AN ACT

To amend and reenact R.S. 30:1103(2), (3), (6), and (9), 1104(A)(9), the introductory paragraph of (C), (C)(1), 1108(A)(1) and (B), 1110(C)(1)(a) through (e), and R.S. 19:2(12), and to enact R.S. 30:1103(12), relative to the Louisiana Geologic Sequestration of Carbon Dioxide Act; to provide certain definitions, terms, procedures, conditions, requirements, and effects; to provide for the powers and duties of the commissioner of conservation; to provide relative to storage facilities and operations; to provide relative to eminent domain and expropriation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:1103(2), (3), (6), and (9), 1104(A)(9), the introductory paragraph of (C), (C)(1), 1108(A)(1) and (B), 1110(C)(1)(a) through (e), are hereby amended and reenacted and R.S. 30:1103(12) is hereby enacted to read as follows:

§1103. Definitions

Unless the context otherwise requires, the words defined in this Section have the following meaning when found in this Chapter:

(2) "Commissioner" has the same meaning as provided in R.S. 30:3(2)(1).
(3) "Gas" has the same meaning as provided in R.S. 30:3(3).
(6) "Oil" has the same meaning as provided in R.S. 30:3(7).

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.
(9) "Storage facility" means the underground reservoir, carbon dioxide injection wells, monitoring wells, underground equipment, and surface buildings and equipment utilized in the storage operation, including pipelines owned or operated by the storage operator used to transport the carbon dioxide from one or more capture facilities or sources to the storage and injection site. The underground reservoir component of the storage facility includes any necessary and reasonable aerial buffer and subsurface monitoring zones designated by the commissioner for the purpose of ensuring the safe and efficient operation of the storage facility for the storage of carbon dioxide and shall be chosen to protect against pollution, and escape or migration of carbon dioxide.

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(12) "Interested person" means any person who presently owns an interest within the area of, or proximate to, the tracts directly affected by the storage facility.

§1104. Duties and powers of the commissioner; rules and regulations; permits

A. The office of conservation's actions under this Chapter shall be directed and controlled by the commissioner. The commissioner shall have authority to:

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(9) Approve conversion of an existing hydrocarbon-bearing formations, including depleted oil formations as well as existing or pre-existing enhanced oil or gas recovery operation into a storage facility operations, if necessary, taking into consideration prior approvals of the commissioner regarding such enhanced oil recovery operations.

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C. Prior to the use of any reservoir for the storage of carbon dioxide and prior to the exercise of eminent domain by any person, firm, or corporation having such right under laws of the state of Louisiana, and as a condition precedent to such use or to the exercise of such rights of eminent domain, the commissioner, after public hearing pursuant to the provisions of R.S. 30:6, held in the parish where the storage facility is to be located, shall have found all of at least one of the following:

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
(1) That the reservoir sought to be used for the injection, storage, and withdrawal of carbon dioxide is suitable and feasible for such use, provided no reservoir, any part of which is producing or is capable of producing oil, gas, condensate, or other commercial mineral in paying quantities, shall be subject to such use, unless all owners in such reservoir have agreed thereto. In addition, no reservoir shall be subject to such use unless either: any of the following applies:

(a) The reservoir or any part thereof sought to be used for storage under this Chapter is producing or is capable of producing oil, gas, condensate, or other commercial mineral in paying quantities, and all owners in such reservoir or relevant part thereof have agreed to such use.

(b) The volumes of original reservoir, oil, gas, condensate, salt, or other commercial mineral therein which are capable of being produced in paying quantities have all been produced.

(c) Such reservoir has a greater value or utility as a reservoir for carbon dioxide storage than for the production of the remaining volumes of original reservoir oil, gas, condensate, or other commercial mineral, and at least three-fourths of the owners, in interest, exclusive of any "lessor" defined in R.S. 30:148.1, have consented to such use in writing.

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§1108. Eminent domain, expropriation

A.(1) Any storage operator is hereby authorized, after obtaining any permit and any certificate of public convenience and necessity from the commissioner required by this Chapter, to exercise the power of eminent domain and expropriate needed property to acquire surface and subsurface rights and property interests necessary or useful for the purpose of constructing, operating, or modifying a storage facility and the necessary infrastructure including the laying, maintaining, and operating of pipelines for the transportation of carbon dioxide to a storage facility, together with utility, telegraph, and telephone lines necessary and incidental to the operation of these storage facilities and pipelines, over private property thus expropriated; and have the further right to construct and develop storage facilities
and the necessary infrastructure, including the laying, maintaining, and operating of pipelines along, across, over, and under any navigable stream or public highway, street, bridge, or other public place; and also have the authority, under the right of expropriation herein conferred, to cross railroads, street railways, and other pipelines, by expropriating property necessary for the crossing under the general expropriation laws of this state. The right to run along, across, over, or under any public road, bridge, or highway, as before provided for, may be exercised only upon condition that the traffic thereon is not interfered with, and that such road or highway is promptly restored to its former condition of usefulness, at the expense of the storage facility and the pipeline owner if different from the storage operator, the restoration to be subject also to the supervision and approval of the proper local authorities.

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B. The exercise of the right of eminent domain granted in this Chapter shall not prevent persons having the right to do so from drilling through the storage facility in such manner as shall comply with the rules of the commissioner issued for the purpose of protecting the storage facility against pollution or invasion and against the escape or migration of carbon dioxide. Furthermore, the right of eminent domain set out in this Section shall not prejudice the rights of the owners of the lands; or minerals, or other rights or interests therein as to all other uses not acquired for the storage facility and not reasonably necessary for the use of the acquired property.

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§1110. Carbon Dioxide Geologic Storage Trust Fund

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C. The commissioner is hereby authorized to levy on storage operators the following fees or costs for the purpose of funding the fund:

(1) A fee payable to the office of conservation, in a form and schedule prescribed by the office of conservation, for each ton of carbon dioxide injected for storage. This fee is to be determined based upon the following formula:
(a) $F \times \frac{120\,144}{1+20\,144} < M$

(b) "F" is a per unit fee in dollars per ton set by the office of conservation.

(c) "$120\,144" is the minimum number of months over which a fee is to be collected.

(d) "M" is the Maximum Payment maximum payment of five million dollars and is the total amount of fees to be collected before the payment of the fee can be suspended as provided in this Section.

(e) The fee cannot exceed five million dollars divided by one hundred twenty-four divided by the total tonnage of carbon dioxide to be injected, $((\$5,000,000/120\,144)/ \text{total injection tonnage of carbon dioxide})$.

Section 2. R.S. 19:2(12) is hereby amended and reenacted to read as follows:

§2. Expropriation by state or certain corporations, limited liability companies, or other legal entities

Prior to filing an expropriation suit, an expropriating authority shall attempt in good faith to reach an agreement as to compensation with the owner of the property sought to be taken and comply with all of the requirements of R.S. 19:2.2. If unable to reach an agreement with the owner as to compensation, any of the following may expropriate needed property:

(12) Any domestic or foreign corporation, limited liability company, or other legal entity composed of such corporations or wholly owned subsidiaries thereof engaged in the injection of carbon dioxide for the underground storage of carbon dioxide approved by the commissioner of conservation. Property located in Louisiana may be so expropriated for the underground storage of carbon dioxide in connection with such storage facility projects located in Louisiana, including but not limited to surface and subsurface rights, mineral rights, and other property interests necessary or useful for the purpose of constructing, operating, or modifying a carbon dioxide storage facility or transporting carbon dioxide by pipeline to such storage facility. This Paragraph shall have no effect on nor does it grant...
expropriation of the mineral rights or other property rights associated with the
approvals required for injection of carbon dioxide into enhanced recovery projects
approved by the commissioner under R.S. 30:4.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____________