

117TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide for the issuance of exempt facility bonds for qualified carbon dioxide capture facilities.

IN THE SENATE OF THE UNITED STATES

Mr. BENNET (for himself and Mr. PORTMAN) 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 provide for the issuance of exempt facility bonds for qualified carbon dioxide capture facilities.

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 “Carbon Capture Im-
5 provement Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Capture and long-term storage of carbon di-
9 oxide from coal, natural gas, and biomass-fired

1 power plants, as well as from industrial sectors such
2 as oil refining and production of fertilizer, cement,
3 and ethanol, can help protect the environment while
4 improving the economy and national security of the
5 United States.

6 (2) The United States is a world leader in the
7 field of carbon dioxide capture and long-term stor-
8 age, with many manufacturers and licensors of car-
9 bon dioxide capture technology based in the United
10 States.

11 (3) While the prospects for large-scale carbon
12 capture in the United States are promising, costs re-
13 main relatively high. Lowering the financing costs
14 for carbon dioxide capture at industrial facilities and
15 direct air capture projects would accelerate the de-
16 ployment of these technologies.

17 (4) Since 1968, tax-exempt private activity
18 bonds have been used to provide access to lower-cost
19 financing for private businesses that are purchasing
20 new capital equipment for certain specified environ-
21 mental facilities, including facilities that reduce, re-
22 cycle, or dispose of waste, pollutants, and hazardous
23 substances.

24 (5) Allowing tax-exempt financing for the pur-
25 chase of capital equipment that is used to capture

1 carbon dioxide will reduce the costs of developing
2 carbon dioxide capture projects, accelerate their de-
3 ployment, and, in conjunction with carbon dioxide
4 utilization and long-term storage, help the United
5 States meet critical environmental, economic, and
6 national security goals.

7 **SEC. 3. CARBON DIOXIDE CAPTURE FACILITIES.**

8 (a) IN GENERAL.—Section 142 of the Internal Rev-
9 enue Code of 1986 is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (14), by striking “or” at
12 the end,

13 (B) in paragraph (15), by striking the pe-
14 riod at the end and inserting “, or”, and

15 (C) by adding at the end the following new
16 paragraph:

17 “(16) qualified carbon dioxide capture facili-
18 ties.”, and

19 (2) by adding at the end the following new sub-
20 section:

21 “(n) QUALIFIED CARBON DIOXIDE CAPTURE FACIL-
22 ITY.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a)(16), the term ‘qualified carbon dioxide capture
25 facility’ means—

1 “(A) the eligible components of an indus-
2 trial carbon dioxide facility, and

3 “(B) a direct air capture facility (as de-
4 fined in section 45Q(e)(1)).

5 “(2) DEFINITIONS.—In this subsection:

6 “(A) ELIGIBLE COMPONENT.—

7 “(i) IN GENERAL.—The term ‘eligible
8 component’ means any equipment installed
9 in an industrial carbon dioxide facility that
10 satisfies the requirements under paragraph
11 (3) and is—

12 “(I) used for the purpose of cap-
13 ture, treatment and purification, com-
14 pression, transportation, or on-site
15 storage of carbon dioxide produced by
16 the industrial carbon dioxide facility,
17 or

18 “(II) integral or functionally re-
19 lated and subordinate to a process de-
20 scribed in section 48B(e)(2), deter-
21 mined by substituting ‘carbon dioxide’
22 for ‘carbon monoxide’ in such section.

23 “(B) INDUSTRIAL CARBON DIOXIDE FACIL-
24 ITY.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), the term ‘industrial
3 carbon dioxide facility’ means a facility
4 that emits carbon dioxide (including from
5 any fugitive emissions source) that is cre-
6 ated as a result of any of the following
7 processes:

8 “(I) Fuel combustion.

9 “(II) Gasification.

10 “(III) Bioindustrial.

11 “(IV) Fermentation.

12 “(V) Any manufacturing industry
13 described in section 48B(c)(7).

14 “(ii) EXCEPTIONS.—For purposes of
15 clause (i), an industrial carbon dioxide fa-
16 cility shall not include—

17 “(I) any geological gas facility
18 (as defined in clause (iii)), or

19 “(II) any air separation unit
20 that—

21 “(aa) does not qualify as
22 gasification equipment, or

23 “(bb) is not a necessary
24 component of an oxy-fuel com-
25 bustion process.

1 “(iii) GEOLOGICAL GAS FACILITY.—

2 The term ‘geological gas facility’ means a
3 facility that—

4 “(I) produces a raw product con-
5 sisting of gas or mixed gas and liquid
6 from a geological formation,

7 “(II) transports or removes im-
8 purities from such product, or

9 “(III) separates such product
10 into its constituent parts.

11 “(3) CAPTURE AND STORAGE REQUIREMENT.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the eligible components of an indus-
14 trial carbon dioxide facility shall have a capture
15 and storage percentage (as determined under
16 subparagraph (C)) that is equal to or greater
17 than 65 percent.

18 “(B) EXCEPTION.—In the case of an in-
19 dustrial carbon dioxide facility with a capture
20 and storage percentage that is less than 65 per-
21 cent, the percentage of the cost of the eligible
22 components installed in such facility that may
23 be financed with tax-exempt bonds may not be
24 greater than the capture and storage percent-
25 age.

1 “(C) CAPTURE AND STORAGE PERCENT-
2 AGE.—

3 “(i) IN GENERAL.—Subject to clause
4 (ii), the capture and storage percentage
5 shall be an amount, expressed as a per-
6 centage, equal to the quotient of—

7 “(I) the total metric tons of car-
8 bon dioxide annually captured, trans-
9 ported, and injected into—

10 “(aa) a facility for geologic
11 storage, or

12 “(bb) an enhanced oil or gas
13 recovery well followed by geologic
14 storage, divided by

15 “(II) the total metric tons of car-
16 bon dioxide which would otherwise be
17 released into the atmosphere each
18 year as industrial emission of green-
19 house gas if the eligible components
20 were not installed in the industrial
21 carbon dioxide facility.

22 “(ii) LIMITED APPLICATION OF ELIGI-
23 BLE COMPONENTS.—In the case of eligible
24 components that are designed to capture
25 carbon dioxide solely from specific sources

1 of emissions or portions thereof within an
2 industrial carbon dioxide facility, the cap-
3 ture and storage percentage under this
4 subparagraph shall be determined based
5 only on such specific sources of emissions
6 or portions thereof.”.

7 (b) VOLUME CAP.—Section 146(g)(4) of such Code
8 is amended by striking “paragraph (11) of section 142(a)
9 (relating to high-speed intercity rail facilities)” and insert-
10 ing “paragraph (11) or (16) of section 142(a)”.

11 (c) CLARIFICATION OF PRIVATE BUSINESS USE.—
12 Section 141(b)(6) of such Code is amended by adding at
13 the end the following new subparagraph:

14 “(C) CLARIFICATION RELATING TO QUALI-
15 FIED CARBON DIOXIDE CAPTURE FACILITIES.—
16 For purposes of this subsection, the sale of car-
17 bon dioxide produced by a qualified carbon di-
18 oxide capture facility (as defined in section
19 142(n)) which is owned by a governmental unit
20 shall not constitute private business use.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to obligations issued after Decem-
23 ber 31, 2021.