

116TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to establish a tax credit for sequestration and capture of carbon through natural sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to establish a tax credit for sequestration and capture of carbon through natural sources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the **["Natural Carbon Se-**
5 **questration Act"]**.

6 **SEC. 2. CREDIT FOR CARBON SEQUESTRATION IN THE**
7 **LAND SECTOR.**

8 (a) **IN GENERAL.**—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 45S the fol-
2 lowing new section:

3 **“SEC. 45T. CREDIT FOR CARBON SEQUESTRATION IN THE**
4 **LAND SECTOR.**

5 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
6 tion 38, in the case of a qualified entity, the carbon se-
7 questration credit for any taxable year is an amount equal
8 to the sum of—

9 “(1) 30 percent of any qualified expenditures
10 made by such entity during such year, and

11 “(2) subject to subsection (b)—

12 “(A) the applicable dollar amount, as de-
13 termined under clauses (i)(I) and (ii)(I) of sec-
14 tion 45Q(b)(1)(A), per metric ton of qualified
15 carbon sequestration for such year, and

16 “(B) the applicable dollar amount, as de-
17 termined under clauses (i)(II) and (ii)(II) of
18 section 45Q(b)(1)(A), per metric ton of carbon
19 equivalent of any carbon which is captured and
20 used or utilized pursuant to subsection (e)(3).

21 “(b) VERIFICATION.—

22 “(1) IN GENERAL.—For purposes of deter-
23 mining the amount of the credit described in sub-
24 section (a)(2) for any taxable year, the amount of
25 carbon sequestered or captured shall be verified, ac-

1 cording to procedures established by the Secretary of
2 Agriculture, by—

3 “(A) the Natural Resources Conservation
4 Service of the Department of Agriculture,

5 “(B) a conservation district,

6 “(C) a land-grant college or university
7 which has been approved by the Secretary of
8 Agriculture for purposes of this section, or

9 “(D) a non-profit or for-profit verifier
10 which has been approved by the Secretary of
11 Agriculture for purposes of this section.

12 “(2) METHODOLOGY.—For purposes of deter-
13 mining the quantity of qualified carbon sequestra-
14 tion under subsection (a)(2)(A), an entity described
15 in paragraph (1) shall determine the amount of any
16 carbon stored using any method which has been ap-
17 proved by the Secretary of Agriculture for purposes
18 of this section.

19 “(c) DEFINITIONS.—For purposes of this section—

20 “(1) CARBON.—The term ‘carbon’ means the
21 carbon equivalent of carbon oxide, nitrous oxide, or
22 methane.

23 “(2) CARBON EQUIVALENT.—The term ‘carbon
24 equivalent’ means, with respect to any gas described
25 in paragraph (1), the quantity of such gas as deter-

1 mined pursuant to table A–1 of subpart A of part
2 98 of title 40, Code of Federal Regulations, as in ef-
3 fect on the date of the enactment of the Natural
4 Carbon Sequestration Act.

5 “(3) LAND SECTOR.—The term ‘land sector’
6 means any agricultural, range, forestry, or wetlands
7 resource.

8 “(4) QUALIFIED CARBON SEQUESTRATION.—

9 “(A) IN GENERAL.—The term ‘qualified
10 carbon sequestration’ means the amount (not
11 less than zero) equal to—

12 “(i) the total quantity of carbon stock
13 (expressed in tons of carbon equivalent)
14 within the land sector which is owned by a
15 qualified entity during [the period of 1, 3
16 or 5] taxable years, minus

17 “(ii) the total amount of carbon stock
18 (expressed in tons of carbon equivalent)
19 within the land sector which is owned by a
20 qualified entity during the preceding base-
21 line taxable year.

22 “(B) SEQUESTRATION METHODS.—For
23 purposes of ensuring proper sequestration of
24 carbon, a qualified entity may employ any prac-

1 tice that has been determined to have a reason-
2 able probability of success, including—

3 “(i) a qualified conservation practice
4 standard for soil carbon,

5 “(ii) a practice developed by the entity
6 in collaboration with any organization de-
7 scribed in subparagraphs (A) through (C)
8 of subsection (b)(1), or

9 “(iii) for purposes of any forestry or
10 wetland resource, any method which is ap-
11 proved by the Secretary of Agriculture that
12 provides measurable increases in carbon
13 sequestration above business-as-usual prac-
14 tices while promoting forest or wetland
15 health.

16 “(C) QUALIFIED CONSERVATION PRACTICE
17 STANDARD.—The term ‘qualified conservation
18 practice standard’ means a conservation prac-
19 tice standard issued by the Natural Resources
20 Conservation Service of the Department of Ag-
21 riculture relating to the sequestration of carbon.

22 “(5) QUALIFIED ENTITY.—

23 “(A) IN GENERAL.—The term ‘qualified
24 entity’ means—

1 “(i) an entity engaged in commercial
2 activities in the farming, ranching, for-
3 estry, or wetland restoration industry, or

4 “(ii) any State or political subdivision
5 thereof, any Indian tribal government
6 (within the meaning of section 7871), or
7 any agency or instrumentality of any of
8 the foregoing, provided that the carbon is
9 sequestered or captured on property owned
10 by such governmental entity.

11 “(B) ACTIVITIES ON PROPERTY OWNED BY
12 GOVERNMENT.—For purposes of clause (i) of
13 subparagraph (A), any activities described in
14 such clause shall include any such activities
15 which are carried out on property owned by a
16 governmental entity described in clause (ii) of
17 such subparagraph.

18 “(6) QUALIFIED EXPENDITURES.—

19 “(A) IN GENERAL.—The term ‘qualified
20 expenditures’ means an expenditure for prop-
21 erty or services used by the qualified entity to—

22 “(i) assess baseline carbon levels,

23 “(ii) determine the opportunity for
24 further sequestration of carbon, or

25 “(iii) quantify carbon sequestered.

1 “(B) LABOR COSTS.—Expenditures for
2 labor costs properly allocable to any service or
3 to onsite preparation, assembly, or original in-
4 stallation of property described in subparagraph
5 (A) shall be taken into account for purposes of
6 this section.

7 “(C) TIMING OF EXPENDITURE.—An ex-
8 penditure described in subparagraph (A) shall
9 be treated as made when the service or the
10 original installation of the property is com-
11 pleted.

12 “(d) RECAPTURE.—The Secretary, in coordination
13 with the Secretary of Agriculture, shall, by regulations,
14 provide for recapturing the benefit of any carbon seques-
15 tration credit allowable under this section with respect to
16 any carbon which ceases to be sequestered in a manner
17 consistent with the requirements under this section.

18 “(e) SPECIAL RULES.—

19 “(1) REQUIREMENTS REGARDING CARBON.—
20 The credit under this section shall apply only with
21 respect to carbon the sequestered or capture of
22 which is—

23 “(A) within the United States (within the
24 meaning of section 638(1)) or a possession of

1 the United States (within the meaning of sec-
2 tion 638(2)), and

3 “(B) quantified by the qualified entity,
4 verified pursuant to subsection (b), and re-
5 ported annually pursuant to paragraph (4).

6 “(2) CREDIT ATTRIBUTABLE TO TAXPAYER;
7 TRANSFERABILITY.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B) or in any regulations pre-
10 scribed by the Secretary, any credit under this
11 section shall be attributable to—

12 “(i) except as provided in clause (ii),
13 the qualified entity which incurred the
14 qualified expenditures or sequestered or
15 captured the carbon, or

16 “(ii) in the case of any qualified entity
17 described in subsection (c)(5)(A)(ii), the
18 person described in subparagraph (B)(i)
19 which is elected by such qualified entity.

20 “(B) ELECTION.—If the person described
21 in subparagraph (A) makes an election under
22 this subparagraph in such time and manner as
23 the Secretary may prescribe by regulations, the
24 credit under this section—

1 “(i) shall be allowable to any person
2 that—

3 “(I) utilizes or uses the carbon in
4 a manner described in paragraph (3),

5 “(II) is not the owner of the un-
6 derlying property of the qualified enti-
7 ty but implements the carbon seques-
8 tration practices for such entity, or

9 “(III) ensures the capture or se-
10 questration of the carbon pursuant to
11 a contract with the qualified entity,
12 and

13 “(ii) shall not be allowable to the per-
14 son described in subparagraph (A).

15 “(3) UTILIZATION OR USE OF CARBON.—Not
16 later than **[12 months]** after the date of enactment
17 of this section, the Secretary, in coordination with
18 the Secretary of Agriculture, shall prescribe regula-
19 tions and other guidance to identify any eligible use
20 or utilization of carbon for purposes of paragraph
21 (2) and subsection (a)(2)(B).

22 “(4) REPORTING.—

23 “(A) IN GENERAL.—No credit shall be al-
24 lowed with respect to any taxable year for
25 which a qualified entity which has not properly

1 reported through the program established pur-
2 suant to subsection (f)(2)—

3 “(i) baseline carbon levels for such
4 year, and

5 “(ii) total qualified carbon sequestra-
6 tion for such [year/s].

7 “(B) REVIEW.—Not later than 5 years
8 after the establishment of the program for re-
9 porting by qualified entities under this para-
10 graph, and every 5 years thereafter, the Sec-
11 retary, in coordination with the Secretary of
12 Agriculture, shall review the effectiveness of
13 such program and make any necessary improve-
14 ments to such program.

15 “(f) REGULATIONS.—Not later than [12 months]
16 after the date of enactment of this section, the Secretary,
17 in coordination with the Secretary of Agriculture, shall—

18 “(1) prescribe such regulations and other guid-
19 ance as may be necessary or appropriate to carry
20 out this section, including regulations or other guid-
21 ance to ensure proper application of subsection (d),

22 “(2) establish a program for reporting by quali-
23 fied entities under subsection (e)(4),

24 “(3) establish procedures for verification under
25 subsection (b)(1),

1 “(4) establish a program for approval of organi-
2 zations described in subparagraph [(C) and] (D) of
3 such subsection, and

4 “(5) establish methods for quantifying carbon
5 sequestered or captured in the land sector for pur-
6 poses of subsection (b)(2).”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 38(b) of such Code is amended by
9 striking “plus” at the end of paragraph (31), by
10 striking the period at the end of paragraph (32) and
11 inserting “, plus”, and by adding at the end the fol-
12 lowing new paragraph:

13 “(33) the carbon sequestration credit deter-
14 mined under section 45T(a).”.

15 (2) The table of sections for subpart D of part
16 IV of subchapter A of chapter 1 of such Code is
17 amended by inserting after the item relating to sec-
18 tion 45S the following new item:

“Sec. 45T. Credit for carbon sequestration in the land sector.”.

19 (c) REPORT.—Not later than 2 years after the date
20 of enactment of this Act, the Comptroller General of the
21 United States shall submit to Congress a report which in-
22 cludes—

23 (1) an evaluation of the effectiveness of section
24 45T of the Internal Revenue Code of 1986 (as

1 added by this Act) in sequestering and capturing
2 carbon,

3 (2) a cost comparison of avoided emissions pur-
4 suant to such section and other Federal programs
5 aimed at reducing emissions, and

6 (3) recommendations to replicate, improve, or
7 expand such section.

8 (d) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, **[2020]**.