

115TH CONGRESS  
1ST SESSION

# H. R. 3761

To amend the Internal Revenue Code of 1986 to improve and extend the credit for carbon dioxide sequestration.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2017

Mr. CONAWAY (for himself, Mr. BRADY of Pennsylvania, Mr. COSTELLO of Pennsylvania, Mr. MCKINLEY, Mr. CRAMER, Mr. MURPHY of Pennsylvania, Mr. JENKINS of West Virginia, Mr. PETERSON, Mr. TIPTON, Mr. COSTA, Mr. RODNEY DAVIS of Illinois, Mr. GENE GREEN of Texas, Mr. COLE, Ms. SINEMA, Mr. HURD, Mr. BARR, Mr. BISHOP of Georgia, Mr. MOOLENAAR, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. STEFANIK, Mr. HUIZENGA, Mr. BARTON, Mr. PEARCE, Mr. BOST, Mr. JOHNSON of Ohio, Mr. VEASEY, Mr. ADERHOLT, Ms. KAPTUR, Mr. CURBELO of Florida, and Mr. HUDSON) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to improve and extend the credit for carbon dioxide sequestration.

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 Act”.

1 **SEC. 2. EXTENSION OF ENHANCED CARBON DIOXIDE SE-**  
2 **QUESTRATION CREDIT.**

3 (a) IN GENERAL.—Section 45Q of the Internal Rev-  
4 enue Code of 1986 is amended to read as follows:

5 **“SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

6 “(a) GENERAL RULE.—For purposes of section 38,  
7 the carbon dioxide sequestration credit for any taxable  
8 year is an amount equal to the sum of—

9 “(1) \$20 per metric ton of qualified carbon di-  
10 oxide which is—

11 “(A) captured by the taxpayer using car-  
12 bon capture equipment which is originally  
13 placed in service at a qualified facility before  
14 the date of the enactment of the Carbon Cap-  
15 ture Act, and

16 “(B) disposed of by the taxpayer in secure  
17 geological storage and not used by the taxpayer  
18 as described in paragraph (2)(B),

19 “(2) \$10 per metric ton of qualified carbon di-  
20 oxide which is—

21 “(A) captured by the taxpayer using car-  
22 bon capture equipment which is originally  
23 placed in service at a qualified facility before  
24 the date of the enactment of the Carbon Cap-  
25 ture Act, and

1           “(B)(i) used by the taxpayer as a tertiary  
2 injectant in a qualified enhanced oil or natural  
3 gas recovery project and disposed of by the tax-  
4 payer in secure geological storage, or

5           “(ii) utilized by the taxpayer in a manner  
6 described in subsection (e)(7),

7           “(3) the applicable dollar amount per metric  
8 ton of qualified carbon dioxide which is—

9           “(A) captured by the taxpayer using car-  
10 bon capture equipment which is originally  
11 placed in service at a qualified facility on or  
12 after the date of the enactment of the Carbon  
13 Capture Act, during the 15-year period begin-  
14 ning on the date the equipment was originally  
15 placed in service, and

16           “(B) disposed of by the taxpayer in secure  
17 geological storage and not used by the taxpayer  
18 as described in paragraph (4)(B), and

19           “(4) the applicable dollar amount per metric  
20 ton of qualified carbon dioxide which is—

21           “(A) captured by the taxpayer using car-  
22 bon capture equipment which is originally  
23 placed in service at a qualified facility on or  
24 after the date of the enactment of the Carbon  
25 Capture Act, during the 15-year period begin-

1           ning on the date the equipment was originally  
2           placed in service, and

3           “(B)(i) used by the taxpayer as a tertiary  
4           injectant in a qualified enhanced oil or natural  
5           gas recovery project and disposed of by the tax-  
6           payer in secure geological storage, or

7           “(ii) utilized by the taxpayer in a manner  
8           described in subsection (e)(7).

9   A taxpayer that captures qualified carbon dioxide as pro-  
10   vided under paragraph (1), (2), (3) or (4) and that enters  
11   into contractual arrangements with another person to en-  
12   sure the disposal, use, or utilization required under para-  
13   graph (1), (2), (3) or (4), as the case may be, shall be  
14   treated as having disposed, captured, or used such quali-  
15   fied carbon dioxide to the extent disposed, captured, or  
16   used by such other persons pursuant to such contractual  
17   arrangements.

18       “(b) APPLICABLE DOLLAR AMOUNT; ADDITIONAL  
19   EQUIPMENT; ELECTION.—

20           “(1) APPLICABLE DOLLAR AMOUNT.—For pur-  
21   poses of subsection (a)—

22           “(A) IN GENERAL.—The applicable dollar  
23   amount shall be an amount equal to—

24           “(i) for taxable years beginning after  
25           2016 and before 2026, the dollar amount

1 established by linear interpolation between  
2 \$12.83 and \$35 for each calendar year  
3 during such period, and

4 “(ii) for taxable years beginning after  
5 2025, an amount equal to the product of  
6 \$35 and the inflation adjustment factor for  
7 such calendar year determined under sec-  
8 tion 43(b)(3)(B) for such calendar year,  
9 determined by substituting ‘2024’ for  
10 ‘1990’.

11 “(B) ROUNDING.—The applicable dollar  
12 amount determined under subparagraph (A)  
13 shall be rounded to the nearest cent.

14 “(2) INSTALLATION OF ADDITIONAL CARBON  
15 CAPTURE EQUIPMENT ON EXISTING QUALIFIED FA-  
16 CILITY.—In the case of a qualified facility placed in  
17 service before the date of the enactment of the Car-  
18 bon Capture Storage Act, for which additional car-  
19 bon capture equipment is placed in service on or  
20 after the date of the enactment of such Act, the  
21 amount of qualified carbon dioxide which is captured  
22 by the taxpayer shall be equal to—

23 “(A) for purposes of paragraphs (1)(A)  
24 and (2)(A) of subsection (a), the lesser of—

1           “(i) the total amount of qualified car-  
2           bon dioxide captured at such facility for  
3           the taxable year, or

4           “(ii) the total amount of the carbon  
5           dioxide capture capacity of the carbon cap-  
6           ture equipment in service at such facility  
7           on the day before the date of the enact-  
8           ment of the Carbon Capture Act, and

9           “(B) for purposes of paragraphs (3)(A)  
10          and (4)(A) of such subsection, an amount equal  
11          to the excess (if any) of—

12                  “(i) the amount described in subpara-  
13                  graph (A)(i), over

14                  “(ii) the amount described in subpara-  
15                  graph (A)(ii).

16          “(3) ELECTION.—For purposes of determining  
17          the carbon dioxide sequestration credit under this  
18          section, a taxpayer may elect to have the dollar  
19          amount applicable under paragraph (1) or (2) of  
20          subsection (a) apply in lieu of the dollar amounts  
21          applicable under paragraph (3) or (4) of such sub-  
22          section for each metric ton of qualified carbon diox-  
23          ide which is captured by the taxpayer using carbon  
24          capture equipment which is originally placed in serv-

1 ice at a qualified facility on or after the date of the  
2 enactment of the Carbon Capture Act.

3 “(c) QUALIFIED CARBON DIOXIDE.—For purposes of  
4 this section:

5 “(1) IN GENERAL.—The term ‘qualified carbon  
6 dioxide’ means carbon dioxide or other carbon oxides  
7 captured—

8 “(A)(i) from an industrial source which  
9 would otherwise be released into the atmosphere  
10 as industrial emission of greenhouse gas, or  
11 would otherwise lead to such release, or

12 “(ii) directly from the ambient air, and

13 “(B) is measured at the source of capture  
14 and verified at the point of disposal, injection,  
15 or utilization.

16 “(2) RECYCLED CARBON DIOXIDE.—The term  
17 ‘qualified carbon dioxide’ includes the initial deposit  
18 of captured carbon dioxide used as a tertiary  
19 injectant. Such term does not include carbon dioxide  
20 that is recaptured, recycled, and re-injected as part  
21 of the enhanced oil and natural gas recovery process.

22 “(d) QUALIFIED FACILITY.—For purposes of this  
23 section, the term ‘qualified facility’ means any industrial  
24 facility or direct air capture facility—

1           “(1) the construction of which begins before  
2           January 1, 2024, and—

3                   “(A) the original planning and design for  
4                   such facility includes installation of carbon cap-  
5                   ture equipment, or

6                   “(B) the construction of carbon capture  
7                   equipment with respect to such facility begins  
8                   before such date, and

9           “(2) which captures—

10                   “(A) in the case of a facility which emits  
11                   not more than 500,000 metric tons of carbon  
12                   dioxide into the atmosphere during the taxable  
13                   year, not less than 25,000 metric tons of quali-  
14                   fied carbon dioxide during the taxable year  
15                   which is utilized in a manner described in sub-  
16                   section (e)(7), or

17                   “(B) in the case of a facility not described  
18                   in subparagraph (A), not less than 100,000  
19                   metric tons of qualified carbon dioxide during  
20                   the taxable year.

21           “(e) SPECIAL RULES AND OTHER DEFINITIONS.—

22           For purposes of this section—

23                   “(1) ONLY CARBON DIOXIDE CAPTURED AND  
24                   SECURED OR USED WITHIN THE UNITED STATES  
25                   TAKEN INTO ACCOUNT.—The credit under this sec-



1       tion shall apply only with respect to qualified carbon  
2       dioxide the capture and disposal, use, or utilization  
3       of which is within—

4               “(A) the United States (within the mean-  
5               ing of section 638(1)), or

6               “(B) a possession of the United States  
7               (within the meaning of section 638(2)).

8               “(2) SECURE GEOLOGICAL STORAGE.—The Sec-  
9       retary, in consultation with the Administrator of the  
10      Environmental Protection Agency, the Secretary of  
11      Energy, and the Secretary of the Interior, shall es-  
12      tablish regulations for determining adequate security  
13      measures for the geological storage of qualified car-  
14      bon dioxide under subsection (a) such that the quali-  
15      fied carbon dioxide does not escape into the atmos-  
16      phere. Such term shall include storage at deep saline  
17      formations, oil and gas reservoirs, and unminable  
18      coal seams under such conditions as the Secretary  
19      may determine under such regulations.

20              “(3) TERTIARY INJECTANT.—The term ‘ter-  
21      tiary injectant’ has the same meaning as when used  
22      within section 193(b)(1).

23              “(4) QUALIFIED ENHANCED OIL OR NATURAL  
24      GAS RECOVERY PROJECT.—The term ‘qualified en-  
25      hanced oil or natural gas recovery project’ has the

1 meaning given the term ‘qualified enhanced oil re-  
2 covery project’ by section 43(c)(2), by substituting  
3 ‘crude oil or natural gas’ for ‘crude oil’ in subpara-  
4 graph (A)(i) thereof.

5 “(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—

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

10 “(i) in the case of qualified carbon di-  
11 oxide captured using carbon capture equip-  
12 ment which is originally placed in service  
13 at a qualified facility before the date of the  
14 enactment of the Carbon Capture Act, the  
15 person that captures and physically or con-  
16 tractively ensures the disposal, utilization,  
17 or use as a tertiary injectant of such quali-  
18 fied carbon dioxide, and

19 “(ii) in the case of qualified carbon di-  
20 oxide captured using carbon capture equip-  
21 ment which is originally placed in service  
22 at a qualified facility on or after the date  
23 of the enactment of the Carbon Capture  
24 Act, or with regard to which an election  
25 has been made under subsection (f)(2), the

1 person that owns the carbon capture equip-  
2 ment and physically or contractually en-  
3 sures the capture and disposal, utilization,  
4 or use as a tertiary injectant of such quali-  
5 fied carbon dioxide.

6 “(B) ELECTION.—If the person described  
7 in subparagraph (A) makes an election under  
8 this subparagraph at such time and in such  
9 manner as the Secretary may prescribe by regu-  
10 lations, the credit under this section—

11 “(i) shall be allowable to the person  
12 that disposes of the qualified carbon diox-  
13 ide, utilizes the qualified carbon dioxide, or  
14 uses the qualified carbon dioxide as a ter-  
15 tiary injectant, and

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

18 “(6) RECAPTURE.—The Secretary shall, by reg-  
19 ulations, provide for recapturing the benefit of any  
20 credit allowable under subsection (a) with respect to  
21 any qualified carbon dioxide which ceases to be cap-  
22 tured, disposed of, or used as a tertiary injectant in  
23 a manner consistent with the requirements of this  
24 section.

1           “(7) UTILIZATION OF QUALIFIED CARBON DI-  
2           OXIDE.—

3           “(A) IN GENERAL.—For purposes of this  
4           section, utilization of qualified carbon dioxide  
5           means—

6           “(i) the chemical conversion of such  
7           qualified carbon dioxide to a material or  
8           chemical compound in which such qualified  
9           carbon dioxide is securely stored, or

10          “(ii) the use of such qualified carbon  
11          dioxide for any other purpose for which a  
12          commercial market exists (other than use  
13          as a tertiary injectant in a qualified en-  
14          hanced oil or natural gas recovery project),  
15          as determined by the Secretary.

16          “(B) MEASUREMENT.—For purposes of  
17          determining the amount of qualified carbon di-  
18          oxide utilized by the taxpayer under paragraph  
19          (2)(B)(ii) or (4)(B)(ii) of subsection (a), such  
20          amount shall be equal to the metric tons of car-  
21          bon dioxide which the taxpayer demonstrates,  
22          based upon an analysis of lifecycle greenhouse  
23          gas emissions and subject to such requirements  
24          as the Secretary, in consultation with the Sec-  
25          retary of Energy and the Administrator of the

1 Environmental Protection Agency, determines  
2 appropriate, were captured and prevented from  
3 escaping into the atmosphere through use of a  
4 process described in subparagraph (A).

5 “(8) DIRECT AIR CAPTURE FACILITY.—For  
6 purposes of this section, the term ‘direct air capture  
7 facility’ means any facility which uses carbon cap-  
8 ture equipment to capture carbon from the ambient  
9 air. Such a term does not include facilities capturing  
10 carbon dioxide that is deliberately released from nat-  
11 urally-occurring subsurface springs.

12 “(9) INFLATION ADJUSTMENT.—In the case of  
13 any taxable year beginning in a calendar year after  
14 2009, there shall be substituted for the dollar  
15 amount contained in paragraphs (1) and (2) of sub-  
16 section (a) an amount equal to the product of—

17 “(A) such dollar amount, multiplied by

18 “(B) the inflation adjustment factor for  
19 such calendar year determined under section  
20 43(b)(3)(B) for such calendar year, determined  
21 by substituting ‘2008’ for ‘1990’.

22 “(f) APPLICATION OF SECTION FOR CERTAIN CAR-  
23 BON CAPTURE EQUIPMENT.—

24 “(1) IN GENERAL.—Except as provided in para-  
25 graph (2), in the case of any carbon capture equip-

1       ment placed in service before the date of the enact-  
2       ment of the Carbon Capture Act, the credit under  
3       this section shall apply with respect to qualified car-  
4       bon dioxide captured using such equipment before  
5       the end of the calendar year in which the Secretary,  
6       in consultation with the Administrator of the Envi-  
7       ronmental Protection Agency, certifies that  
8       75,000,000 metric tons of qualified carbon dioxide  
9       have been taken into account in accordance with  
10      paragraphs (1) and (2) of subsection (a) during the  
11      period beginning after October 3, 2008.

12           “(2) SPECIAL RULE FOR CERTAIN FACILITIES  
13      NOT CLAIMING PRIOR CREDIT.—In the case of any  
14      qualified facility—

15           “(A) which captures not less than 100,000  
16      metric tons of carbon dioxide during the taxable  
17      year,

18           “(B) which is placed in service after De-  
19      cember 31, 2015, and

20           “(C) with respect to which no credit has  
21      been allowed under this section (as in effect on  
22      the day before the date of the enactment of  
23      such Act) by any person for any taxable year  
24      beginning prior to the date of enactment of  
25      such Act,

1 the taxpayer may elect to treat such qualified facility  
2 as placed in service on the date of enactment of such  
3 Act.

4 “(g) REGULATIONS.—The Secretary may prescribe  
5 such regulations and other guidance as may be necessary  
6 or appropriate to carry out this section, including regula-  
7 tions or other guidance to—

8 “(1) ensure proper allocation under subsection  
9 (a) for qualified carbon dioxide captured by a tax-  
10 payer during the taxable year ending after the date  
11 of the enactment of the Carbon Capture Act, and

12 “(2) determine whether a facility satisfies the  
13 requirements under subsection (d)(1) during such  
14 taxable year.”.

15 (b) EFFECTIVE DATE.—Except to the extent pro-  
16 vided in section 45Q(f) of such Code, as amended by this  
17 Act, the amendments made by this section shall apply to  
18 property placed in service on after the date of the enact-  
19 ment of this Act.

○