



**MICHIGAN  
LEAGUE OF  
CONSERVATION  
VOTERS**

**Date: June 7, 2025**  
**To: Senate Committee on Energy and Environment**  
**From: Nick Occhipinti, Michigan LCV Government Affairs**  
**Re: Oppose: SB's 394-396**

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Dear Chairman McCann and Members of the Committee on Energy and Environment,

The Michigan League of Conservation Voters is very interested in working with bill sponsors, decision-makers, and fellow stakeholders on this legislation, and its direct and indirect impacts to the extent that they can be reasonably anticipated.

### **A New Era of Carbon Capture and Sequestration in Michigan**

These bills establish Michigan's regulatory primacy over the federal type VI well program. In doing so they will help usher in a new era of subterranean CO<sub>2</sub> sequestration in Michigan. While industry and geologists have long injected CO<sub>2</sub> into the ground for various purposes, including in a series of pilot and emerging projects for sequestration, Michigan has never permanently sequestered carbon at scale. More than 75 million tonnes of CO<sub>2</sub> are emitted annually in Michigan from more than 200 facilities, and the state has the storage capacity to import much more - some 70 billion tonnes in 5 of the top geologic formations.

### **Two buckets of Issues: What's Left Out is as Important as What's in**

The scale of Michigan's carbon dioxide storage capacity and recently passed 100% clean energy legislation have created a moment where it is critical for decision-makers to understand and anticipate both first and second order impacts.

#### **What's Out:**

Carbon Source - While no legislation can anticipate and address holistically the entire set of issues and impacts, this legislation is silent on some major issues. For example, the bills do not contemplate or prioritize the source of the carbon to be sequestered. We know a significant amount of new infrastructure will be required to accomplish carbon separation, transport, and sequestration and much of it will require ratepayer or taxpayer funds. Therefore, it makes sense to design a policy that focuses on the hardest industries to decarbonize that deliver the biggest bang for the buck, and to avoid sequestering carbon from sources that can easily or more cheaply fuel switch or find low-carbon alternative production strategies. **This is particularly important in the energy sector where ratepayers are largely held captive.** We want to make sure we're not crowding out cost competitive renewable energy resources, demand response, storage, efficiency, and other emerging tech; failing to do so will unnecessarily drive up costs.

Local Pollution Impacts - particularly those affecting low-income or already overburdened communities. Enabling polluting industries to continue production indefinitely without addressing local, co-pollutant

emissions is a real concern. Carbon separation at source typically requires increased energy inputs and sinking large portions of carbon emissions may leave co-pollutants unaddressed and increasing over time. To prevent this Colorado and Illinois require community impact reviews to ensure no disproportionate impacts on overburdened communities. Illinois' regime includes "Do No Harm" Mandates requiring CCS projects to demonstrate that they will not result in a net increase in potential emissions of the six pollutants regulated under the Clean Air Act's National Ambient Air Quality Standards, and funds an environmental justice grant program.

### **What's In: Key Issues**

**Michigan LCV is interested in working with decision-makers and stakeholders on a broad range of issues in this legislation including but not limited to: state fees recovered and their distribution; state financial liability; leakage and migration detection, and remedy; groundwater protection; parcel surface rights and surface impacts; enhanced oil recovery; forced unitization; co-pollutants and local air quality at source of carbon capture; permit processing schedules; excessive confidentiality claims; burden of proof for plaintiff injuries; carbon sequestration, pipeline, and source permitting coordination; rulemaking and federal uncertainty, and eminent domain.**

We share this list not to scare the committee off, but to document our interest in a broad range of earnest policy discussion. For the purpose of brevity, we highlight a few of those issues here:

State and Private Liability - Under the legislation liability transfers to the state after 25 years and certified "project completion." There should be no transfer of civil, criminal or contractual liabilities to taxpayers. Waste products from for-profit industries are typical economic externalities, and as such their cost should be borne by the producers - shifting those costs, including risk, to taxpayers amounts to a subsidy that leads to an overproduction of the product and pollution in question.

Before project completion, the threshold for project operator liability in section 65107 is too high and **the burden of proof lies with impacted residents**. The operator is not liable for the presence of or pressure from carbon dioxide stream and its impacts unless a plaintiff asserting liability establishes: substantial interference with the reasonable use of a person's real property, or direct physical injury to body or property. This should be reversed with strict liability or the project operator being responsible for property damage, injury, or other impacts on parcel owners unless they can demonstrate otherwise.

Fees -When considering the price per ton for sequestering carbon the state has the opportunity to do more than adequately pay for a basic regulatory regime. Michigan can set a price that pays for community impacts and benefits, long-term remediation, first responders, and climate mitigation. The bill recognizes that in the various funds established. Michigan LCV appreciates that the fee that is pegged to increase with inflation, but the nominal figure is not sufficient. More, we would discourage any arbitrary ceilings divorced from experienced state and local cost impacts in a new and emerging regulatory and programming space.

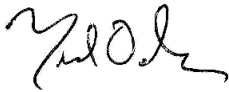
We should find firmer ground on which to base the price to adequately capitalize the aforementioned funds, and run conservative estimates ensuring that CCS does not crowd out lower cost renewable alternatives - particularly when considering internal rates of return for Michigan's energy producers and taxpayer subsidies.

### State Rulemaking and Federal Uncertainty

The bills lean heavily on EPA regulation by reference, but the ebb and flow of federal policy and 45Q carbon tax credits create substantial uncertainty at the federal level. Last session, Michigan's Energy and Environment Committee recognized the importance of Michigan establishing its own standards by eliminating the previous "no stricter than federal provision", likewise, we should consider the wisdom of pulling key federal protections (as floors) into Michigan's statute.

Thank you for your consideration of this important issue. Michigan LCV stands poised to engage in a serious, in-depth discussion that will lead to a best-practice carbon sequestration regime in Michigan - one that protects Michiganders health, natural resources, disproportionately burdened communities, and ratepayers while sinking carbon emissions and creating new economic opportunities.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Occhipinti". The signature is fluid and cursive, with a prominent initial "N" and a long, sweeping underline.

Nicholas Occhipinti, Michigan LCV Government Affairs