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5	A BILL
6	TO BE ENTITLED
7	AN ACT
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9	Relating to geologic storage; to designate Sections
10	9-17-150, 9-17-151, 9-17-152, 9-17-153, 9-17-154, 9-17-155,
11	9-17-156, and 9-17-157, Code of Alabama 1975, as Division 1 of
12	Article 6, Chapter 17, Title 9 of the Code of Alabama 1975;
13	and to add a Division 2 to Article 6, Chapter 17, Title 9 of
14	the Code of Alabama 1975, commencing with Section 9-17-160, to
15	define the term "pore space"; to provide that the possessory
16	right to pore space below surface real property is vested in
17	the surface owners and may be separately conveyed; to further
18	provide the circumstances under which a proposed carbon
19	dioxide storage facility may receive approval to operate from
20	the State Oil and Gas Board; to provide that the board may
21	amalgamate storage rights for a carbon dioxide storage
22	facility under certain circumstances; to create the
23	Underground Carbon Dioxide Storage Facility Administrative
24	Fund to be used by the board in monitoring and regulating
25	active storage facilities; to create the Underground Carbon
26	Dioxide Storage Facility Trust Fund to be used by the board in
27	long-term monitoring and management of closed storage
28	facilities; to create a certificate of project closure and



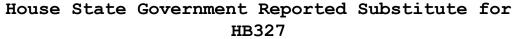
House	State	Government	Reported	Substitute	for
HB327					

29	completion and provide for its issuance and implications; to
30	authorize the Commissioner of Conservation and Natural
31	Resources to lease pore space of certain lands for underground
32	storage of carbon dioxide; and to further provide for the
33	board's rulemaking authority.
34	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
35	Section 1. Sections 9-17-150, 9-17-151, 9-17-152,
36	9-17-153, 9-17-154, 9-17-155, 9-17-156, and 9-17-157, Code of
37	Alabama 1975, shall be designated as Division 1 of Article 6,
38	Chapter 17, Title 9 of the Code of Alabama 1975.
39	Section 2. Division 2 is added to Article 6 of Chapter
40	17, Title 9 of the Code of Alabama 1975, commencing with
41	Section 9-17-160, to read as follows:
42	Division 2.
43	\$9-17-160
44	For the purposes of this division, the term "pore
45	space" means subsurface space that can be used for the
46	geologic storage or sequestration of carbon dioxide and
47	incidental substances that are part of the carbon dioxide
48	capture, transportation, or storage process.
49	§9-17-161
50	(a) The ownership of pore space in all strata below the
51	surface lands and waters of this state is vested in the owners
52	of the surface rights above the underlying strata where the
53	pore space exists, unless the ownership interest in the pore
54	space has previously been severed from the surface ownership
	or is explicitly excluded or reserved in a conveyance.

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(b) A conveyance of the surface ownership of real



57 property shall be a conveyance of the pore space in all strata 58 below the surface of the real property unless the ownership 59 interest in the subsurface pore space has previously been 60 severed from the surface ownership or is explicitly excluded 61 or reserved in the conveyance. The ownership of pore space in 62 strata may be conveyed in the manner provided by law for the 63 transfer of surface interests in real property.

(c) No previous agreement conveying or reserving oil,
gas, or other mineral interests in real property shall act to
convey or reserve ownership of any pore space or carbon
dioxide storage rights in the stratum unless the agreement
explicitly conveys or reserves subsurface space to be used for
the geologic storage or sequestration or carbon dioxide.

70 (d) No agreement conveying the right to use or occupy a 71 storage facility, pore space, and potentially the surface or 72 subsurface of the land incident thereto shall convey any other 73 right of real property use, including oil, gas, or other 74 minerals within the same instrument. Any agreement that 75 violates this subsection is void; provided, however, this 76 subsection shall not apply to any agreement executed before 77 October 1, 2024.

(e) The owner of any pore space right shall have no right to use the surface estate beyond that set out in a properly executed instrument nor in any manner that will adversely affect any existing easement, whether public or private.

(f) Nothing in this section shall alter, amend,diminish, or invalidate any right to the use of pore space



85 that was acquired by contract or lease prior to October 1, 86 2024.

- 87 (g) In considering approving a storage facility to be
  88 used for the storage and sequestration of carbon dioxide
- 89 pursuant to this division, the board shall consider any
- 90 competing rights of all separately owned estates in lands

91 potentially affected by the storage facility, giving due

92 consideration of competing rights as to existing or future

- 93 uses by pore space, surface, and mineral owners that may be
- 94 <mark>affected.</mark>

95 (h) Other than as may regard a claim to an ownership
96 interest in pore space, nothing in this division shall be
97 construed to change, alter, diminish, or in any way affect the
98 statutory or common law as of October 1, 2024, as it relates

99 to the rights belonging to surface and mineral estates.

100 \$9-17-162

For a storage facility that is used for the storage and sequestration of carbon dioxide, all of the following shall apply:

104 (1) A storage operator shall adhere to all rules
105 adopted by the board relating to the underground storage of
106 carbon dioxide.

107 (2) A storage operator shall make a good faith effort
108 to obtain the consent of all persons that own a storage
109 facility's pore space and storage rights for carbon dioxide.

(3) A storage operator shall obtain the consent of persons that own not less than 60 percent of a storage facility's pore space and storage rights for carbon dioxide.



113 (4) Upon a storage operator obtaining the consent of persons that own not less than 60 percent of a storage 114 115 facility's pore space and storage rights for carbon dioxide, 116 the board, after providing notice and a public hearing, may 117 enter an order to amalgamate and pool the pore space and storage rights for carbon dioxide owned by non-consenting 118 119 owners into the storage facility on terms that are just and 120 reasonable as determined by the board.

(5) All non-consenting owners of a storage facility's pore space and storage rights for carbon dioxide shall be fairly and equitably compensated.

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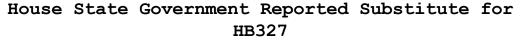
§9-17-163

(a) (1) The Underground Carbon Dioxide Storage Facility
Administrative Fund is created in the State Treasury. The fund
shall consist of all administrative fees for the geologic
storage of carbon dioxide as determined by the board pursuant
to Section 9-17-151(d).

(2) All monies in the fund shall be used only for the purpose of defraying expenses incurred by the board in the performance of its administrative and regulatory duties relative to the geologic storage of carbon dioxide.

(3) Monies in the fund shall be invested by the State Treasurer for the sole benefit of the fund and in a manner to obtain the highest return possible while preserving the principal. Any interest earned on the fund shall be deposited into the fund.

(4) The fund shall be paid out only by warrant of theComptroller upon the State Treasury, upon itemized vouchers,



141 approved by the State Oil and Gas Supervisor; provided, that 142 no funds shall be withdrawn or expended except as budgeted and 143 allotted according to the provisions of Sections 41-4-80 144 through 41-4-96 and Sections 41-19-1 through 41-19-12, and 145 only in amounts as stipulated in the general appropriation or 146 other appropriation bills; provided further, that any funds 147 unspent and unencumbered at the end of any state fiscal year 148 shall not be transferred into the State General Fund.

149 (b) (1) The Underground Carbon Dioxide Storage Facility150 Trust Fund is created in the State Treasury.

151 (2) The fund shall consist of any fees levied by the board pursuant to 9-17-151(d) and all monies received by the 152 153 board to measure, monitor, and verify underground carbon 154 dioxide storage facilities following the plugging and 155 abandonment of all injection wells in accordance with board rules, issuance of a certificate of project closure and 156 157 completion, and release of all financial assurance instruments 158 for a storage facility. The board shall adopt rules as 159 necessary to collect monies for the fund in an amount 160 reasonably calculated to pay the costs of measuring, monitoring, and verifying the sites. 161

162 (3) Monies in the fund shall only be used for the163 following purposes:

a. Testing, monitoring, and long-term inspection ofunderground carbon dioxide storage facilities.

b. Remediation of mechanical problems associated withremaining wells and infrastructure.

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c. Plugging and abandoning monitoring wells.

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169 d. All costs associated with the release of carbon 170 dioxide from underground carbon dioxide storage facilities 171 following the issuance by the board of a certificate of 172 project closure and completion and release of financial 173 assurance instruments.

e. Other operations and activities deemed necessary by the board or the State Oil and Gas Supervisor to protect underground sources of drinking water and for public health and safety following the issuance of a certificate of project closure and completion by the board and release of all financial assurance instruments.

180 (4) Monies in the fund shall be invested by the State 181 Treasurer for the sole benefit of the fund and in a manner to 182 obtain the highest return possible while preserving he 183 principal. Any interest earned on the fund shall be deposited 184 into the fund.

(5) The fund shall be paid out only by warrant of the 185 186 Comptroller upon the State Treasury, upon itemized vouchers, 187 approved by the State Oil and Gas Supervisor; provided, that 188 no funds shall be withdrawn or expended except as budgeted and 189 allotted according to the provisions of Sections 41-4-80 190 through 41-4-96 and Sections 41-19-1 through 41-19-12, and 191 only in amounts as stipulated in the general appropriation or 192 other appropriation bills; provided further, that any funds 193 unspent and unencumbered at the end of any state fiscal year shall not be transferred into the State General Fund. 194

195 \$9-17-164

196 (a) A storage operator has title to all carbon dioxide



197 injected and stored in a storage facility. A storage operator 198 is liable for any damages attributed to its operations while 199 holding title to the injected carbon dioxide.

(b) Upon all carbon dioxide injections into a storage
facility ending and application by a storage facility
operator, the board may issue a certificate of project closure
and completion for the storage facility.

(c) A certificate of project closure and completion shall only be issued after all of the following have been satisfied:

207 (1) Notice and a public hearing on the issuance of the 208 certificate are provided pursuant to Section 9-17-152(a).

209 (2) The board has consulted with the Alabama Department210 of Environmental Management regarding issuing the certificate.

(3) Ten or more years have passed from the date carbondioxide injection into the storage facility ended.

(4) The storage operator has demonstrated all of the following to the satisfaction of the board:

a. The storage facility is in full compliance with allgoverning laws and rules.

b. The storage facility is reasonably expected toretain the carbon dioxide.

c. The carbon dioxide in the storage facility is stable. For purposes of this paragraph, carbon dioxide is stable if it is essentially stationary or, if it is migrating or may migrate, migration is unlikely to cross the underground reservoir boundary and is not expected to endanger any underground source of drinking water.



d. All wells, equipment, and facilities to be used in the post-closure period are in good condition and retain mechanical integrity.

e. All injection wells have been plugged, all related equipment and facilities used during the pre-closure period not necessary for long-term monitoring have been removed, and all reclamation work required by the board has been completed.

(d) Upon the issuance of a certificate of projectclosure and completion, all of the following shall occur:

(1) Title to equipment and facilities necessary for 234 235 long-term monitoring and all carbon dioxide injected into the storage facility, without payment of any compensation, shall 236 237 transfer to the state. Title acquired by the state includes 238 all rights and interests in, and all responsibilities and 239 liabilities associated with, all equipment and facilities used for long-term monitoring and the stored carbon dioxide within 240 241 the storage facility. A storage operator may not transfer to 242 the state, and the state may not accept, any property 243 interests or rights that the storage operator does not own or 244 have the authority to transfer.

(2) The storage operator and all persons that generated
 any injected carbon dioxide shall be released from all
 regulatory requirements associated with the storage facility.

(3) The storage operator shall be released from allbonds and other security posted by the storage operator.

(4) Monitoring and managing the storage facility shall
become the responsibility of the state and be administered by
the board unless an agency of the federal government assumes



253 responsibility for the long-term monitoring and management of 254 the storage facility.

255 \$9-17-165

The Commissioner of Conservation and Natural Resources, on behalf of this state, is authorized to lease pore space for any lands under the jurisdiction of the Department of Conservation and Natural Resources for underground storage of carbon dioxide on, in, and under such lands.

261 \$9-17-166

262 The board may adopt rules as necessary to implement and 263 administer this division.

264 Section 3. This act shall become effective on October 265 1, 2024.