

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/19/2025

Check all that apply:

Bill Number: HB 458

Original Correction
Amendment Substitute

Sponsor: Rep. Meredith Dixon, Sen. William Sharer, Rep. Jack Chatfield, Rep. Nathan Small, Sen. Steve Lanier

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Analysis: J. Spenser Lotz

Short Title: Carbon Dioxide Storage Stewardship Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill would create a system wherein operators injecting carbon dioxide into geologic formations could request a certificate of completion of injection and transfer responsibility for the in-ground carbon dioxide to the state. It also creates a fund, funded by a fee imposed on operators, for the long-term stewardship of carbon dioxide.

Section 1 provides the title of the act as the Geologic Carbon Dioxide Storage Stewardship Act.

Section 2 provides definitions for the act, defining “geological sequestration” as the underground sequestration of carbon dioxide within a geologic formation, “sequestration facility” as injection wells and monitoring systems used for carbon dioxide injection, and “sequestration unit” as a formation proposed for the injection of carbon dioxide, but which excludes oil and gas units where carbon dioxide is injected for purposes of advanced oil recovery.

Section 3 states that the Act applies to sequestration facilities that commence injection after the effective date of the Act, but also that facilities that commenced injection prior to the effect date may apply to the Oil Conservation Division (OCD). It further provides that OCD has jurisdiction to enforce the provisions of the Act and may adopt rules for its implementation. Finally, it clarifies that the fees collected from operators under the act do not relieve operators from liability caused by their operations or the responsibility of maintain adequate financial assurances as required by law.

Section 4 creates a system wherein an operator with a sequestration permit may ask for a “certificate of closure” for a given land parcel upon a showing of long-term security and no significant risk of future leakage. Said lands include the reasonable ascertained area where carbon dioxide may migrate within the formation. State agencies, including the State Land Office, may grant a certificate of closure on lands subject to the agency’s jurisdiction “on such terms as the agency finds are reasonable”; otherwise, OCD grants such certificates.

Section 5 create the “geologic carbon dioxide long-term storage stewardship fund,” a non-reverting fund in the state treasury. Operators would be appraised a 10 cent per metric ton fee for injecting carbon dioxide. The purpose of the fund is to allow OCD to ensure the long-term storage security of geologic sequestration facilities. Disbursement from the fund are made pursuant to vouchers signed by the secretary of energy, minerals, and natural

resources. OCD is to administer the fund, which shall be used for long-term stewardship of sequestered carbon dioxide, including long-term monitoring, remediation, repair of leaks, compliance and enforcement, oversight, and emergency response.

Section 6 creates the results of OCD issuing a “certificate of completion of injection operation.” Upon issuance, all stewardship and legal responsibility for the sequestration facility, included the sequester carbon dioxide, would transfer to the state. All individuals related to the generation, transportation, and sequestration of the carbon dioxide would be released from liability, and all bonds posted by the operator would be released. The state would assume all obligations—maintenance, monitoring, repair of leaks, etc.—incident to assuming stewardship of the carbon dioxide. The release of responsibility does not apply to operators, who, after a hearing, are determined to have submitted false information, concealed or misrepresented facts, violated law, or otherwise engaged in misconduct. The certificate would be issued upon a showing that the operator had met all relevant standards provided by the act.

FISCAL IMPLICATIONS

N/A.

SIGNIFICANT ISSUES

The oil conservation division (OCD) is authorized by law to prevent waste and protect correlative rights. NMSA 1978, § 70-2-6. This bill would greatly expand OCD’s mandate and performance obligations. While the title of the bill purports to make an appropriation ostensibly to fund this increase in responsibilities, this appropriation is not explained or quantified in the bill.

Section 4 would authorize the commissioner of public lands or a state agency to grant an operator a certificate of closure for geologic sequestration on lands subject to the agency's jurisdiction on such terms as the agency finds are reasonable, but it is unclear where who hold stewardship responsibilities in this scenario. It is also unclear whether agencies other than OCD have the authority to issue a certificate of closure with terms allowing for the transfer of stewardship to the state.

The bill uses both “certificate of closure” and “certification of completion of injection operations,” seemingly interchangeably. If these are different, they should be defined in the definitions section or otherwise differentiated. If a certificate of closure issued by a state agency (i.e., the state land office) is followed by a certificate of completion of injection provided by OCD after a hearing, this process should be made clear.

It is not clear in Section 5 who remits fees to the state treasurer—whether it is the operators directly, or whether OCD collects from the operators and then remits to the treasury. It is also unclear who is responsible for monitoring the amount of carbon dioxide injected and then collecting the appropriate proportional fee, or when such fee would need to be remitted relative to commencement/continuation/closure of sequestration operations.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

N/A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is a companion to HB 457, which directly authorizes carbon sequestration, establishes permitting, and clarifies the ownership of pore space. This bill requires HB457 to pass, but HB457 does not require this bill. However, this bill solves the issues of long-term stewardship of formations in which carbon has been sequestered, which HB 457 leaves somewhat unresolved.

House Joint Memorial (HJM) 4 is related to this bill as it would request New Mexico Tech to study the costs and benefits of direct carbon dioxide capture and sequestration.

TECHNICAL ISSUES

See discussion of “certificate of closure” versus “certificate of completion of injection operations” *supra*.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS