910. Severability. The provisions of this Act are
14 severable under Section 1.31 of the Statute on Statutes.

15 Section 999. Effective date. This Act takes effect upon
16 becoming law."