Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0066	**Title:**	Sequestration standards for carbon dioxide
Primary Sponsor:	Erickson, Ron	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$41,600	$41,640	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance	($41,600)	($41,640)	$0	$0

Description of fiscal impact:

This legislation will eventually result in the State of Montana developing a new regulatory program to monitor underground injection of carbon dioxide. The creation of a new program and required permitting of activities associated with sequestration will require contracted services to develop the rules, require request and granting of state primacy of any adopted federal program, and require coordination with other agencies and stakeholders in such development. In time, staff would be needed to operate this new program. This legislation also creates a state special revenue account with fees and penalties to support the program.

FISCAL ANALYSIS

Assumptions:

1. In accordance with new section 13, rule development would follow adoption of federal rules that allow for states to apply for primacy over carbon dioxide sequestration.
2. During the 2011 biennium rules will be developed, but no program will be operated.
3. During the 2011 biennium, no actual applications for permits will be received. The Highwood Generating Station has indicated an interest in sequestering carbon dioxide (CO2), but the new federal regulatory program is not yet adopted and the project is not yet built.

4. The Board of Environmental Review and the Department of Environmental Quality will hire a contractor for rule development. The estimated cost is $83,240, including indirect costs of $3,240. Contractor work would include research, stakeholder meetings, and development as well as amendments and finalization of the administrative rule. The $83,240 would be requested as a biennial appropriation to allow additional flexibility in the timing of rule development and implementation, including seeking primacy.
5. No fees will be collected during the 2011 biennium.
6. General fund is requested for the FY 2010 and FY 2011 expenditures. The state special revenue account and fee program will not be established until the rules are written and adopted. Primacy would not be granted until after the rules are completed.
7. The agency would seek funding in the 2013 biennium for an FY 2014 program establishment if progress is made and if applications are expected.

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Fiscal Impact:				
Expenditures:				
Operating Expenses	$41,600	$41,640	$0	$0
TOTAL Expenditures	$41,600	$41,640	$0	$0
Funding of Expenditures:				
General Fund (01)	$41,600	$41,640	$0	$0
TOTAL Funding of Exp.	$41,600	$41,640	$0	$0
Revenues:				
General Fund (01)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($41,600)	($41,640)	$0	$0

Long-Term Impacts:

1. Should EPA complete its rules and in those rules allow states to seek primacy for the proposed Class VI separately from the other classes, Montana would apply.
2. If primacy is granted under the Environmental Protection Agency (EPA) program, Montana would expect to operate a program about FY 2014.
3. Once primacy is expected to be granted, Montana will be in a better position to understand how many applications for carbon sequestration are likely and would design a program accordingly.

Technical Notes:

1. The bill does not indicate what agency is authorized to administer the carbon sequestration permitting program. Section 5(2) implies that it is the Department of Environmental Quality by requiring that agency to give notice of permit applications. Section 14(2) implies that it is the Board of Environmental Review by providing that the board will obtain primacy to administer activities at carbon dioxide sequestration wells.
2. Section 12(1) provides that the provisions of Title 75 are to apply to this bill. The meaning of this provision is unknown

3. Section 13(1) provides that if EPA adopts carbon sequestration rules allowing states to obtain primacy, the Department of Environmental Quality shall hire a contractor to develop draft rules in order to seek primacy. However, section 14(1) provides that section 13 is not effective until primacy is granted.
4. Section 14(1) provides that the Board of Environmental Review is to obtain primacy. If the Department of Environmental Quality is to administer the program, then it would submit the primacy application, but the EPA would probably grant primacy to the State of Montana. Section 14(1) should be amended to read that sections 1 through 7 become effective on the date that "the state is granted primacy to operate its carbon sequestration program in lieu of the federal program."

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Dedication of Revenue 2011 Biennium

17-1-507-509, MCA.

a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)
Yes. Carbon is a global problem. Benefits of any reduction in carbon emissions accrue globally.

b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?
Using a dedicated revenue state special revenue fund makes the fees and related expenses easier to track.

c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)
This question is not easily answered at this time. The bill as currently written does not have any fees amounts listed.

d) Does the need for this state special revenue provision still exist? ___Yes ___No (Explain)
N/A

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)
No, it should not affect any of the above.

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)
Yes. As long as the State of Montana allows carbon sequestration, there will be additional expenses to the state and the fees would be designed to fully cover the additional expense.

g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)
This one additional state special revenue fund should not materially impact accounting/auditing efficiencies or inefficiencies.