

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1128 be amended to read as follows:

- 1 Page 14, between lines 10 and 11, begin a new paragraph and insert:
2 "SECTION 18. IC 14-37-10-5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Money paid
4 into the fund shall be appropriated for the following purposes:
5 (1) To supplement the cost required to abandon a well that has
6 had a permit revoked under IC 14-37-13-1.
7 (2) To cover the costs of remedial plugging and repairing of wells
8 under IC 14-37-8, including the expenses of remedial action
9 under IC 14-37-8-15.
10 (3) To cover the cost to:
11 (A) mitigate environmental damage; or
12 (B) protect public safety against harm;
13 caused by a well regulated under this article.
14 **(4) Pipeline safety.**
15 (b) The director may make expenditures from the fund for
16 emergency purposes under section 6 of this chapter without the prior
17 approval of the budget agency or the governor. An expenditure under
18 this subsection may not exceed fifty thousand dollars (\$50,000).
19 (c) The director may establish a program to reimburse an applicant
20 for the reasonable expenses of remedial action incurred under
21 IC 14-37-8-15. The director may make expenditures from the fund for
22 this purpose and may establish any necessary guidelines and
23 procedures to administer the program."
24 Page 14, between lines 17 and 18, begin a new paragraph and insert:
25 "SECTION 20. IC 14-39 IS ADDED TO THE INDIANA CODE AS
26 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
27 PASSAGE]:
28 **ARTICLE 39. CARBON DIOXIDE**
29 **Chapter 1. Eminent Domain for Transportation of Carbon**
30 **Dioxide by Pipeline**

1 **Sec. 1. As used in this chapter, "carbon dioxide" means a fluid**
 2 **consisting of more than ninety percent (90%) carbon dioxide**
 3 **molecules compressed to a supercritical state.**

4 **Sec. 2. As used in this chapter, "carbon dioxide transmission**
 5 **pipeline" means the part of a pipeline in Indiana, including**
 6 **appurtenant facilities, property rights, and easements, that is used**
 7 **exclusively for the purpose of transporting carbon dioxide to a**
 8 **carbon management application, including sequestration,**
 9 **enhanced oil recovery, and deep saline injection, within or outside**
 10 **Indiana.**

11 **Sec. 3. Because the movement conducted for:**

12 **(1) a person's own use or account; or**
 13 **(2) the use or account of another person or persons;**
 14 **of carbon dioxide by pipeline in Indiana for carbon management**
 15 **applications can assist efforts to reduce carbon dioxide emissions**
 16 **from the manufacture of gas using coal and the generation of**
 17 **electricity, the use of carbon dioxide transmission pipelines,**
 18 **including their routing, construction, maintenance, and operation,**
 19 **is declared as a matter of legislative determination to be a public**
 20 **use and service, in the public interest, and a benefit to the welfare**
 21 **and people of Indiana.**

22 **Sec. 4. (a) A carbon dioxide transmission pipeline company may**
 23 **apply to the department for issuance of a carbon dioxide**
 24 **transmission pipeline certificate of authority. The department shall**
 25 **prescribe the form of the application, which must:**

26 **(1) include a filing fee of one thousand dollars (\$1,000);**
 27 **(2) be signed by a responsible officer of the company;**
 28 **(3) include a statement verifying that the information**
 29 **submitted is true, accurate, and complete to the best of that**
 30 **responsible officer's knowledge and belief; and**
 31 **(4) include all information necessary for the department to**
 32 **find the following:**

33 **(A) That the applicant has the financial, managerial, and**
 34 **technical ability to construct, operate, and maintain a**
 35 **carbon dioxide transmission pipeline in Indiana.**

36 **(B) That the applicant has the requisite experience**
 37 **constructing, operating, and maintaining a carbon dioxide**
 38 **transmission pipeline.**

39 **(C) That the applicant has entered into a contract to**
 40 **transport carbon dioxide by pipeline in Indiana with:**

41 **(i) at least one (1) producer of carbon dioxide located in**
 42 **Indiana; and**

43 **(ii) unless all of the carbon dioxide to be transported in**
 44 **the proposed carbon dioxide transmission pipeline is for**
 45 **the applicant's own use or account, at least one (1) end**
 46 **user of carbon dioxide.**

47 **(D) That the applicant has provided documentation to the**

- 1 department showing the proposed length, diameter, and
 2 location of the proposed carbon dioxide transmission
 3 pipeline in Indiana.
- 4 (E) That the applicant will construct, operate, and
 5 maintain the proposed carbon dioxide transmission
 6 pipeline in accordance with applicable local, state, and
 7 federal law, including federal and state safety regulations
 8 and rules governing the construction, operation, and
 9 maintenance of carbon dioxide transmission pipelines, and
 10 related facilities and equipment, to ensure the safety of
 11 pipeline employees and the public.
- 12 (F) That the applicant has:
- 13 (i) entered into an agreement with the Indiana utility
 14 regulatory commission concerning the mitigation of
 15 agricultural impacts associated with the construction of
 16 the proposed carbon dioxide transmission pipeline; or
 17 (ii) signed a statement indicating that the applicant
 18 agrees to use, in connection with the construction of the
 19 proposed carbon dioxide transmission pipeline, the
 20 guidelines adopted under IC 8-1-22.6-8 by the pipeline
 21 safety division of the Indiana utility regulatory
 22 commission.
- 23 (b) The department shall review an application filed under
 24 subsection (a). Subject to subsection (f), if the department
 25 determines that the application is incomplete or inaccurate, or
 26 both, the department shall return the application to the applicant,
 27 informing the applicant in writing of the applicant's right to file a
 28 corrected application with the department. If the department
 29 determines that the application is complete and accurate, the
 30 department shall provide notice to the applicant of:
- 31 (1) that determination; and
 32 (2) the date, time, and location of the public information
 33 meeting to be held under subsection (d).
- 34 (c) The applicant shall:
- 35 (1) upon receipt of a notice under subsection (b):
 36 (A) place for public inspection a copy of the application in
 37 a public library located in each county in which the carbon
 38 dioxide transmission pipeline is proposed to be located;
 39 and
 40 (B) publish notice, in the same manner that would be
 41 required if the applicant were subject to IC 5-3-1, in each
 42 county in which the carbon dioxide transmission pipeline
 43 is proposed to be located, of:
 44 (i) the name and address of each library in which a copy
 45 of the application is placed under clause (A); and
 46 (ii) the date, time, and location of the public information
 47 meeting to be held under subsection (d);

- 1 **(2) provide to the department proof of publication of notice**
 2 **under subdivision (1)(B); and**
 3 **(3) have a representative present at the public information**
 4 **meeting held under subsection (d).**
 5 **(d) The department shall:**
 6 **(1) conduct a public information meeting in the county seat of**
 7 **one (1) of the counties, as determined by the department, in**
 8 **which the proposed carbon dioxide transmission pipeline will**
 9 **be located; and**
 10 **(2) provide an opportunity at the meeting for members of the**
 11 **public to be briefed and to ask questions about the proposed**
 12 **carbon dioxide transmission pipeline.**
 13 **(e) Not later than ninety (90) days after the public information**
 14 **meeting held under subsection (d), the department shall notify the**
 15 **applicant in writing that:**
 16 **(1) the department:**
 17 **(A) has made the findings described in subsection (a)(4);**
 18 **and**
 19 **(B) has approved the application; or**
 20 **(2) the department:**
 21 **(A) has determined that the department is unable to make**
 22 **the findings described in subsection (a)(4); and**
 23 **(B) has disapproved the application.**
 24 **(f) The department shall process a corrected application that is**
 25 **filed as permitted under subsection (b) in the same manner the**
 26 **department processes an initially filed application under subsection**
 27 **(a).**
 28 **(g) If the department fails to act under subsection (e) not later**
 29 **than ninety (90) days after the public information meeting held**
 30 **under subsection (d), the application is considered to be approved**
 31 **by the department.**
 32 **(h) If:**
 33 **(1) the department approves the application under subsection**
 34 **(e)(1); or**
 35 **(2) the application is considered to be approved as described**
 36 **in subsection (g);**
 37 **the department shall issue to the applicant a carbon dioxide**
 38 **transmission pipeline certificate of authority.**
 39 **Sec. 5. (a) Except as provided in subsection (b), if a carbon**
 40 **dioxide transmission pipeline company files with the department**
 41 **a verified certificate stating the reasons that the designation of**
 42 **confidential information is necessary, the carbon dioxide**
 43 **transmission pipeline company may designate information that it**
 44 **submits in an application to the department, or in subsequent**
 45 **reports, as trade secret or confidential and proprietary**
 46 **information.**
 47 **(b) Subsection (a) does not apply to information referred to in**

1 section 4(a)(4)(D) of this chapter.

2 (c) The department shall exercise all necessary caution to avoid
3 public disclosure of confidential information designated under
4 subsection (a).

5 **Sec. 6. A certificate of authority issued by the department under
6 this chapter must include at least the following:**

7 (1) A grant of authority to construct and operate a carbon
8 dioxide transmission pipeline as requested in the application.

9 (2) A grant of authority to use, occupy, and construct pipeline
10 facilities in any designated public right-of-way for the
11 construction and operation of the carbon dioxide transmission
12 pipeline.

13 (3) A grant of authority to take and acquire possession by
14 eminent domain of any property or interest in property for
15 the construction, maintenance, or operation of a carbon
16 dioxide transmission pipeline in the manner provided for the
17 exercise of the power of eminent domain under sections 7, 8,
18 and 9 of this chapter.

19 **Sec. 7. If a carbon dioxide transmission pipeline company has
20 received a carbon dioxide transmission pipeline certificate of
21 authority from the department under this chapter and is not able
22 to reach an agreement with a property owner for the construction,
23 operation, and maintenance of the carbon dioxide transmission
24 pipeline on the owner's property, the company may proceed to
25 condemn a right-of-way or an easement necessary or useful for:**

26 (1) constructing, maintaining, using, operating, and gaining
27 access to a carbon dioxide transmission pipeline and all
28 necessary machinery, equipment, pumping stations,
29 appliances, and fixtures for use in connection with the carbon
30 dioxide transmission pipeline; and

31 (2) obtaining all necessary rights of ingress and egress to
32 construct, examine, alter, repair, maintain, operate, or
33 remove a carbon dioxide transmission pipeline and all of its
34 component parts.

35 **Sec. 8. Except as otherwise provided in this chapter, IC 32-24-1
36 applies to the condemnation of property under this chapter by a
37 carbon dioxide transmission pipeline company.**

38 **Sec. 9. A carbon dioxide transmission pipeline company that
39 exercises the authority set forth in section 7 of this chapter shall:**

40 (1) compensate the property owner by making a payment to
41 the owner equal to:

42 (A) one hundred twenty-five percent (125%) of the fair
43 market value of the interest in the property acquired, if the
44 right-of-way or easement involves agricultural land; or

45 (B) one hundred fifty percent (150%) of the fair market
46 value of the interest in the property acquired, if the
47 right-of-way or easement involves a parcel of property

1 occupied by the owner as a residence; and
2 **(2) pay to the property owner:**
3 **(A) any damages determined under IC 32-24-1; and**
4 **(B) any loss incurred in a trade or business;**
5 **that are attributable to the exercise of eminent domain.**
6 **Sec. 10. Not later than one hundred eighty (180) days after the**
7 **completion of a carbon dioxide transmission pipeline for which the**
8 **department has issued a certificate of authority under this chapter,**
9 **the carbon dioxide transmission pipeline company shall provide**
10 **maps and other documentation to the department showing the**
11 **actual route in Indiana of the carbon dioxide transmission pipeline.**
12 **Sec. 11. A determination of the department under section 4(e)(2)**
13 **of this chapter is subject to administrative review under IC 4-21.5.**
14 **Sec. 12. The department shall deposit fee revenue received**
15 **under section 4(a)(1) of this chapter in the oil and gas**
16 **environmental fund established by IC 14-37-10-2.**
17 **Sec. 13. This chapter expires July 1, 2021."**
18 Page 17, after line 6, begin a new paragraph and insert:
19 **"SECTION 31. An emergency is declared for this act."**
20 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1128 as printed April 8, 2011.)

Senator GARD