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. 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Carbon Capture Improvement Act of 2021''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Capture and long-term storage of carbon dioxide from coal, natural gas, and biomass-fired power plants, as well as from industrial sectors such

as oil refining and production of fertilizer, cement, and ethanol, can help protect the environment while improving the economy and national security of the United States.

(2) The United States is a world leader in the field of carbon dioxide capture and long-term storage, with many manufacturers and licensors of carbon dioxide capture technology based in the United States.

(3) While the prospects for large-scale carbon capture in the United States are promising, costs remain relatively high. Lowering the financing costs for carbon dioxide capture at industrial facilities and direct air capture projects would accelerate the deployment of these technologies.

(4) Since 1968, tax-exempt private activity bonds have been used to provide access to lower-cost financing for private businesses that are purchasing new capital equipment for certain specified environmental facilities, including facilities that reduce, recycle, or dispose of waste, pollutants, and hazardous substances.

(5) Allowing tax-exempt financing for the purchase of capital equipment that is used to capture carbon dioxide will reduce the costs of developing

carbon dioxide capture projects, accelerate their deployment, and, in conjunction with carbon dioxide utilization and long-term storage, help the United States meet critical environmental, economic, and national security goals.

SEC. 3. CARBON DIOXIDE CAPTURE FACILITIES.

(a) IN GENERAL.—Section 142 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (a)—

(A) in paragraph (14), by striking ''or'' at the end,

(B) in paragraph (15), by striking the period at the end and inserting '', or'', and

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

''(16) qualified carbon dioxide capture facilities.'', and

(2) by adding at the end the following new subsection:

''(n) QUALIFIED CARBON DIOXIDE CAPTURE FACILITY.—

''(1) IN GENERAL.—For purposes of subsection (a)(16), the term 'qualified carbon dioxide capture facility' means—

"(A) the eligible components of an industrial carbon dioxide facility, and

"(B) a direct air capture facility (as defined in section 45Q(e)(1)).

"(2) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE COMPONENT.—

"(i) IN GENERAL.—The term 'eligible component' means any equipment installed in an industrial carbon dioxide facility that satisfies the requirements under paragraph (3) and is—

"(I) used for the purpose of capture, treatment and purification, compression, transportation, or on-site storage of carbon dioxide produced by the industrial carbon dioxide facility, or

"(II) integral or functionally related and subordinate to a process described in section 48B(c)(2), determined by substituting 'carbon dioxide' for 'carbon monoxide' in such section.

"(B) INDUSTRIAL CARBON DIOXIDE FACILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'industrial carbon dioxide facility' means a facility that emits carbon dioxide (including from any fugitive emissions source) that is created as a result of any of the following processes:

"(I) Fuel combustion.

"(II) Gasification.

"(III) Bioindustrial.

"(IV) Fermentation.

"(V) Any manufacturing industry described in section 48B(c)(7).

"(ii) EXCEPTIONS.—For purposes of clause (i), an industrial carbon dioxide facility shall not include—

"(I) any geological gas facility (as defined in clause (iii)), or

"(II) any air separation unit that—

"(aa) does not qualify as gasification equipment, or

"(bb) is not a necessary component of an oxy-fuel combustion process.

"(iii) GEOLOGICAL GAS FACILITY.—The term 'geological gas facility' means a facility that—

"(I) produces a raw product consisting of gas or mixed gas and liquid from a geological formation,

"(II) transports or removes impurities from such product, or

"(III) separates such product into its constituent parts.

"(3) CAPTURE AND STORAGE REQUIREMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the eligible components of an industrial carbon dioxide facility shall have a capture and storage percentage (as determined under subparagraph (C)) that is equal to or greater than 65 percent.

"(B) EXCEPTION.—In the case of an industrial carbon dioxide facility with a capture and storage percentage that is less than 65 percent, the percentage of the cost of the eligible components installed in such facility that may be financed with tax-exempt bonds may not be greater than the capture and storage percentage.

"(C) CAPTURE AND STORAGE PERCENTAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the capture and storage percentage shall be an amount, expressed as a percentage, equal to the quotient of—

"(I) the total metric tons of carbon dioxide annually captured, transported, and injected into—

"(aa) a facility for geologic storage, or

"(bb) an enhanced oil or gas recovery well followed by geologic storage, divided by

"(II) the total metric tons of carbon dioxide which would otherwise be released into the atmosphere each year as industrial emission of greenhouse gas if the eligible components were not installed in the industrial carbon dioxide facility.

"(ii) LIMITED APPLICATION OF ELIGIBLE COMPONENTS.—In the case of eligible components that are designed to capture carbon dioxide solely from specific sources

of emissions or portions thereof within an industrial carbon dioxide facility, the capture and storage percentage under this subparagraph shall be determined based only on such specific sources of emissions or portions thereof.''.

(b) VOLUME CAP.—Section 146(g)(4) of such Code is amended by striking ''paragraph (11) of section 142(a) (relating to high-speed intercity rail facilities)'' and inserting ''paragraph (11) or (16) of section 142(a)''.

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

''(C) CLARIFICATION RELATING TO QUALIFIED CARBON DIOXIDE CAPTURE FACILITIES.—For purposes of this subsection, the sale of carbon dioxide produced by a qualified carbon dioxide capture facility (as defined in section 142(n)) which is owned by a governmental unit shall not constitute private business use.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2021.