

# PROPOSED AMENDMENT

## HB 1368 # 3

### DIGEST

Carbon sequestration. Makes various changes to carbon sequestration law to allow the department of natural resources to obtain the primary enforcement authority from the United States Environmental Protection Agency to regulate Class VI underground injection wells. Provides that the carbon sequestration pilot project's Class VI wells are not experimental.

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1           Page 2, between lines 25 and 26, begin a new paragraph and insert:  
2           "SECTION 3. IC 14-8-2-14.5 IS ADDED TO THE INDIANA  
3           CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4           [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. "Area of review", for**  
5           **purposes of IC 14-39, has the meaning set forth in**  
6           **IC 14-39-0.6-3.5."**

7           Page 3, between lines 22 and 23, begin a new paragraph and insert:  
8           "SECTION 14. IC 14-8-2-58.5 IS ADDED TO THE INDIANA  
9           CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10          [EFFECTIVE UPON PASSAGE]: **Sec. 58.5. "Corrective action", for**  
11          **purposes of IC 14-39, has the meaning set forth in**  
12          **IC 14-39-0.6-12.5."**

13          Page 3, between lines 26 and 27, begin a new paragraph and insert:  
14          "SECTION 15. IC 14-8-2-131.9 IS ADDED TO THE INDIANA  
15          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
16          [EFFECTIVE UPON PASSAGE]: **Sec. 131.9. "Injection zone", for**  
17          **purposes of IC 14-39, has the meaning set forth in**  
18          **IC 14-39-0.6-13.5."**

19          Page 4, between lines 14 and 15, begin a new paragraph and insert:  
20          "SECTION 21. IC 14-8-2-209.9 IS ADDED TO THE INDIANA  
21          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
22          [EFFECTIVE UPON PASSAGE]: **Sec. 209.9. "Post-injection site**  
23          **care", for purposes of IC 14-39, has the meaning set forth in**  
24          **IC 14-39-0.6-21.5."**

25          Page 6, delete lines 28 through 29, begin a new paragraph and

1 insert:

2 "Sec. 3.5. "Area of review" has the meaning set forth in 40 CFR  
3 146.81.

4 Sec. 4. "Carbon dioxide" means a fluid consisting of carbon  
5 dioxide molecules."

6 Page 7, delete lines 6 through 15, begin a new paragraph and insert:

7 "Sec. 7. (a) "Carbon dioxide stream" means carbon dioxide  
8 that:

9 (1) has been captured from an emission source; and

10 (2) consists of:

11 (A) incidental associated substances derived from the  
12 source materials and capture process; and

13 (B) any substance added to the carbon dioxide stream to  
14 enable or improve the injection process.

15 (b) The term does not include a carbon dioxide stream that is  
16 considered hazardous waste under 40 CFR 261."

17 Page 7, delete lines 35 through 42, begin a new paragraph and  
18 insert:

19 "Sec. 11. (a) "Carbon sequestration project" refers to the long  
20 term geologic sequestration of a:

21 (1) gaseous;

22 (2) liquid; or

23 (3) supercritical;

24 carbon dioxide stream in a subsurface geologic formation that  
25 requires a UIC Class VI permit.

26 (b) The term does not apply to carbon dioxide capture or  
27 transport.

28 (c) The term does not include the following:

29 (1) The subsurface three-dimensional extent of the carbon  
30 dioxide plume.

31 (2) The subsurface three-dimensional associated area of  
32 elevated pressure.

33 (3) The subsurface three-dimensional displaced fluids.

34 (4) The surface area above the delineated region described in  
35 subdivisions (1) through (3)."

36 Page 8, delete lines 1 through 9, begin a new paragraph and insert:

37 "Sec. 12. "Confining zone" means:

38 (1) a geologic formation;

39 (2) a group of geologic formations; or

40 (3) part of a geologic formation;

1 **capable of limiting the movement of the carbon dioxide stream and**  
 2 **all fluids above an injection zone."**

3 Page 8, between lines 15 and 16, begin a new paragraph and insert:

4 **"Sec. 12.5. "Corrective action" means action:**

5 **(1) taken by the owner or operator of a permitted Class VI**  
 6 **carbon dioxide injection well; and**

7 **(2) approved by the director;**

8 **to ensure that a carbon dioxide injection well within the area of**  
 9 **review does not serve as conduits for the movement of fluids into**  
 10 **underground sources of drinking water."**

11 Page 8, between lines 17 and 18, begin a new paragraph and insert:

12 **"Sec. 13.5. "Injection zone" means a geological:**

13 **(1) formation;**

14 **(2) group of formations; or**

15 **(3) part of a formation;**

16 **that is conducive to receiving carbon dioxide with a permitted**  
 17 **carbon sequestration project."**

18 Page 8, delete lines 20 through 22, begin a new paragraph and  
 19 insert:

20 **"Sec. 15. "Mechanical integrity test" refers to a test performed**  
 21 **on a well permitted by a UIC Class VI permit that meets the**  
 22 **requirements established under 40 CFR 146.8."**

23 Page 9, delete lines 5 through 10, begin a new paragraph and insert:

24 **"Sec. 19. "Person" means:**

25 **(1) an individual;**

26 **(2) a legal entity;**

27 **(3) a government entity; or**

28 **(4) an employee of a:**

29 **(A) legal entity; or**

30 **(B) government entity.**

31 **Sec. 20. "Pore space" means a subsurface geological cavity or**  
 32 **void that is of a sufficient areal extent, thickness, porosity, and**  
 33 **permeability to receive and store carbon dioxide through a carbon**  
 34 **sequestration project well."**

35 Page 9, between lines 16 and 17, begin a new paragraph and insert:

36 **"Sec. 21.5. "Post-injection site care" refers to the requirements**  
 37 **set forth in 40 CFR 146.93."**

38 Page 9, delete lines 19 through 37, begin a new paragraph and  
 39 insert:

40 **"Sec. 23. "Reservoir" means a subsurface geological:**

- (1) sedimentary stratum;
- (2) formation;
- (3) saline aquifer;
- (4) cavity; or
- (5) void;

that is naturally or artificially created for the use of, or is capable of being made suitable for, injecting and storing carbon dioxide.

**Sec. 24. (a) "Responsible officer" means a person who has the authority to legally obligate an entity to comply with federal law.**

**(b) The term includes the following:**

- (1) An authorized officer of a corporation.
- (2) A manager of a limited liability company, or if the limited liability company is managed by another company, an authorized officer of the managing company.
- (3) A partner in a general, limited, or limited liability partnership or, if the partner is an entity, an authorized officer of the general, limited, or limited liability partnership.
- (4) An individual authorized as a permitted signatory by another entity under federal regulations adopted by the department not included under subdivisions (1) through (3)."

Page 9, delete line 42, begin new paragraph and insert:

**"Sec. 26. "Storage operator" means:**

- (1) a person;
- (2) a trust;
- (3) a corporation; or
- (4) another entity;

**that owns or operates a carbon sequestration project."**

Page 10, delete lines 1 through 5.

Page 10, delete lines 31 through 38, begin a new paragraph and insert:

**"Sec. 30. (a) "UIC Class VI permit" means a permit issued under the federal Safe Drinking Water Act's Underground Injection Control program that allows:**

- (1) a person;
- (2) a trust;
- (3) a corporation; or
- (4) another entity;

**to construct or operate a carbon dioxide injection well.**

**(b) The term does not include a:**

- (1) draft permit;

1           **(2) proposed permit; or**

2           **(3) permit that is not subject to final agency action.**

3           **(c) The term does not authorize the transportation of carbon**  
 4 **dioxide."**

5           Page 12, between lines 1 and 2, begin a new paragraph and insert:

6           "SECTION 42. IC 14-39-1-3.5, AS AMENDED BY P.L.53-2023,  
 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 UPON PASSAGE]: Sec. 3.5. (a) This chapter authorizes the  
 9 establishment of a carbon sequestration pilot project:

10           (1) that will:

11           (A) capture carbon dioxide at the proposed ammonia plant to  
 12 be located at 444 West Sandford Avenue, West Terre Haute,  
 13 Indiana;

14           (B) construct, operate, or use not more than two (2) carbon  
 15 dioxide pipelines;

16           (C) maintain operations only in Vigo and Vermillion counties;  
 17 and

18           (D) inject the carbon dioxide underground through one (1) or  
 19 more injection wells pursuant to a Class VI well permit issued  
 20 by the United States Environmental Protection Agency; and

21           (2) that will employ the underground storage of carbon dioxide as  
 22 an alternative to releasing the carbon dioxide into the air.

23           (b) The director shall designate the operator of the carbon  
 24 sequestration pilot project according to the characteristics of the pilot  
 25 project set forth in subsection (a) not more than thirty (30) days after  
 26 the Class VI well permit referred to in subsection (a)(1)(D) is issued by  
 27 the United States Environmental Protection Agency.

28           **(c) The injection well issued a Class VI well permit by the**  
 29 **United States Environmental Protection Agency is not**  
 30 **experimental.**

31           ~~(c)~~ **(d)** This section expires July 1, 2028, if the operator of the  
 32 carbon sequestration pilot project designated under subsection (b)  
 33 according to the characteristics set forth in subsection (a) is not issued  
 34 a Class VI permit by the United States Environmental Protection  
 35 Agency under 40 CFR 146 subpart H by July 1, 2028."

36           Page 12, delete lines 12 through 42, begin a new paragraph and  
 37 insert:

38           "SECTION 44. IC 14-39-2-1, AS ADDED BY P.L.163-2022,  
 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 UPON PASSAGE]: Sec. 1. **(a) This chapter applies to primacy**

granted by the United States Environmental Protection Agency to the department over Class VI wells.

**(b) This chapter and 312 IAC 30 govern carbon sequestration in the state and establish the criteria and standards necessary for the department to receive primacy from the United States Environmental Protection Agency for the UIC program for Class VI wells under the Safe Drinking Water Act.**

~~(a)~~ **(c)** Except as otherwise provided in this chapter, this chapter:

**(1)** does not apply to extractable mineral resources;

~~(b)~~ **(2)** Except as otherwise provided in this chapter, this chapter does not preclude the exercise of rights provided by IC 14-37-9; **and**

~~(c)~~ **(3)** Except as otherwise provided in this chapter, this chapter applies to the underground storage of carbon dioxide.

**(d)** The rights and requirements of this chapter:

**(1)** are subordinate to the rights pertaining to ~~oil, gas, and coal oil~~ **and gas** resources; and

**(2)** may not adversely affect ~~oil, gas, and coal oil and gas~~ resources, except as is strictly necessary to construct and maintain a carbon sequestration project that will provide for the permanent storage of carbon dioxide.

**(e) The department shall issue any additional rules or requirements essential to ensure the injection and storage of carbon dioxide stream in subsurface geologic formations does not endanger underground sources of drinking water.**

**(f) The department may enter into a memorandum of agreement to implement this article.**

SECTION 45. IC 14-39-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) Carbon sequestration projects are authorized in Indiana for the purposes of:**

- (1) injecting carbon dioxide into the pore space of an underground storage facility through at least one (1) carbon dioxide injection well pursuant to a UIC Class VI permit; and**
- (2) employing the underground storage of carbon dioxide.**

**(b) The department has the authority to adopt regulations consistent with:**

- (1) 40 CFR 141 through 146;**
- (2) the federal Safe Drinking Water Act (42 U.S.C. 300h(b)(1)); and**

(3) any other federal regulation necessary;  
to obtain primacy on behalf of the state of Indiana.

(c) A person may not operate a carbon sequestration project in Indiana without a valid permit issued by the department.

(d) A permit for a carbon sequestration project may be transferred or assigned from one storage operator to another storage operator.

(e) All injection activities, including construction of an injection well, are prohibited unless the owner or operator is authorized by permit.

(f) A person operating a carbon sequestration project in Indiana shall comply with the federal Safe Drinking Water Act (42 U.S.C. 300h(b)(1)) to prevent underground injection which endangers drinking water sources.

(g) The department may, at a reasonable time, enter property on which a carbon dioxide injection well or monitoring well for the storage facility is located to inspect and maintain the well or storage facility. Except in the event of an emergency, the department shall provide advance notice to the owner of the surface property of the date the department intends to enter the property. The notice required by this subsection must be provided at least five (5) business days before the department intends to enter the property. The notice must be delivered by:

(1) United States mail;

(2) private courier;

(3) personal delivery; or

(4) any other manner agreed to in writing between the department and the owner of the surface property."

Page 13, delete lines 1 through 17.

Page 16, line 42, delete "compete" and insert "**complete**".

Page 17, line 12, after "The" delete ":" and insert "**applicant's**".

Page 17, line 24, delete "and".

Page 17, delete line 25, begin a new line double block indented and insert:

"(G) signature; and

(H) signed copy of the certification described in 40 CFR 144.32(d)."

Page 18, delete lines 40 through 42, begin a new line block indented and insert:

"(13) Maps and stratigraphic cross sections indicating:

**(A) the general vertical and lateral limits of all:**

**(i) underground sources of drinking water; and**

**(ii) water wells and springs within the area of review;".**

Page 19, delete line 1.

Page 19, line 2, delete "(C)" and insert "**(B)**".

Page 19, line 5, delete "(D)" and insert "**(C)**".

Page 19, line 16, after "used" insert ",".

Page 20, between lines 17 and 18, begin a new paragraph and insert:

**"(f) The department shall adopt rules that mirror applicable federal regulations to implement this section."**

Page 21, between lines 25 and 26, begin a new paragraph and insert:

**"(d) The department shall adopt rules that mirror applicable federal regulations to implement this section."**

Page 22, delete lines 34 through 42, begin a new paragraph and insert:

**"(d) Following public notice under this section, the department shall provide all information provided in the application to the department of environmental management and the United States Environmental Protection Agency. The department of environmental management must concur or dissent in writing regarding the waiver. The department shall request feedback and a concurrence on the application from the United States Environmental Protection Agency.**

**(e) To make a decision whether to concur or dissent, the department of environmental management may do the following:**

**(1) Request that additional information be provided to support a decision.**

**(2) Require that public notice of new information be initiated.**

**(f) The department may not approve a waiver without a written concurrence from the:**

**(1) department of environmental management; and**

**(2) United States Environmental Protection Agency."**

Page 23, delete lines 1 through 4.

Page 23, after line 42, begin a new paragraph and insert:

**"(d) The department may not deny an application without a public comment period and hearing.**

**(e) The department shall adopt rules that mirror applicable federal regulations to implement this section."**

Page 25, delete lines 20 through 22, begin a new line block indented and insert:



**"(4) The name, address, and telephone number of a person at the department that an interested person may contact to obtain information, including copies of the draft permit, fact sheet, and the application."**

Page 25, line 42, after "decision" insert "as to".

Page 26, delete lines 2 through 6, begin a new paragraph and insert:

**"(o) The department shall hold a public hearing whenever there is a significant degree of public interest in a draft permit. The department may hold a public hearing at the discretion of the department if the public hearing would clarify at least one (1) issue involved in the permit decision."**

Page 26, line 13, delete "being".

Page 26, delete lines 17 through 38, begin a new paragraph and insert:

**"(q) The department shall adopt rules that mirror applicable federal regulations to implement this section."**

SECTION 55. IC 14-39-2-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.7. (a) The department shall identify and protect all underground sources of drinking water and all aquifers and parts of aquifers that are underground sources of drinking water.**

**(b) If the United States Environmental Protection Agency determines there is an applicable aquifer exemption or an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption for the exclusive purpose of Class VI injection for geologic sequestration, then the department shall assist the United States Environmental Protection Agency in regulating the aquifer exemption.**

**(c) The department may not issue an aquifer exemption.**

**(d) Other than aquifer exemption expansions approved by the United States Environmental Protection Agency that meet the criteria set forth in 40 CFR 144.7, the department may not issue a new aquifer exemption for a Class VI injection well. This subsection applies regardless of whether an aquifer has been identified by the department as an underground source of drinking water.**

**(e) The department shall comply with 40 CFR 144.7 regarding aquifer exemptions."**

Page 27, line 30, strike "ninety (90)" and insert "one hundred

1 **eighty (180)".**

2 Page 28, delete lines 32 through 35, begin a new line block indented  
3 and insert:

4 **"(10) That the proposed storage reservoir will remain solid**  
5 **and the substances making up the storage reservoir will not**  
6 **mix or interact with the stored carbon dioxide.**

7 **(11) That the storage facility will neither endanger human**  
8 **health nor endanger the environment."**

9 Page 29, delete lines 34 through 35, begin a new line block indented  
10 and insert:

11 **"(24) That the proposed carbon sequestration project contains**  
12 **the minimum requirements for an effective program to**  
13 **prevent the underground injection of carbon from**  
14 **endangering drinking water sources as prescribed by the**  
15 **federal Safe Drinking Water Act (42 U.S.C. 300h(b)(1)).**

16 **(25) Any other information the department determines should**  
17 **be reviewed."**

18 Page 34, between lines 19 and 20, begin a new paragraph and insert:

19 **"(e) The department shall adopt rules that mirror applicable**  
20 **federal regulations to implement this section."**

21 Page 34, delete lines 31 through 42, begin a new paragraph and  
22 insert:

23 **"SECTION 64. IC 14-39-2-12.3 IS ADDED TO THE INDIANA**  
24 **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
25 **[EFFECTIVE UPON PASSAGE]: Sec. 12.3. (a) The department shall**  
26 **submit a memorandum of agreement that includes all of the**  
27 **information required under 40 CFR 145.25 to the Regional**  
28 **Administrator for the United States Environmental Protection**  
29 **Agency.**

30 **(b) The department shall prepare quarterly and annual reports**  
31 **as described in 40 CFR 144.8.**

32 **(c) The reports shall be submitted to the Regional Administrator**  
33 **for the United States Environmental Protection Agency and meet**  
34 **the requirements of federal regulations adopted by the department.**

35 **(d) Quarterly reports are due:**

36 **(1) May 31;**

37 **(2) August 31;**

38 **(3) November 30; and**

39 **(4) February 28;**

40 **following the quarter.**

1 (e) Annual reports are due not more than sixty (60) days after  
2 the end of the calendar year.

3 (f) A storage operator shall submit the reports required under  
4 40 CFR 146.91 to the department within the time frames described  
5 in 40 CFR 146.91."

6 Page 35, delete lines 1 through 3.

7 Page 35, delete lines 23 through 42, begin a new paragraph and  
8 insert:

9 "SECTION 67. IC 14-39-2-12.6 IS ADDED TO THE INDIANA  
10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE UPON PASSAGE]: Sec. 12.6. (a) A storage operator  
12 that is injecting carbon dioxide for the primary purpose of long  
13 term storage into an oil and gas reservoir must apply for and  
14 obtain a Class VI geologic sequestration permit when there is an  
15 increased risk to underground sources of drinking water compared  
16 to Class II operations.

17 (b) In determining if there is an increased risk to underground  
18 sources of drinking water, a storage operator must consider the  
19 following factors:

- 20 (1) Increase in reservoir pressure within the injection zone.
- 21 (2) Increase in carbon dioxide injection rates.
- 22 (3) Decrease in reservoir production rates.
- 23 (4) Distance between the injection zone and underground
- 24 sources of drinking water.
- 25 (5) Suitability of the Class II area of review delineation.
- 26 (6) Quality of abandoned well plugs within the area of review.
- 27 (7) A storage operator's plan for recovery of carbon dioxide
- 28 at the cessation of injection.
- 29 (8) The source and properties of injected carbon dioxide.
- 30 (9) Any additional site specific factors as determined by the
- 31 department."

32 Page 36, delete lines 1 through 3.

33 Page 36, delete lines 23 through 42, begin a new paragraph and  
34 insert:

35 "SECTION 69. IC 14-39-2-12.8 IS ADDED TO THE INDIANA  
36 CODE AS A NEW SECTION TO READ AS FOLLOWS  
37 [EFFECTIVE UPON PASSAGE]: Sec. 12.8. (a) Compliance with a  
38 UIC Class VI permit during the term of the UIC Class VI permit  
39 constitutes compliance, for purposes of enforcement.

40 (b) The department may:

- (1) modify;
- (2) revoke;
- (3) reissue; or
- (4) terminate;

a UIC Class VI permit during its term for a violation of 40 CFR 144.39 or 40 CFR 144.40.

(c) A UIC Class VI permit holder may not transfer a permit to another person except after notice to the department. The department may require:

- (1) modification; or
- (2) revocation and reissuance;

of a UIC Class VI permit to change the name of the permittee and incorporate other requirements required by this chapter or federal law.

(d) The issuance of a UIC Class VI permit does not convey any property rights of any sort, or any exclusive privilege.

(e) The issuance of a UIC Class VI permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

(f) The term of a UIC Class VI permit is during the operating life of the storage facility and the post-injection site care period.

(g) The department shall incorporate into a UIC Class VI permit conditions established by the department either expressly or by reference.

(h) The person issued a UIC Class VI permit by the department shall comply with federal regulations adopted by the department. The department may modify, revoke, reissue, or terminate a person's UIC Class VI permit that violates this article or federal regulations adopted by the department.

(i) The department shall adopt rules that mirror applicable federal regulations to implement this section."

Page 37, delete line 1.

Page 39, delete lines 14 through 30, begin a new paragraph and insert:

"(i) Following the cessation of injection, the storage operator shall continue to conduct monitoring as specified in the department approved post-injection site care and site closure plan for at least fifty (50) years, unless an alternative time frame is approved by the department as described in subsection (j).

(j) If a storage operator can demonstrate to the satisfaction of

the department that the carbon sequestration project no longer endangers underground sources of drinking water before the minimum of fifty (50) years required under subsection (i) has elapsed, the department may approve an alternative time frame for the post-injection site care and site closure plan to reduce the frequency of monitoring or to authorize site closure before the end of the period, when there is substantial evidence that the carbon sequestration project no longer poses a risk of endangering underground sources of drinking water. An alternative time frame approved by the department must meet the requirements established in 40 CFR 146.93. The monitoring must continue until the:

- (1) carbon sequestration project no longer endangers underground sources of drinking water; and
- (2) department approves a demonstration submitted by the owner and operator of the carbon dioxide injection well in the manner prescribed by 40 CFR 146.93."

Page 40, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 71. IC 14-39-2-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. (a) The following activities are prohibited:**

- (1) Injection without a UIC Class VI permit.
- (2) Movement of fluid into underground sources of drinking water.
- (3) Experimental Class VI wells for carbon sequestration.
- (4) Any action that endangers underground sources of drinking water.
- (5) Any additional activity prohibited under:
  - (A) the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.); or
  - (B) 40 CFR 142, 40 CFR 144, 40 CFR 146, and 40 CFR 148.

**(b) Other violations of this article include the following:**

- (1) Making clerical errors or mistakes in reporting requirements.
- (2) Failure to meet basic operation and facility management requirements.
- (3) Failure to meet maintenance requirements that may cause

- 1           **damage to property.**
  - 2           **(4) Creating harmful environmental conditions or hazardous**
  - 3           **conditions.**
  - 4           **(5) Taking an action that likely results in environmental**
  - 5           **damage.**
  - 6           **(6) Taking an action that could result in harm to persons or**
  - 7           **death."**
  - 8           Page 41, delete lines 1 through 6.
  - 9           Page 42, line 2, delete "intentional" and insert "**intentionally**".
  - 10          Renumber all SECTIONS consecutively.
- (Reference is to HB 1368 as printed January 20, 2026.)