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Sub. H. B. No. 170

Representatives Robb Blasdel, Peterson

**Cosponsors: Representatives Abrams, Bird, Brennan, Fischer, Mathews, T.,
Plummer, Salvo, Sigrist, Thomas, D., Williams, Willis, Young**

To amend sections 1509.33 and 1509.99 and to enact
sections 1509.71, 1509.72, 1509.73, 1509.75,
1509.76, 1509.77, 1509.79, 5301.57, 5301.58,
5301.59, and 5301.60 of the Revised Code to
establish a process to regulate carbon capture
and storage technologies and the geologic
sequestration of carbon dioxide for long-term
storage.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1509.33 and 1509.99 be amended
and sections 1509.71, 1509.72, 1509.73, 1509.75, 1509.76,
1509.77, 1509.79, 5301.57, 5301.58, 5301.59, and 5301.60 of the
Revised Code be enacted to read as follows:

Sec. 1509.33. (A) Whoever violates sections 1509.01 to
1509.31 or sections 1509.71 to 1509.79 of the Revised Code, or
any rules adopted or orders or terms or conditions of a permit
or registration certificate issued pursuant to these sections
for which no specific penalty is provided in this section, shall
pay a civil penalty of not more than ten thousand dollars for
each offense.

(B) Whoever violates section 1509.221 of the Revised Code 20
or any rules adopted or orders or terms or conditions of a 21
permit issued thereunder shall pay a civil penalty of not more 22
than ten thousand dollars for each violation. 23

(C) Whoever violates division (D) of section 1509.22 or 24
division (A) (1) of section 1509.222 of the Revised Code shall 25
pay a civil penalty of not less than two thousand five hundred 26
dollars nor more than twenty thousand dollars for each 27
violation. 28

(D) Whoever violates division (A) of section 1509.22 of 29
the Revised Code shall pay a civil penalty of not less than two 30
thousand five hundred dollars nor more than ten thousand dollars 31
for each violation. 32

(E) Whoever violates division (A) of section 1509.223 of 33
the Revised Code shall pay a civil penalty of not more than ten 34
thousand dollars for each violation. 35

(F) Whoever violates section 1509.072 of the Revised Code 36
or any rules adopted or orders issued to administer, implement, 37
or enforce that section shall pay a civil penalty of not more 38
than five thousand dollars for each violation. 39

(G) In addition to any other penalties provided in this 40
chapter, whoever violates section 1509.05, section 1509.21, 41
division (B) of section 1509.22, or division (A) (1) of section 42
1509.222 of the Revised Code or a term or condition of a permit 43
or an order issued by the chief of the division of oil and gas 44
resources management under this chapter or knowingly violates 45
division (A) of section 1509.223 of the Revised Code is liable 46
for any damage or injury caused by the violation and for the 47
actual cost of rectifying the violation and conditions caused by 48

the violation. If two or more persons knowingly violate one or 49
more of those divisions in connection with the same event, 50
activity, or transaction, they are jointly and severally liable 51
under this division. 52

(H) The attorney general, upon the request of the chief of 53
the division of oil and gas resources management, shall commence 54
an action under this section against any person who violates 55
sections 1509.01 to 1509.31 or sections 1509.71 to 1509.79 of 56
the Revised Code, or any rules adopted or orders or terms or 57
conditions of a permit or registration certificate issued 58
pursuant to these sections. Any action under this section is a 59
civil action, governed by the Rules of Civil Procedure and other 60
rules of practice and procedure applicable to civil actions. The 61
remedy provided in this division is cumulative and concurrent 62
with any other remedy provided in this chapter, and the 63
existence or exercise of one remedy does not prevent the 64
exercise of any other, except that no person shall be subject to 65
both a civil penalty under division (A), (B), (C), or (D) of 66
this section and a fine established in section 1509.99 of the 67
Revised Code for the same offense. 68

(I) For purposes of this section, each day of violation 69
constitutes a separate offense. 70

Sec. 1509.71. As used in sections 1509.71 to 1509.79 of 71
the Revised Code: 72

"Carbon dioxide" means naturally occurring, geologically 73
sourced, or anthropogenically sourced carbon dioxide including 74
its derivatives and all mixtures, combinations, and phases, 75
whether liquid, gaseous, solid, stripped, segregated, or divided 76
from any other fluid stream thereof. 77

"Carbon dioxide well" means a well that is used to inject 78
carbon dioxide into a reservoir for carbon sequestration under a 79
UIC Class VI permit. "Carbon dioxide well" shall be considered a 80
"well" for purposes of section 1509.01 of the Revised Code. 81

"Carbon dioxide plume" means the extent, underground, in 82
three dimensions, of injected carbon dioxide stream. 83

"Carbon sequestration" means the underground storage of 84
carbon dioxide in a geological formation. 85

"Carbon sequestration project" means a project that 86
involves the underground storage of carbon dioxide in a 87
geological formation pursuant to at least one UIC Class VI 88
permit. 89

"Owner" includes, unless the context indicates otherwise, 90
a person who has the right to drill a carbon dioxide well and to 91
inject carbon dioxide in an underground geologic formation. 92
"Owner," as defined in section 1509.01 of the Revised Code, does 93
not apply to sections 1509.71 to 1509.79 or sections 5301.58 to 94
5301.60 of the Revised Code unless the context indicates 95
otherwise. 96

"Pore space" means subsurface cavities and voids, whether 97
natural or artificially created, that are suitable for use as a 98
sequestration space for carbon dioxide. 99

"Storage facility" means the pore space in the subsurface 100
area consisting of the extent of a carbon dioxide plume and the 101
geological seals that confine the carbon dioxide plume that are 102
required to be delineated on an approved UIC Class VI permit or 103
an amendment to a UIC Class VI permit issued to a storage 104
operator. 105

"Storage operator" means an individual, corporation, or 106

other legal entity that operates a carbon sequestration project, 107
regardless of whether an owner that has the right to drill and 108
store carbon dioxide in the project area contracts, retains, or 109
allows an individual, corporation, or other legal entity to 110
conduct operations or provide other services at the carbon 111
sequestration project. 112

"UIC Class VI permit" means an underground injection 113
control program permit issued by the chief of the division of 114
oil and gas resources management that allows the operation of a 115
carbon dioxide well. 116

"Underground storage of carbon dioxide" means the 117
injection and storage of carbon dioxide into underground strata 118
and formations under at least one UIC Class VI permit. 119

Sec. 1509.72. The division of oil and gas resources 120
management has sole and exclusive authority to regulate carbon 121
sequestration and the operation of storage facilities within the 122
state, excepting only those activities regulated under federal 123
laws for which oversight has been delegated to the environmental 124
protection agency and activities regulated under sections 125
6111.01 to 6111.028 of the Revised Code. The regulation of 126
carbon sequestration activities is a matter of general statewide 127
interest that requires uniform statewide regulation, and 128
sections 1509.71 to 1509.79 of the Revised Code and rules 129
adopted under those sections constitute a comprehensive plan 130
with respect to all aspects of carbon sequestration within this 131
state, including storage facility operation and permitting 132
related to those activities. 133

In order to assist the division in the furtherance of its 134
sole and exclusive authority as established in this section, the 135
chief of the division of oil and gas resources management may 136

enter into cooperative agreements with other states that share 137
jurisdiction regarding carbon sequestration projects and other 138
state agencies regarding carbon sequestration projects. Such 139
cooperative agreements do not confer on other state agencies any 140
authority to administer or enforce sections 1509.71 to 1509.79 141
of the Revised Code and rules adopted under those sections. In 142
addition, such cooperative agreements shall not be construed to 143
dilute or diminish the division's sole and exclusive authority 144
as established in this section. 145

The division may create a program to incentivize 146
innovation for the use of and reutilization of captured carbon 147
dioxide. 148

Nothing in this section affects the authority granted to 149
the director of transportation and local authorities in section 150
723.01 or 4513.34 of the Revised Code, provided that the 151
authority granted under those sections shall not be exercised in 152
a manner that discriminates against, unfairly impedes, or 153
obstructs carbon sequestration projects regulated under sections 154
1509.71 to 1509.79 of the Revised Code. 155

Sec. 1509.73. (A) The chief of the division of oil and gas 156
resources management shall adopt, rescind, and amend, rules for 157
the administration, implementation, and enforcement of sections 158
1509.71 to 1509.79 of the Revised Code. 159

(B) Rules adopted under this section shall include 160
provisions regarding applications for and the issuance of UIC 161
Class VI permits; the terms and conditions of those permits; 162
entry to conduct inspections and to examine records to ascertain 163
compliance with sections 1509.71 to 1509.79 of the Revised Code, 164
rules adopted under those sections, and orders and terms and 165
conditions of permits issued under those sections; the provision 166

and maintenance of information through monitoring, 167
recordkeeping, and reporting; and other provisions in 168
furtherance of the goals of this chapter and the Safe Drinking 169
Water Act. 170

(C) The rules adopted under this section shall establish 171
all of the following: 172

(1) A requirement that an applicant for a UIC Class VI 173
permit attest that the applicant has the legal right to inject 174
carbon dioxide in the underground formation proposed in the 175
application and to the proposed extents that the carbon dioxide 176
will migrate, including the pressure front associated with the 177
injected carbon dioxide; 178

(2) A requirement that owners map field drainage systems, 179
determine ways to mitigate or avoid damage to drainage systems, 180
and promptly repair or restore drainage conditions; 181

(3) Requirements and procedures for statutory 182
consolidation applications under section 1509.76 of the Revised 183
Code that include any land owned by the state; 184

(4) The amount of the costs estimated to implement the 185
closure plan of the carbon dioxide well and associated 186
facilities and any post injection site care and site closure. 187

(D) The rules adopted under this section shall include an 188
identification of the subjects that the chief shall address when 189
attaching terms and conditions to a UIC Class VI permit. The 190
subjects shall include at least all of the following: 191

(1) Requirements for the operation and monitoring of a 192
carbon dioxide well; 193

(2) Safety concerning the drilling and operation of a 194

<u>carbon dioxide well;</u>	195
<u>(3) Spacing, setback, and other provisions to prevent</u>	196
<u>storage facilities and storage operators from impacting the</u>	197
<u>ability of owners of oil and gas interests to develop those</u>	198
<u>interests;</u>	199
<u>(4) Protection of the public and private water supply,</u>	200
<u>including the amount of water used and the source or sources of</u>	201
<u>the water;</u>	202
<u>(5) Fencing and screening of surface facilities of a</u>	203
<u>carbon dioxide well;</u>	204
<u>(6) Containment and disposal of drilling and other wastes</u>	205
<u>related to a carbon sequestration project;</u>	206
<u>(7) Construction of access roads for purposes of the</u>	207
<u>drilling and operation of a carbon dioxide well;</u>	208
<u>(8) Noise mitigation for purposes of the drilling of a</u>	209
<u>carbon dioxide well and the operation of such a well, excluding</u>	210
<u>safety and maintenance operations;</u>	211
<u>(9) Liability insurance to pay damages for injury to</u>	212
<u>persons or property caused by the construction or operation of</u>	213
<u>the storage facility, to be maintained for the period of time</u>	214
<u>beginning at the commencement of construction operations and</u>	215
<u>ending when the chief issues a certificate of project completion</u>	216
<u>under section 1509.77 of the Revised Code;</u>	217
<u>(10) Liability insurance coverage of at least fifteen</u>	218
<u>million dollars to cover bodily injury and property damage</u>	219
<u>caused by the construction, drilling, or operation of the</u>	220
<u>owner's carbon dioxide wells in this state. The rules shall</u>	221
<u>require the insurance policy to include additional coverage for</u>	222

an environmental endorsement. 223

(11) A surety bond conditioned on compliance with all 224
obligations imposed under sections 1509.71 to 1509.79 of the 225
Revised Code, to be maintained for the period of time beginning 226
at the commencement of construction operations and ending when 227
the chief issues a certificate of project completion. The rules 228
shall establish the required amount of the surety bond that is 229
not less than the cost estimate identified in the application. 230
The surety bond shall be sufficient to cover corrective actions, 231
plugging, post-injection site care prior to receipt of a 232
certificate of project completion, and emergency or remedial 233
response. 234

Sec. 1509.75. (A) Carbon sequestration projects are 235
authorized in the state for the purposes of injecting carbon 236
dioxide into the pore space of a storage facility through at 237
least one carbon dioxide injection well under a UIC Class VI 238
permit. 239

(B) To operate a carbon sequestration project under 240
sections 1509.71 to 1509.79 of the Revised Code, a storage 241
operator shall obtain at least both of the following: 242

(1) A UIC Class VI permit, which shall be applied for in 243
the name of the storage operator; 244

(2) Any additional permits required by applicable laws, 245
rules, and regulations, except that a storage operator is not 246
required to obtain a permit required under section 1509.05 of 247
the Revised Code. 248

(C) Prior to carbon sequestration, the chief of the 249
division of oil and gas resources management may require a 250
storage operator to deploy a seismicity monitoring system. The 251

storage operator shall use the system to determine, to the best 252
of the operator's ability, the presence or absence, magnitude, 253
and the hypocenter location of seismic activity within the 254
vicinity of the storage facility as may be necessary to perform 255
an array and a risk analysis and as required by the chief. The 256
chief may periodically require the storage operator to utilize 257
the seismicity monitoring system during carbon sequestration 258
operations. 259

(D) Prior to, or during the operation of, a carbon 260
sequestration project under sections 1509.71 to 1509.79 of the 261
Revised Code, a storage operator shall design the project to 262
isolate any existing or future production of oil and gas from 263
within, above, and below the proposed storage facility. The 264
chief shall issue a permit under those sections only if the 265
chief is satisfied that the interests of the owners of the oil 266
and gas will not be adversely affected. 267

(E) Provisions of this chapter codified in sections other 268
than sections 1509.71 to 1509.79 of the Revised Code apply to 269
carbon sequestration projects to the extent that those 270
provisions are consistent with, and not specifically excepted 271
from, sections 1509.71 to 1509.79 of the Revised Code. 272

Sec. 1509.76. (A) (1) If, after good-faith negotiation, the 273
applicant for a UIC Class VI permit or a storage operator cannot 274
locate or reach an agreement with all necessary pore space 275
owners but has obtained the consent of owners of at least 276
seventy per cent of the pore space proposed to be used in a 277
storage facility, the applicant or storage operator may submit a 278
statutory consolidation application for the operation of the 279
entire proposed storage facility to the chief of the division of 280
oil and gas resources management. In calculating the seventy per 281

cent, a pore space owner's entire interest in the proposed 282
storage facility, including any divided, undivided, partial, 283
fee, or other interest in the pore space, shall be included to 284
the fullest extent of that interest. The applicant or storage 285
operator shall obtain the consent of the pore space owners prior 286
to injecting carbon dioxide into the well. 287

(B) An applicant shall include the following with the 288
application: 289

(1) A list of all persons reasonably known to own an 290
interest in the pore space proposed to be used for the storage 291
facility; 292

(2) A processing fee based on actual application 293
processing costs incurred by the division of oil and gas 294
resources management. Promptly after receiving an application, 295
the division shall prepare and submit to the applicant an 296
estimate of the processing fee and a payment billing schedule. 297
The division shall maintain a record of all application 298
processing costs incurred. After the division's work on the 299
application has concluded, the division shall send a final 300
statement to the applicant. The applicant shall pay the full 301
processing fee before the division issues its final decision on 302
an application. The applicant shall pay the processing fee 303
regardless of whether a permit is issued or denied, or whether 304
the application is withdrawn. The division shall return any 305
unused funds paid to the division as part of the processing fee 306
estimate to the applicant. 307

(3) Proof of notice provided under division (D) of this 308
section, if applicable; 309

(4) A notarized affidavit listing a minimum of three 310

attempts to contact all known pore space owners on three 311
separate dates; 312

(5) Any additional information reasonably requested by the 313
chief. 314

(C) For each application, the chief shall provide notice 315
to all pore space owners located within the proposed storage 316
facility and all owners of the subsurface areas located within, 317
above, and below the proposed storage facility of the proposed 318
carbon sequestration project, as identified by the applicant in 319
the application. The chief shall not rule on an application 320
until after such notice has been provided. If, upon receipt of 321
the notice, the subsurface property owner expresses an objection 322
to the chief regarding the design of the carbon sequestration 323
project based on the potential adverse effect to a commercially 324
valuable mineral, including, without limitation a coal or oil 325
and gas estate, the storage operator shall address the objection 326
to the satisfaction of the chief. Such objections are not 327
required to be submitted in the timeframe required for 328
notifications to the chief under division (D) of this section, 329
but shall be made in accordance with requirements established by 330
the chief. 331

(D) If the proposed storage facility contains pore space 332
for which the owner is unknown or unlocatable, the storage 333
operator shall publish one notice in a newspaper of the largest 334
circulation in each county in which the carbon sequestration 335
project is located. The notice shall appear not more than thirty 336
days prior to the date the application is submitted to the 337
chief. 338

The notice shall: 339

(1) State that an application for statutory consolidation 340
will be filed with the division; 341

(2) Describe the proposed storage facility; 342

(3) In the case of an unknown pore space owner, state the 343
owner's interest in the proposed storage facility, and the name 344
of the last known owner of that interest; 345

(4) State that a person claiming an interest in the pore 346
space proposed to be consolidated shall notify the chief and the 347
applicant at the published address within twenty days of the 348
notice's publication date. Within seven days of receiving notice 349
of a claim, the applicant shall provide information to the 350
claimant, in a form and manner prescribed by the chief, 351
regarding the right of the claimant to file an objection and 352
participate in the application proceeding before the division. 353

(E) (1) (a) The chief shall hold a hearing regarding an 354
application submitted under this section, except as otherwise 355
provided in division (E) (1) (b) of this section. 356

(b) If the chief determines that an application is 357
materially incomplete before the required hearing date, the 358
chief shall notify the applicant. If the applicant does not 359
timely correct the application, the chief may reschedule the 360
hearing date. 361

(2) At the hearing, the chief shall consider whether the 362
application is reasonably necessary to facilitate the 363
underground storage of carbon dioxide. 364

(F) (1) The chief shall issue an order approving the 365
application submitted under this section and providing for the 366
operation of the proposed storage facility if the chief finds 367
that such operation is reasonably necessary to facilitate the 368

underground storage of carbon dioxide. The chief shall issue the 369
order not later than sixty days after the date of the hearing 370
under division (E) of this section, unless the chief denies the 371
application by order within that sixty-day period. 372

(2) An order approving an application shall be upon terms 373
and conditions that are just, reasonable, and equitable and 374
shall prescribe a plan for operations that include: 375

(a) A description of the pore space and storage facility 376
proposed to be operated; 377

(b) The location of and means to access carbon injection 378
wells, outbuildings, roads, and monitoring equipment; 379

(c) A statement of the nature of the operations 380
contemplated; 381

(d) (i) An allocation to the separately owned interests in 382
the storage facility of all economic benefits derived from 383
operation of the storage facility. The order shall ensure that 384
all pore space owners are compensated in a fair and reasonable 385
manner. 386

(ii) The allocation shall be in accord with the agreement, 387
if any, of the interested parties. If there is no agreement 388
between the parties, the chief shall determine the value of each 389
separately owned interest in the storage facility, exclusive of 390
physical equipment, for development of the storage facility, and 391
the economic benefits allocated to each interest shall be the 392
proportion that the value of each interest so determined bears 393
to the value of all interests in the storage facility. 394

(e) A provision describing how the credits and charges 395
shall be made in the adjustment among the owners in the storage 396
facility for their respective investments in wells, machinery, 397

materials, and equipment contributed to the operations; 398

(f) A provision describing how the expenses of operations, 399
including capital investment, shall be determined and charged to 400
the separately owned interests and how the expenses shall be 401
paid; 402

(g) A provision, if necessary, for carrying or otherwise 403
financing any person who does not meet the person's financial 404
obligations in connection with the storage facility, allowing a 405
reasonable interest charge for such service; 406

(h) A provision for the supervision and conduct of the 407
storage facility operations, in respect to which each person 408
shall have a vote with a value corresponding to the percentage 409
of the expenses of operations chargeable against the interest of 410
that person; 411

(i) The time when the storage facility operations shall 412
commence and the manner in which, and the circumstances under 413
which, the operations shall terminate; 414

(j) Any additional provisions as are found to be 415
appropriate for carrying on the operations, and for the 416
protection or adjustment of correlative rights. 417

(3) The storage operator shall file a certified copy of 418
the order and a survey of the storage facility in the office of 419
the county recorder of the county in which all or a portion of 420
the storage facility is located. The chief shall make the order 421
publicly available, which may include posting the order on the 422
division's web site. 423

(G) Storage facility operations conducted pursuant to an 424
order issued under this section constitute a fulfillment of all 425
the express or implied obligations of each lease or contract 426

covering lands in the storage facility to the extent that 427
compliance with such obligations cannot be had because of the 428
order of the chief. 429

Economic benefits allocated to any interest shall be the 430
property and income of the several persons to whom, or to whose 431
credit, the same are allocated or payable under the order 432
providing for storage facility operations. 433

(H) No order of the chief or other contract relating to 434
the pore space and the storage of carbon dioxide from a 435
separately owned interest shall be terminated by the order 436
providing for storage facility operations, but shall remain in 437
force until terminated in accordance with the provisions 438
thereof. 439

Except to the extent that the parties affected so agree, 440
no order providing for storage facility operations shall be 441
construed to result in a transfer of any person's title to all 442
or any part of the pore space in the storage facility. All 443
property, whether real or personal, that may be acquired for the 444
account of the owners within the storage facility shall be the 445
property of such owners in the proportion that the expenses of 446
operations are charged. 447

(I) The right to utilize pore space for a storage facility 448
pursuant to this section does not confer a right to enter upon, 449
or otherwise use, the surface of the land above such pore space 450
unless authorized by a properly executed surface use agreement. 451
A statutory consolidation order shall not grant the storage 452
operator expressed or implied rights of surface use or access. 453

Sec. 1509.77. (A) After carbon dioxide injection into a 454
storage facility ceases, the chief of the division of oil and 455

gas resources management may issue a certificate of project 456
completion upon application by the storage operator. The chief 457
shall issue a certificate only upon satisfaction of the 458
conditions imposed under this section and after providing public 459
notice of the application, an opportunity for public comment, 460
and if deemed necessary by the chief, a public hearing on the 461
application. 462

(B) A certificate shall not be issued until at least fifty 463
years after carbon dioxide injections cease or until an 464
established alternative timeline approved by the chief has 465
elapsed. 466

(C) A certificate shall not be issued until the storage 467
operator establishes with a degree of certainty to the 468
satisfaction of the chief that all of the following apply: 469

(1) The storage operator is in full compliance with all 470
laws governing the injection and storage of the carbon dioxide. 471

(2) The following apply to the carbon dioxide that has 472
been injected underground for storage: 473

(a) It is not expected to extend or migrate outside of the 474
storage facility and is not expected to pose any threat to 475
public health or safety or the environment or underground 476
sources of drinking water. 477

(b) It is not likely to cross any boundary vertically from 478
the storage facility and is not expected to endanger public 479
health or safety or the environment or underground sources of 480
drinking water. 481

(3) All carbon dioxide wells and associated equipment and 482
facilities to be used in maintaining and managing the stored 483
carbon dioxide, including any monitoring wells, are in good 484

condition and will retain mechanical integrity. 485

(4) The storage operator has plugged all carbon dioxide 486
wells not used in maintaining and managing the stored carbon 487
dioxide and has completed all reclamation required by the 488
division. 489

(D) Upon the issuance of a certificate of project 490
completion, the following shall occur: 491

(1) Except as otherwise provided in this section, the 492
former storage operator is released from all regulatory 493
requirements associated with continued storage and maintenance 494
of the injected carbon dioxide, and financial assurance required 495
under rules adopted under section 1509.73 of the Revised Code 496
shall be released to the former storage operator. 497

(2) Primary responsibility and liability for the stored or 498
injected carbon dioxide shall be transferred to the state, 499
except for criminal and contractual liability and except under 500
any of the following circumstances: 501

(a) The storage operator violated a duty imposed on the 502
storage operator by state law or rule prior to approval of site 503
closure and any applicable statutes of limitations have not run 504
out; 505

(b) After notice and a hearing, the chief determines 506
either of the following: 507

(i) The storage operator provided deficient or erroneous 508
information that was material and relied upon by the chief to 509
support approval of site closure; 510

(ii) There is carbon dioxide migration that threatens 511
public health or safety or the environment or underground 512

sources of drinking water; 513

(c) The balance of the carbon dioxide storage facility 514
fund is insufficient to cover costs arising from storage 515
facilities and associated carbon dioxide wells after site 516
closure. 517

(3) The storage operator and all individuals who 518
generated, injected, or stored carbon dioxide shall be forever 519
released from all regulatory requirements associated with the 520
continued storage and maintenance of the injected carbon 521
dioxide, except as provided in division (D) (2) of this section. 522

(4) Any bond or financial assurance submitted to the 523
division shall be released. 524

Sec. 1509.79. (A) Storage operators shall pay the 525
department of natural resources a fee of five and twenty-five 526
one hundredth cents for each metric ton of carbon dioxide 527
injected for storage in a storage facility. The fee shall be 528
deposited into the carbon dioxide storage facility fund created 529
under this section. 530

(B) (1) The carbon dioxide storage facility fund is created 531
in the state treasury. Except for fees collected under division 532
(C) of this section, the fund shall consist of any money 533
collected under this section in relation to a Class VI well, 534
including money received by the department from financial 535
responsibility mechanisms established and penalties imposed for 536
violations of sections 1509.71 to 1509.79 of the Revised Code, 537
rules adopted under those sections, and orders and terms and 538
conditions of a permit issued under those sections. All interest 539
earnings of the fund shall be credited to the fund. 540

(2) The chief of the division of oil and gas resources 541

management shall use the money in the fund for the purpose of 542
defraying expenses of the division that are associated with 543
post-closure care of sequestered carbon dioxide in a storage 544
facility, including the maintenance of carbon dioxide wells, 545
associate surface facilities, remediation of any environmental 546
impacts from the injected carbon dioxide, and plugging of 547
monitoring wells associated with the injection of carbon dioxide 548
in a carbon dioxide well. 549

(3) The existence, management, and expenditure of money 550
from the fund do not constitute a waiver of governmental 551
immunity or an assumption of any liability by the state for 552
carbon dioxide storage. 553

(C) (1) In addition to the fee established under division 554
(A) of this section, an owner of a carbon dioxide well shall pay 555
a fee for each metric ton of carbon dioxide injected in the 556
carbon dioxide well. The chief, by rule, shall establish the 557
amount of the fee, and the fee shall be deposited in the carbon 558
capture administrative fund created under this section. 559

(2) The carbon capture administrative fund is created in 560
the state treasury. The fund shall consist of the money 561
collected under division (C) (1) of this section. The chief shall 562
use the funds for the purpose of administering sections 1509.71 563
to 1509.79 of the Revised Code and the rules adopted under those 564
sections that are associated with injection and sequestration of 565
carbon dioxide in a carbon dioxide well and for other purposes 566
determined by the chief. All interest earnings of the fund shall 567
be credited to the fund. 568

Sec. 1509.99. (A) Whoever violates sections 1509.01 to 569
1509.31 or sections 1509.71 to 1509.79 of the Revised Code or 570
any rules adopted or orders or terms or conditions of a permit 571

issued pursuant to these sections for which no specific penalty 572
is provided in this section shall be fined not less than one 573
hundred nor more than one thousand dollars for a first offense; 574
for each subsequent offense the person shall be fined not less 575
than two hundred nor more than two thousand dollars. 576

(B) Whoever violates section 1509.221 of the Revised Code 577
or any rules adopted or orders or terms or conditions of a 578
permit issued thereunder shall be fined not more than five 579
thousand dollars for each violation. 580

(C) Whoever knowingly violates section 1509.072, division 581
(A), (B), or (D) of section 1509.22, division (A) (1) or (C) of 582
section 1509.222, or division (A) or (D) of section 1509.223 of 583
the Revised Code or any rules adopted or orders issued under 584
division (C) of section 1509.22 or rules adopted or orders or 585
terms or conditions of a registration certificate issued under 586
division (E) of section 1509.222 of the Revised Code shall be 587
fined ten thousand dollars or imprisoned for six months, or both 588
for a first offense; for each subsequent offense the person 589
shall be fined twenty thousand dollars or imprisoned for two 590
years, or both. Whoever negligently violates those divisions, 591
sections, rules, orders, or terms or conditions of a 592
registration certificate shall be fined not more than five 593
thousand dollars. 594

(D) Whoever violates division (C) of section 1509.223 of 595
the Revised Code shall be fined not more than five hundred 596
dollars for a first offense and not more than one thousand 597
dollars for a subsequent offense. 598

(E) The prosecuting attorney of the county in which the 599
offense was committed or the attorney general may prosecute an 600
action under this section. 601

(F) For purposes of this section, each day of violation 602
constitutes a separate offense. 603

Sec. 5301.57. (A) As used in sections 5301.57 to 5301.60 604
of the Revised Code, "carbon dioxide," "carbon dioxide well," 605
"carbon sequestration," "owner," "pore space," "storage 606
operator," and "storage facility," have the same meanings as in 607
section 1509.71 of the Revised Code. 608

(B) As used in sections 5301.58 to 5301.60 of the Revised 609
Code, "subsurface property interest owner" means a property 610
interest owner identified by the records of the recorder of 611
deeds for each county in which a portion of a proposed storage 612
facility is located who holds a fee simple interest, other 613
freehold interest, or leasehold interest in the subsurface of 614
the property, which may include mineral rights, such as coal or 615
oil and gas rights. "Subsurface property interest owner" does 616
not include an owner who holds an interest in property 617
consisting solely of an easement or right-of-way. 618

Sec. 5301.58. (A) The ownership of all pore space in all 619
strata below the surface lands and waters is vested in the owner 620
of the surface directly above the pore space. 621

A conveyance of the surface ownership of real property 622
shall be a conveyance of the pore space in all strata below the 623
surface of the real property unless the ownership interest in 624
the pore space previously has been expressly excepted and 625
reserved, conveyed, or otherwise severed from the surface 626
ownership. The ownership of pore space in the strata may be 627
conveyed in the manner provided by law for the transfer of real 628
property interests. No agreement conveying mineral, oil and gas, 629
coal, limestone or similar resource, or other interests 630
underlying the surface shall convey pore space in the strata 631

unless the agreement expressly includes conveyance of the pore 632
space. 633

(B) No provision of law or rule requiring notice to be 634
given to a surface owner, owner of the mineral or oil and gas 635
interest, or both shall be construed to require notice to 636
individuals holding ownership interests in pore space in the 637
underlying strata unless the applicable law specifies notice to 638
the individuals is required or unless the owner of the pore 639
space also owns an interest in the surface or in the mineral or 640
oil and gas interests. 641

(C) (1) Nothing in sections 5301.58 to 5301.60 of the 642
Revised Code shall be construed to change or alter the common 643
law existing as of the effective date of this section with 644
respect to the rights belonging to, or the dominance of, the 645
mineral estate or oil and gas estate. For the purpose of 646
determining the priority of surface and subsurface uses between 647
a severed mineral or oil and gas estate and pore space, the 648
severed mineral or oil and gas estate is dominant regardless of 649
whether ownership of the pore space is vested in the owner of 650
the surface or is owned separately from the surface. 651

(2) If pore space is severed from the surface ownership, 652
the pore space estate shall be considered to be dominant over 653
the surface estate unless the conveyance specifically provides 654
otherwise. 655

(3) Nothing in sections 5301.58 to 5301.60 of the Revised 656
Code shall alter, amend, diminish, or invalidate rights to the 657
pore space that were acquired by deed, contract, or lease prior 658
to the effective date of this section. 659

(D) An instrument that transfers the rights to pore space 660

shall include a specific description of the location of the pore 661
space being transferred. In the event that the instrument uses 662
only a description of the surface, the transfer shall be 663
considered to include pore space owned by the transferor at all 664
depths underlying the described surface area unless specifically 665
excluded. The owner of the pore space shall have no right to use 666
the surface estate beyond that set out in a properly recorded 667
instrument due solely to its ownership in the pore space. 668

An instrument that conveys the surface directly above the 669
pore space, but otherwise seeks to except or reserve the rights 670
to the pore space, shall include a specific reference to the 671
pore space in the instrument. In the event of such exception or 672
reserved rights, the reserved rights to the pore space shall 673
include pore space owned by the transferor at all depths 674
underlying the described surface area unless otherwise 675
specifically excluded. 676

Sec. 5301.59. All carbon dioxide injected into a storage 677
facility for carbon sequestration, and all other substances 678
injected incidental to the injection of carbon dioxide, shall be 679
presumed to be owned by the storage operator. This presumption 680
may be rebutted by an individual claiming contrary ownership by 681
a preponderance of the evidence in an action to establish 682
ownership. 683

No owner of pore space, other individual holding any right 684
to control pore space, or other surface or subsurface property 685
interest owner, shall have any liability relating to the 686
injection of carbon dioxide, or any other substances injected 687
incidental to the injection of carbon dioxide, for carbon 688
sequestration activities solely by virtue of their interest in 689
the pore space or their surface or subsurface rights. 690

Sec. 5301.60. (A) A claim for damages due to injection or 691
migration of carbon dioxide shall not be recoverable against a 692
storage operator conducting carbon sequestration in accordance 693
with a valid UIC Class VI permit unless the claimant proves that 694
the injection or migration of carbon dioxide: 695

(1) Is injurious to health, or an obstruction to the free 696
use of property so as essentially to interfere with the 697
comfortable enjoyment of life or property; or 698

(2) Has caused direct physical injury to an individual, 699
animal, or real or personal property. 700

(B) A surface or subsurface property interest owner 701
asserting a claim for injury to personal or real property may 702
recover monetary damages due to injection or migration of carbon 703
dioxide only for the diminution in real or personal property 704
value resulting from the injection or migration of carbon 705
dioxide beyond the storage facility. 706

(C) A surface or subsurface property interest owner may 707
not seek punitive damages due to injection or migration of 708
carbon dioxide if the storage operator acts in compliance with 709
the requirements of the UIC Class VI permit. 710

(D) Divisions (A), (B), and (C) of this section do not 711
apply to any claims that may be asserted by owners of oil and 712
gas interests or owners of class II disposal wells for damages 713
or injuries related to: 714

(1) The injection or migration of carbon dioxide; 715

(2) The construction or operation of a storage facility; 716
or 717

(3) A carbon sequestration project. 718

Section 2. That existing sections 1509.33 and 1509.99 of	719
the Revised Code are hereby repealed.	720