

117TH CONGRESS
1ST SESSION

S. 799

To require the Secretary of Energy to establish programs for carbon dioxide capture, transport, utilization, and storage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, MARCH 16), 2021

Mr. COONS (for himself, Mr. CASSIDY, Ms. SMITH, Mr. HOEVEN, Mr. WHITEHOUSE, Mrs. CAPITO, Ms. DUCKWORTH, Mr. BRAUN, Mr. TESTER, Ms. MURKOWSKI, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require the Secretary of Energy to establish programs for carbon dioxide capture, transport, utilization, and storage, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Storing CO₂ And Lowering Emissions Act” or the
6 “SCALE Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—UTILIZATION OF CARBON OXIDES

Sec. 101. Carbon utilization program.

TITLE II—TRANSPORTATION OF CAPTURED CARBON

Sec. 201. Carbon capture technology program.

Sec. 202. Carbon dioxide transportation infrastructure finance and innovation.

TITLE III—GEOLOGIC STORAGE OF CAPTURED CARBON

Sec. 301. Carbon storage validation and testing.

Sec. 302. Secure geologic storage permitting.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the industrial sector is integral to the econ-
4 omy of the United States—

5 (A) providing millions of jobs and essential
6 products; and

7 (B) demonstrating global leadership in
8 manufacturing and innovation;

9 (2) carbon capture and storage technologies are
10 necessary for reducing hard-to-abate emissions from
11 the industrial sector, which emits nearly 25 percent
12 of carbon dioxide emissions in the United States;

13 (3) carbon removal and storage technologies, in-
14 cluding direct air capture, must be deployed at
15 large-scale in the coming decades to remove carbon
16 dioxide directly from the atmosphere;

17 (4) large-scale deployment of carbon capture,
18 removal, utilization, transport, and storage—

1 (A) is critical for achieving mid-century cli-
2 mate goals; and

3 (B) will drive regional economic develop-
4 ment, technological innovation, and high-wage
5 employment;

6 (5) carbon capture, removal, and utilization
7 technologies require a backbone system of shared
8 carbon dioxide transport and storage infrastructure
9 to enable large-scale deployment, realize economies
10 of scale, and create an interconnected carbon man-
11 agement market;

12 (6) carbon dioxide transport infrastructure and
13 permanent geological storage are proven and safe
14 technologies with existing Federal and State regu-
15 latory frameworks;

16 (7) carbon dioxide transport and storage infra-
17 structure share similar barriers to deployment pre-
18 viously faced by other types of critical national infra-
19 structure, such as high capital costs and chicken-
20 and-egg challenges, that require Federal and State
21 support, in combination with private investment, to
22 be overcome; and

23 (8) each State should take into consideration,
24 with respect to new carbon dioxide transportation in-
25 frastructure—

1 (A) qualifying the infrastructure as pollu-
2 tion control devices under applicable laws (in-
3 cluding regulations) of the State; and

4 (B) establishing a waiver of ad valorem
5 and property taxes for the infrastructure for a
6 period of not less than 10 years.

7 **TITLE I—UTILIZATION OF**
8 **CARBON OXIDES**

9 **SEC. 101. CARBON UTILIZATION PROGRAM.**

10 Section 969A of the Energy Policy Act of 2005 (42
11 U.S.C. 16298a) is amended—

12 (1) in subsection (a)—

13 (A) by redesignating paragraphs (3) and
14 (4) as paragraphs (4) and (5), respectively; and

15 (B) by inserting after paragraph (2) the
16 following:

17 “(3) to develop or obtain, in coordination with
18 other applicable Federal agencies and standard-set-
19 ting organizations, standards and certifications, as
20 appropriate, to facilitate the commercialization of
21 the products and technologies described in para-
22 graph (2);”;

23 (2) in subsection (b)—

24 (A) by redesignating paragraph (2) as
25 paragraph (3);

1 (B) by inserting after paragraph (1) the
2 following:

3 “(2) GRANT PROGRAM.—

4 “(A) IN GENERAL.—Not later than 1 year
5 after the date of enactment of the Storing CO₂
6 And Lowering Emissions Act, the Secretary
7 shall establish a program to provide grants to
8 eligible entities to use in accordance with sub-
9 paragraph (D).

10 “(B) ELIGIBLE ENTITIES.—To be eligible
11 to receive a grant under this paragraph, an en-
12 tity shall be—

13 “(i) a State;

14 “(ii) a unit of local government; or

15 “(iii) a public utility or agency.

16 “(C) APPLICATIONS.—Eligible entities de-
17 siring a grant under this paragraph shall sub-
18 mit to the Secretary an application at such
19 time, in such manner, and containing such in-
20 formation as the Secretary determines to be ap-
21 propriate.

22 “(D) USE OF FUNDS.—An eligible entity
23 shall use a grant received under this paragraph
24 to procure and use commercial or industrial
25 products that—

1 “(i) use or are derived from anthropo-
2 genic carbon oxides; and

3 “(ii) demonstrate significant net re-
4 ductions in lifecycle greenhouse gas emis-
5 sions compared to incumbent technologies,
6 processes, and products.”; and

7 (C) in paragraph (3) (as so redesignated),
8 by striking “paragraph (1)” and inserting “this
9 subsection”; and
10 (3) in subsection (d), by striking paragraphs
11 (1) through (5) and inserting the following:

12 “(1) \$64,000,000 for fiscal year 2021;

13 “(2) \$65,250,000 for fiscal year 2022;

14 “(3) \$66,562,500 for fiscal year 2023;

15 “(4) \$67,940,625 for fiscal year 2024; and

16 “(5) \$69,387,656 for fiscal year 2025.”.

17 **TITLE II—TRANSPORTATION OF**
18 **CAPTURED CARBON**

19 **SEC. 201. CARBON CAPTURE TECHNOLOGY PROGRAM.**

20 Section 962 of the Energy Policy Act of 2005 (42
21 U.S.C. 16292) is amended—

22 (1) in subsection (b)(2)—

23 (A) in subparagraph (C), by striking
24 “and” at the end;

1 (B) in subparagraph (D), by striking “pro-
2 gram.” and inserting “program for carbon cap-
3 ture technologies; and”; and

4 (C) by adding at the end the following:

5 “(E) a front-end engineering and design
6 program for carbon dioxide transport infra-
7 structure necessary to enable deployment of
8 carbon capture, utilization, and storage tech-
9 nologies.”; and

10 (2) in subsection (d)(1)—

11 (A) in subparagraph (C)(ii), by striking
12 “and” at the end;

13 (B) in subparagraph (D), by striking the
14 period at the end and inserting “; and”; and

15 (C) by adding at the end the following:

16 “(E) for activities under the front-end en-
17 gineering and design program described in sub-
18 section (b)(2)(E), \$20,000,000 for each of fis-
19 cal years 2022 through 2025.”.

20 **SEC. 202. CARBON DIOXIDE TRANSPORTATION INFRA-**
21 **STRUCTURE FINANCE AND INNOVATION.**

22 (a) IN GENERAL.—Title IX of the Energy Policy Act
23 of 2005 (42 U.S.C. 16181 et seq.) is amended by adding
24 at the end the following:

1 **“Subtitle J—Carbon Dioxide Trans-**
2 **portation Infrastructure Fi-**
3 **nance and Innovation**

4 **“SEC. 999A. DEFINITIONS.**

5 “In this subtitle:

6 “(1) CIFIA PROGRAM.—The term ‘CIFIA pro-
7 gram’ means the carbon dioxide transportation in-
8 frastructure finance and innovation program estab-
9 lished under section 999B(a).

10 “(2) COMMON CARRIER.—The term ‘common
11 carrier’ means a transportation infrastructure oper-
12 ator or owner that—

13 “(A) publishes a publicly available tariff
14 containing the just and reasonable rates, terms,
15 and conditions of nondiscriminatory service;
16 and

17 “(B) holds itself out to provide transpor-
18 tation services to the public for a fee.

19 “(3) CONTINGENT COMMITMENT.—The term
20 ‘contingent commitment’ means a commitment to
21 obligate funds from future available budget author-
22 ity that is—

23 “(A) contingent on those funds being made
24 available in law at a future date; and

1 “(B) not an obligation of the Federal Gov-
2 ernment.

3 “(4) ELIGIBLE PROJECT COSTS.—The term ‘eli-
4 gible project costs’ means amounts substantially all
5 of which are paid by, or for the account of, an obli-
6 gor in connection with a project, including—

7 “(A) the cost of—

8 “(i) development-phase activities, in-
9 cluding planning, feasibility analysis, rev-
10 enue forecasting, environmental review,
11 permitting, preliminary engineering and
12 design work, and other preconstruction ac-
13 tivities;

14 “(ii) construction, reconstruction, re-
15 habilitation, replacement, and acquisition
16 of real property (including land relating to
17 the project and improvements to land), en-
18 vironmental mitigation, construction con-
19 tingencies, and acquisition and installation
20 of equipment (including labor); and

21 “(iii) capitalized interest necessary to
22 meet market requirements, reasonably re-
23 quired reserve funds, capital issuance ex-
24 penses, and other carrying costs during
25 construction; and

1 “(B) transaction costs associated with fi-
2 nancing the project, including—

3 “(i) the cost of legal counsel and tech-
4 nical consultants; and

5 “(ii) any subsidy amount paid in ac-
6 cordance with section 999B(c)(3)(B)(ii) or
7 section 999C(b)(6)(B)(ii).

8 “(5) FEDERAL CREDIT INSTRUMENT.—The
9 term ‘Federal credit instrument’ means a secured
10 loan or loan guarantee authorized to be provided
11 under the CIFIA program with respect to a project.

12 “(6) LENDER.—The term ‘lender’ means any
13 non-Federal qualified institutional buyer (as defined
14 in section 230.144A(a) of title 17, Code of Federal
15 Regulations (or a successor regulation), commonly
16 known as Rule 144A(a) of the Securities and Ex-
17 change Commission and issued under the Securities
18 Act of 1933 (15 U.S.C. 77a et seq.)), including—

19 “(A) a qualified retirement plan (as de-
20 fined in section 4974(c) of the Internal Revenue
21 Code of 1986) that is a qualified institutional
22 buyer; and

23 “(B) a governmental plan (as defined in
24 section 414(d) of the Internal Revenue Code of
25 1986) that is a qualified institutional buyer.

1 “(7) LETTER OF INTEREST.—The term ‘letter
2 of interest’ means a letter submitted by a potential
3 applicant prior to an application for credit assistance
4 in a format prescribed by the Secretary on the
5 website of the CIFIA program that—

6 “(A) describes the project and the location,
7 purpose, and cost of the project;

8 “(B) outlines the proposed financial plan,
9 including the requested credit and grant assist-
10 ance and the proposed obligor;

11 “(C) provides a status of environmental re-
12 view; and

13 “(D) provides information regarding satis-
14 faction of other eligibility requirements of the
15 CIFIA program.

16 “(8) LOAN GUARANTEE.—The term ‘loan guar-
17 antee’ means any guarantee or other pledge by the
18 Secretary to pay all or part of the principal of, and
19 interest on, a loan or other debt obligation issued by
20 an obligor and funded by a lender.

21 “(9) MASTER CREDIT AGREEMENT.—The term
22 ‘master credit agreement’ means a conditional agree-
23 ment that—

24 “(A) is for the purpose of extending credit
25 assistance for—

1 “(i) a project of high priority under
2 section 999B(c)(3)(A); or

3 “(ii) a project covered under section
4 999B(c)(3)(B);

5 “(B) does not provide for a current obliga-
6 tion of Federal funds; and

7 “(C) would—

8 “(i) make a contingent commitment of
9 a Federal credit instrument or grant at a
10 future date, subject to—

11 “(I) the availability of future
12 funds being made available to carry
13 out the CIFIA program; and

14 “(II) the satisfaction of all condi-
15 tions for the provision of credit assist-
16 ance under the CIFIA program, in-
17 cluding section 999C(b);

18 “(ii) establish the maximum amounts
19 and general terms and conditions of the
20 Federal credit instruments or grants;

21 “(iii) identify the 1 or more revenue
22 sources that will secure the repayment of
23 the Federal credit instruments;

24 “(iv) provide for the obligation of
25 funds for the Federal credit instruments or

1 grants after all requirements have been
2 met for the projects subject to the agree-
3 ment, including—

4 “(I) compliance with all applica-
5 ble requirements specified under the
6 CIFIA program, including sections
7 999B(d) and 999C(b)(1); and

8 “(II) the availability of funds to
9 carry out the CIFIA program; and

10 “(v) require that contingent commit-
11 ments shall result in a financial close and
12 obligation of credit or grant assistance by
13 not later than 4 years after the date of
14 entry into the agreement or release of the
15 commitment, as applicable, unless other-
16 wise extended by the Secretary.

17 “(10) OBLIGOR.—The term ‘obligor’ means a
18 corporation, partnership, joint venture, trust, gov-
19 ernmental entity, agency, or instrumentality, or
20 other entity that is primarily liable for payment of
21 the principal of, or interest on, a Federal credit in-
22 strument.

23 “(11) PRODUCED IN THE UNITED STATES.—
24 The term ‘produced in the United States’, with re-
25 spect to iron and steel, means that all manufac-

1 turing processes for the iron and steel, including the
2 application of any coating, occurs within the United
3 States.

4 “(12) PROJECT.—The term ‘project’ means a
5 project for common carrier carbon dioxide transpor-
6 tation infrastructure or associated equipment, in-
7 cluding pipeline, shipping, rail, or other transpor-
8 tation infrastructure and associated equipment, that
9 will transport or handle carbon dioxide captured
10 from anthropogenic sources or ambient air, as the
11 Secretary determines to be appropriate.

12 “(13) PROJECT OBLIGATION.—The term
13 ‘project obligation’ means any note, bond, debenture,
14 or other debt obligation issued by an obligor in con-
15 nection with the financing of a project, other than
16 a Federal credit instrument.

17 “(14) SECURED LOAN.—The term ‘secured
18 loan’ means a direct loan or other debt obligation
19 issued by an obligor and funded by the Secretary in
20 connection with the financing of a project under sec-
21 tion 999C.

22 “(15) SUBSIDY AMOUNT.—The term ‘subsidy
23 amount’ means the amount of budget authority suf-
24 ficient to cover the estimated long-term cost to the

1 Federal Government of a Federal credit instru-
2 ment—

3 “(A) calculated on a net present value
4 basis; and

5 “(B) excluding administrative costs and
6 any incidental effects on governmental receipts
7 or outlays in accordance with the Federal Cred-
8 it Reform Act of 1990 (2 U.S.C. 661 et seq.).

9 “(16) SUBSTANTIAL COMPLETION.—The term
10 ‘substantial completion’, with respect to a project,
11 means the date—

12 “(A) on which the project commences
13 transportation of carbon dioxide; or

14 “(B) of a comparable event to the event
15 described in subparagraph (A), as determined
16 by the Secretary and specified in the project
17 credit agreement.

18 **“SEC. 999B. DETERMINATION OF ELIGIBILITY AND**
19 **PROJECT SELECTION.**

20 “(a) ESTABLISHMENT OF PROGRAM.—The Secretary
21 shall establish and carry out a carbon dioxide transpor-
22 tation infrastructure finance and innovation program,
23 under which the Secretary shall provide for eligible
24 projects in accordance with this subtitle—

1 “(1) a Federal credit instrument under section
2 999C;

3 “(2) a grant under section 999D; or

4 “(3) both a Federal credit instrument and a
5 grant.

6 “(b) ELIGIBILITY.—

7 “(1) IN GENERAL.—A project shall be eligible
8 to receive a Federal credit instrument or a grant
9 under the CIFIA program if—

10 “(A) the entity proposing to carry out the
11 project submits a letter of interest prior to sub-
12 mission of an application under paragraph (3)
13 for the project; and

14 “(B) the project meets the criteria de-
15 scribed in this subsection.

16 “(2) CREDITWORTHINESS.—

17 “(A) IN GENERAL.—Each project and obli-
18 gor that receives a Federal credit instrument or
19 a grant under the CIFIA program shall be
20 creditworthy, such that there exists a reason-
21 able prospect of repayment of the principal and
22 interest on the Federal credit instrument, as
23 determined by the Secretary under subpara-
24 graph (B).

1 “(B) REASONABLE PROSPECT OF REPAY-
2 MENT.—The Secretary shall base a determina-
3 tion of whether there is a reasonable prospect
4 of repayment under subparagraph (A) on a
5 comprehensive evaluation of whether the obligor
6 has a reasonable prospect of repaying the Fed-
7 eral credit instrument for the eligible project,
8 including evaluation of—

9 “(i) the strength of the contractual
10 terms of an eligible project (if available for
11 the applicable market segment);

12 “(ii) the forecast of noncontractual
13 cash flows supported by market projections
14 from reputable sources, as determined by
15 the Secretary, and cash sweeps or other
16 structural enhancements;

17 “(iii) the projected financial strength
18 of the obligor—

19 “(I) at the time of loan close;

20 and

21 “(II) throughout the loan term,
22 including after the project is com-
23 pleted;

1 “(iv) the financial strength of the in-
2 vestors and strategic partners of the obli-
3 gor, if applicable; and

4 “(v) other financial metrics and anal-
5 yses that are relied on by the private lend-
6 ing community and nationally recognized
7 credit rating agencies, as determined ap-
8 propriate by the Secretary.

9 “(3) APPLICATIONS.—To be eligible for assist-
10 ance under the CIFIA program, an obligor shall
11 submit to the Secretary a project application at such
12 time, in such manner, and containing such informa-
13 tion as the Secretary determines to be appropriate.

14 “(4) ELIGIBLE PROJECT COSTS.—A project
15 under the CIFIA program shall have eligible project
16 costs that are reasonably anticipated to equal or ex-
17 ceed \$100,000,000.

18 “(5) REVENUE SOURCES.—The applicable Fed-
19 eral credit instrument shall be repayable, in whole or
20 in part, from—

21 “(A) user fees;

22 “(B) payments owing to the obligor under
23 a public-private partnership; or

24 “(C) other revenue sources that also secure
25 or fund the project obligations.

1 “(6) OBLIGOR WILL BE IDENTIFIED LATER.—
2 A State, local government, agency, or instrumen-
3 tality of a State or local government, or a public au-
4 thority, may submit to the Secretary an application
5 under paragraph (3), under which a private party to
6 a public-private partnership will be—

7 “(A) the obligor; and

8 “(B) identified at a later date through
9 completion of a procurement and selection of
10 the private party.

11 “(7) BENEFICIAL EFFECTS.—The Secretary
12 shall determine that financial assistance for each
13 project under the CIFIA program will—

14 “(A) attract public or private investment
15 for the project;

16 “(B) enable the project to proceed at an
17 earlier date than the project would otherwise be
18 able to proceed or reduce the lifecycle costs (in-
19 cluding debt service costs) of the project; or

20 “(C) enable the transportation of carbon
21 dioxide captured from anthropogenic sources or
22 ambient air.

23 “(8) PROJECT READINESS.—To be eligible for
24 assistance under the CIFIA program, the applicant
25 shall demonstrate a reasonable expectation that the

1 contracting process for construction of the project
2 can commence by not later than 90 days after the
3 date on which a Federal credit instrument or grant
4 is obligated for the project under the CIFIA pro-
5 gram.

6 “(c) SELECTION AMONG ELIGIBLE PROJECTS.—

7 “(1) ESTABLISHMENT OF APPLICATION PROC-
8 ESS.—The Secretary shall establish an application
9 process under which projects that are eligible to re-
10 ceive assistance under subsection (b) may—

11 “(A) receive credit assistance on terms ac-
12 ceptable to the Secretary, if adequate funds are
13 available (including any funds provided on be-
14 half of an eligible project under paragraph
15 (3)(B)(ii)) to cover the subsidy amount associ-
16 ated with the Federal credit instrument; and

17 “(B) receive grants under section 999D
18 if—

19 “(i) adequate funds are available to
20 cover the amount of the grant; and

21 “(ii) the Secretary determines that
22 the project is eligible under subsection (b)
23 of that section.

1 “(2) PRIORITY.—In selecting projects to receive
2 credit assistance under subsection (b), the Secretary
3 shall give priority to projects that—

4 “(A) are large-capacity, common carrier
5 infrastructure;

6 “(B) have demonstrated demand for use of
7 the infrastructure by associated projects that
8 capture carbon dioxide from anthropogenic
9 sources or ambient air;

10 “(C) enable geographical diversity in asso-
11 ciated projects that capture carbon dioxide from
12 anthropogenic sources or ambient air, with the
13 goal of enabling projects in all major carbon di-
14 oxide-emitting regions of the United States; and

15 “(D) are sited within, or adjacent to, exist-
16 ing pipeline or other linear infrastructure cor-
17 ridors, in a manner that minimizes environ-
18 mental disturbance and other siting concerns.

19 “(3) MASTER CREDIT AGREEMENTS.—

20 “(A) PRIORITY PROJECTS.—The Secretary
21 may enter into a master credit agreement for a
22 project that the Secretary determines—

23 “(i) will likely be eligible for credit as-
24 sistance under subsection (b), on obtain-
25 ing—

1 “(I) additional commitments
2 from associated carbon capture
3 projects to use the project; or

4 “(II) all necessary permits and
5 approvals; and

6 “(ii) is a project of high priority, as
7 determined in accordance with the criteria
8 described in paragraph (2).

9 “(B) ADEQUATE FUNDING NOT AVAIL-
10 ABLE.—If the Secretary fully obligates funding
11 to eligible projects for a fiscal year and ade-
12 quate funding is not available to fund a Federal
13 credit instrument, a project sponsor (including
14 a unit of State or local government) of an eligi-
15 ble project may elect—

16 “(i)(I) to enter into a master credit
17 agreement in lieu of the Federal credit in-
18 strument; and

19 “(II) to wait to execute a Federal
20 credit instrument until the fiscal year for
21 which additional funds are available to re-
22 ceive credit assistance; or

23 “(ii) if the lack of adequate funding is
24 solely with respect to amounts available for
25 the subsidy amount, to pay the subsidy

1 amount to fund the Federal credit instru-
2 ment.

3 “(d) FEDERAL REQUIREMENTS.—

4 “(1) IN GENERAL.—Nothing in this subtitle su-
5 persedes the applicability of any other requirement
6 under Federal law (including regulations).

7 “(2) NEPA.—Federal credit assistance may
8 only be provided under this subtitle for a project
9 that has received an environmental categorical exclu-
10 sion, a finding of no significant impact, or a record
11 of decision under the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4321 et seq.).

13 “(e) USE OF AMERICAN IRON, STEEL, AND MANU-
14 FACTURED GOODS.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), no Federal credit instrument or grant
17 provided under the CIFIA program shall be made
18 available for a project unless all iron, steel, and
19 manufactured goods used in the project are pro-
20 duced in the United States.

21 “(2) EXCEPTIONS.—Paragraph (1) shall not
22 apply in any case or category of cases with respect
23 to which the Secretary determines that—

24 “(A) the application would be inconsistent
25 with the public interest;

1 “(B) iron, steel, or a relevant manufac-
2 tured good is not produced in the United States
3 in sufficient and reasonably available quantity,
4 or of a satisfactory quality; or

5 “(C) the inclusion of iron, steel, or a man-
6 ufactured good produced in the United States
7 will increase the cost of the overall project by
8 more than 25 percent.

9 “(3) WAIVERS.—If the Secretary receives a re-
10 quest for a waiver under this subsection, the Sec-
11 retary shall—

12 “(A) make available to the public a copy of
13 the request, together with any information
14 available to the Secretary concerning the re-
15 quest—

16 “(i) on an informal basis; and

17 “(ii) by electronic means, including on
18 the official public website of the Depart-
19 ment;

20 “(B) allow for informal public comment re-
21 lating to the request for not fewer than 15 days
22 before making a determination with respect to
23 the request; and

1 “(C) approve or disapprove the request by
2 not later than the date that is 120 days after
3 the date of receipt of the request.

4 “(4) APPLICABILITY.—This subsection shall be
5 applied in accordance with any applicable obligations
6 of the United States under international agreements.

7 “(f) PREVAILING RATE OF WAGE.—

8 “(1) IN GENERAL.—The Secretary shall ensure
9 that each laborer and mechanic employed by a con-
10 tractor or subcontractor for a project financed, in
11 whole or in part, by a Federal credit instrument or
12 grant provided under the CIFIA program shall be
13 paid wages at rates not less than those prevailing on
14 the same type of work on similar construction
15 projects in the applicable locality, as determined by
16 the Secretary of Labor under subchapter IV of chap-
17 ter 31 of part A of subtitle II of title 40, United
18 States Code (commonly referred to as the ‘Davis-
19 Bacon Act’).

20 “(2) AUTHORITY OF SECRETARY OF LABOR.—
21 With respect to the labor standards described in
22 paragraph (1), the Secretary of Labor shall have the
23 authority and functions described in Reorganization
24 Plan Numbered 14 of 1950 (64 Stat. 1267; 5

1 U.S.C. App.) and section 3145 of title 40, United
2 States Code.

3 “(g) APPLICATION PROCESSING PROCEDURES.—

4 “(1) NOTICE OF COMPLETE APPLICATION.—

5 Not later than 30 days after the date of receipt of
6 an application under this section, the Secretary shall
7 provide to the applicant a written notice describing
8 whether—

9 “(A) the application is complete; or

10 “(B) additional information or materials
11 are needed to complete the application.

12 “(2) APPROVAL OR DENIAL OF APPLICATION.—

13 Not later than 60 days after the date of issuance of
14 a written notice under paragraph (1), the Secretary
15 shall provide to the applicant a written notice in-
16 forming the applicant whether the Secretary has ap-
17 proved or disapproved the application.

18 “(h) DEVELOPMENT-PHASE ACTIVITIES.—Any Fed-
19 eral credit instrument provided under the CIFIA program
20 may be used to finance up to 100 percent of the cost of
21 development-phase activities, as described in section
22 999A(4)(A).

23 **“SEC. 999C. SECURED LOANS.**

24 “(a) AGREEMENTS.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 the Secretary may enter into agreements with 1 or
3 more obligors to make secured loans, the proceeds of
4 which shall be used—

5 “(A) to finance eligible project costs of any
6 project selected under section 999B;

7 “(B) to refinance interim construction fi-
8 nancing of eligible project costs of any project
9 selected under section 999B; or

10 “(C) to refinance long-term project obliga-
11 tions or Federal credit instruments, if the refi-
12 nancing provides additional funding capacity for
13 the completion, enhancement, or expansion of
14 any project that—

15 “(i) is selected under section 999B; or

16 “(ii) otherwise meets the requirements
17 of that section.

18 “(2) RISK ASSESSMENT.—Before entering into
19 an agreement under this subsection, the Secretary,
20 in consultation with the Director of the Office of
21 Management and Budget, shall determine an appro-
22 priate credit subsidy amount for each secured loan,
23 taking into account all relevant factors, including the
24 creditworthiness factors under section 999B(b)(2).

25 “(b) TERMS AND LIMITATIONS.—

1 “(1) IN GENERAL.—A secured loan under this
2 section with respect to a project shall be on such
3 terms and conditions and contain such covenants,
4 representations, warranties, and requirements (in-
5 cluding requirements for audits) as the Secretary de-
6 termines to be appropriate.

7 “(2) MAXIMUM AMOUNT.—The amount of a se-
8 cured loan under this section shall not exceed an
9 amount equal to 80 percent of the reasonably antici-
10 pated eligible project costs.

11 “(3) PAYMENT.—A secured loan under this sec-
12 tion shall be payable, in whole or in part, from—

13 “(A) user fees;

14 “(B) payments owing to the obligor under
15 a public-private partnership; or

16 “(C) other revenue sources that also secure
17 or fund the project obligations.

18 “(4) INTEREST RATE.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), the interest rate on a se-
21 cured loan under this section shall be not less
22 than the yield on United States Treasury secu-
23 rities of a similar maturity to the maturity of
24 the secured loan on the date of execution of the
25 loan agreement.

1 “(B) LIMITED BUYDOWNS.—

2 “(i) IN GENERAL.—Subject to clause
3 (ii), the Secretary may lower the interest
4 rate of a secured loan under this section if
5 the interest rate has increased between the
6 period—

7 “(I) beginning on, as applica-
8 ble—

9 “(aa) the date on which an
10 application acceptable to the Sec-
11 retary is submitted for the appli-
12 cable project; or

13 “(bb) the date on which the
14 Secretary entered into a master
15 credit agreement for the applica-
16 ble project; and

17 “(II) ending on the date on
18 which the Secretary executes the Fed-
19 eral credit instrument for the applica-
20 ble project.

21 “(ii) LIMITATION.—The interest rate
22 of a secured loan may not be lowered pur-
23 suant to clause (i) by more than the lower
24 of—

1 “(I) 1½ percentage points (150
2 basis points); and

3 “(II) an amount equal to the
4 amount of the increase in the interest
5 rate described in that clause.

6 “(5) MATURITY DATE.—The final maturity
7 date of the secured loan shall be the earlier of—

8 “(A) the date that is 35 years after the
9 date of substantial completion of the project;
10 and

11 “(B) if the useful life of the capital asset
12 being financed is of a lesser period, the date
13 that is the end of the useful life of the asset.

14 “(6) NONSUBORDINATION.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), the secured loan shall not be
17 subordinated to the claims of any holder of
18 project obligations in the event of bankruptcy,
19 insolvency, or liquidation of the obligor.

20 “(B) PREEXISTING INDENTURE.—

21 “(i) IN GENERAL.—The Secretary
22 shall waive the requirement under subpara-
23 graph (A) for a public agency borrower
24 that is financing ongoing capital programs

1 and has outstanding senior bonds under a
2 preexisting indenture, if—

3 “(I) the secured loan is rated in
4 the A category or higher; and

5 “(II) the secured loan is secured
6 and payable from pledged revenues
7 not affected by project performance,
8 such as a tax-backed revenue pledge
9 or a system-backed pledge of project
10 revenues.

11 “(ii) LIMITATION.—If the Secretary
12 waives the nonsubordination requirement
13 under this subparagraph—

14 “(I) the maximum credit subsidy
15 amount to be paid by the Federal
16 Government shall be not more than
17 10 percent of the principal amount of
18 the secured loan; and

19 “(II) the obligor shall be respon-
20 sible for paying the remainder of the
21 subsidy amount, if any.

22 “(7) FEES.—The Secretary may collect a fee on
23 or after the date of the financial close of a Federal
24 credit instrument under this section in an amount
25 equal to not more than \$1,000,000 to cover all or

1 a portion of the costs to the Federal Government of
2 providing the Federal credit instrument.

3 “(8) MAXIMUM FEDERAL INVOLVEMENT.—The
4 total Federal assistance provided for a project under
5 the CIFIA program, including any grant provided
6 under section 999D, shall not exceed an amount
7 equal to 80 percent of the eligible project costs.

8 “(c) REPAYMENT.—

9 “(1) SCHEDULE.—The Secretary shall establish
10 a repayment schedule for each secured loan under
11 this section based on—

12 “(A) the projected cash flow from project
13 revenues and other repayment sources; and

14 “(B) the useful life of the project.

15 “(2) COMMENCEMENT.—Scheduled loan repay-
16 ments of principal or interest on a secured loan
17 under this section shall commence not later than 5
18 years after the date of substantial completion of the
19 project.

20 “(3) DEFERRED PAYMENTS.—

21 “(A) IN GENERAL.—If, at any time after
22 the date of substantial completion of a project,
23 the project is unable to generate sufficient reve-
24 nues in excess of reasonable and necessary op-
25 erating expenses to pay the scheduled loan re-

1 payments of principal and interest on the se-
2 cured loan, the Secretary may, subject to sub-
3 paragraph (C), allow the obligor to add unpaid
4 principal and interest to the outstanding bal-
5 ance of the secured loan.

6 “(B) INTEREST.—Any payment deferred
7 under subparagraph (A) shall—

8 “(i) continue to accrue interest in ac-
9 cordance with subsection (b)(4) until fully
10 repaid; and

11 “(ii) be scheduled to be amortized
12 over the remaining term of the loan.

13 “(C) CRITERIA.—

14 “(i) IN GENERAL.—Any payment de-
15 ferral under subparagraph (A) shall be
16 contingent on the project meeting criteria
17 established by the Secretary.

18 “(ii) REPAYMENT STANDARDS.—The
19 criteria established pursuant to clause (i)
20 shall include standards for the reasonable
21 prospect of repayment.

22 “(4) PREPAYMENT.—

23 “(A) USE OF EXCESS REVENUES.—Any
24 excess revenues that remain after satisfying
25 scheduled debt service requirements on the

1 project obligations and secured loan and all de-
2 posit requirements under the terms of any trust
3 agreement, bond resolution, or similar agree-
4 ment securing project obligations may be ap-
5 plied annually to prepay the secured loan, with-
6 out penalty.

7 “(B) USE OF PROCEEDS OF REFI-
8 NANCING.—A secured loan may be prepaid at
9 any time without penalty from the proceeds of
10 refinancing from non-Federal funding sources.

11 “(d) SALE OF SECURED LOANS.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
13 as soon as practicable after substantial completion of
14 a project and after notifying the obligor, the Sec-
15 retary may sell to another entity or reoffer into the
16 capital markets a secured loan for the project if the
17 Secretary determines that the sale or reoffering can
18 be made on favorable terms.

19 “(2) CONSENT OF OBLIGOR.—In making a sale
20 or reoffering under paragraph (1), the Secretary
21 may not change any original term or condition of the
22 secured loan without the written consent of the obli-
23 gor.

24 “(e) LOAN GUARANTEES.—

1 “(1) IN GENERAL.—The Secretary may provide
2 a loan guarantee to a lender in lieu of making a se-
3 cured loan under this section if the Secretary deter-
4 mines that the budgetary cost of the loan guarantee
5 is substantially the same as, or less than, that of a
6 secured loan.

7 “(2) TERMS.—The terms of a loan guarantee
8 under paragraph (1) shall be consistent with the
9 terms required under this section for a secured loan,
10 except that the rate on the guaranteed loan and any
11 prepayment features shall be negotiated between the
12 obligor and the lender, with the consent of the Sec-
13 retary.

14 **“SEC. 999D. FUTURE GROWTH GRANTS.**

15 “(a) ESTABLISHMENT.—The Secretary may provide
16 grants to pay a portion of the cost differential, with re-
17 spect to any projected future increase in demand for car-
18 bon dioxide transportation by an infrastructure project de-
19 scribed in subsection (b), between—

20 “(1) the cost of constructing the infrastructure
21 asset with the capacity to transport an increased
22 flow rate of carbon dioxide, as made practicable
23 under the project; and

24 “(2) the cost of constructing the infrastructure
25 asset with the capacity to transport carbon dioxide

1 at the flow rate initially required, based on commit-
2 ments for the use of the asset.

3 “(b) ELIGIBILITY.—To be eligible to receive a grant
4 under this section, an entity shall—

5 “(1) be eligible to receive credit assistance
6 under the CIFIA program;

7 “(2) carry out, or propose to carry out, a
8 project for large-capacity, common carrier infra-
9 structure with a probable future increase in demand
10 for carbon dioxide transportation; and

11 “(3) submit to the Secretary an application at
12 such time, in such manner, and containing such in-
13 formation as the Secretary determines to be appro-
14 priate.

15 “(c) USE OF FUNDS.—A grant provided under this
16 section may be used only to pay the costs of any additional
17 flow rate capacity of a carbon dioxide transportation infra-
18 structure asset that the project sponsor demonstrates to
19 the satisfaction of the Secretary can reasonably be ex-
20 pected to be used during the 20-year period beginning on
21 the date of substantial completion of the project described
22 in subsection (b)(2).

23 “(d) MAXIMUM AMOUNT.—The amount of a grant
24 provided under this section may not exceed an amount

1 equal to 80 percent of the cost of the additional capacity
2 described in subsection (a).

3 **“SEC. 999E. PROGRAM ADMINISTRATION.**

4 “(a) REQUIREMENT.—The Secretary shall establish
5 a uniform system to service the Federal credit instruments
6 provided under the CIFIA program.

7 “(b) FEES.—The Secretary may collect fees on or
8 after the date of the financial close of a Federal credit
9 instrument provided under the CIFIA program, contin-
10 gent on authority being provided in appropriations Acts,
11 at a level that is sufficient to cover—

12 “(1) the costs of services of expert firms re-
13 tained pursuant to subsection (d); and

14 “(2) all or a portion of the costs to the Federal
15 Government of servicing the Federal credit instru-
16 ments.

17 “(c) SERVICER.—

18 “(1) IN GENERAL.—The Secretary may appoint
19 a financial entity to assist the Secretary in servicing
20 the Federal credit instruments.

21 “(2) DUTIES.—A servicer appointed under
22 paragraph (1) shall act as the agent for the Sec-
23 retary.

1 “(3) FEE.—A servicer appointed under para-
2 graph (1) shall receive a servicing fee, subject to ap-
3 proval by the Secretary.

4 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
5 retary may retain the services of expert firms, including
6 counsel, in the field of municipal and project finance to
7 assist in the underwriting and servicing of Federal credit
8 instruments.

9 “(e) EXPEDITED PROCESSING.—The Secretary shall
10 implement procedures and measures to economize the time
11 and cost involved in obtaining approval and the issuance
12 of credit assistance under the CIFLA program.

13 **“SEC. 999F. STATE AND LOCAL PERMITS.**

14 “The provision of credit assistance under the CIFLA
15 program with respect to a project shall not—

16 “(1) relieve any recipient of the assistance of
17 any project obligation to obtain any required State
18 or local permit or approval with respect to the
19 project;

20 “(2) limit the right of any unit of State or local
21 government to approve or regulate any rate of re-
22 turn on private equity invested in the project; or

23 “(3) otherwise supersede any State or local law
24 (including any regulation) applicable to the construc-
25 tion or operation of the project.

1 **“SEC. 999G. REGULATIONS.**

2 “The Secretary may promulgate such regulations as
3 the Secretary determines to be appropriate to carry out
4 the CIFLA program.

5 **“SEC. 999H. FUNDING.**

6 “(a) FUNDING.—

7 “(1) IN GENERAL.—There are authorized to be
8 appropriated to the Secretary to carry out this sub-
9 title, to remain available until expended—

10 “(A) \$600,000,000 for each of fiscal years
11 2022 and 2023; and

12 “(B) \$300,000,000 for each of fiscal years
13 2024 through 2026.

14 “(2) SPENDING AND BORROWING AUTHOR-
15 ITY.—Spending and borrowing authority for a fiscal
16 year to enter into Federal credit instruments shall
17 be promptly apportioned to the Secretary on a fiscal-
18 year basis.

19 “(3) REESTIMATES.—If the subsidy amount of
20 a Federal credit instrument is reestimated, the cost
21 increase or decrease of the reestimate shall be borne
22 by, or benefit, the general fund of the Treasury, con-
23 sistent with section 504(f) of the Congressional
24 Budget Act of 1974 (2 U.S.C. 661c(f)).

25 “(4) ADMINISTRATIVE COSTS.—Of the amounts
26 made available to carry out the CIFLA program, the

1 Secretary may use not more than \$9,000,000 (as in-
2 dexed for United States dollar inflation from the
3 date of enactment of the Storing CO₂ And Lowering
4 Emissions Act (as measured by the Consumer Price
5 Index)) each fiscal year for the administration of the
6 CIFIA program.

7 “(b) CONTRACT AUTHORITY.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, execution of a term sheet by the
10 Secretary of a Federal credit instrument that uses
11 amounts made available under the CIFIA program
12 shall impose on the United States a contractual obli-
13 gation to fund the Federal credit investment.

14 “(2) AVAILABILITY.—Amounts made available
15 to carry out the CIFIA program for a fiscal year
16 shall be available for obligation on October 1 of the
17 fiscal year.”.

18 (b) TECHNICAL AMENDMENTS.—The table of con-
19 tents for the Energy Policy Act of 2005 (Public Law 109–
20 58; 119 Stat. 600) is amended—

21 (1) in the item relating to section 917, by strik-
22 ing “Efficiency”;

23 (2) by striking the items relating to subtitle J
24 of title IX (relating to ultra-deepwater and uncon-

1 ventional natural gas and other petroleum resources)
2 and inserting the following:

“Subtitle J—Carbon Dioxide Transportation Infrastructure Finance and
Innovation

“Sec. 999A. Definitions.

“Sec. 999B. Determination of eligibility and project selection.

“Sec. 999C. Secured loans.

“Sec. 999D. Future growth grants.

“Sec. 999E. Program administration.

“Sec. 999F. State and local permits.

“Sec. 999G. Regulations.

“Sec. 999H. Funding.”;

3 and

4 (3) by striking the item relating to section
5 969B and inserting the following:

“Sec. 969B. High efficiency turbines.”.

6 **TITLE III—GEOLOGIC STORAGE**
7 **OF CAPTURED CARBON**

8 **SEC. 301. CARBON STORAGE VALIDATION AND TESTING.**

9 Section 963 of the Energy Policy Act of 2005 (42
10 U.S.C. 16293) is amended—

11 (1) in subsection (a)(1)(B), by striking “over a
12 10-year period”;

13 (2) in subsection (b)—

14 (A) in paragraph (1), by striking “and
15 demonstration” and inserting “demonstration,
16 and commercialization”; and

17 (B) in paragraph (2)—

18 (i) in subparagraph (G), by striking
19 “and” at the end;

1 (ii) in subparagraph (H), by striking
2 the period at the end and inserting “;
3 and”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(I) evaluating the quantity, lo-
7 cation, and timing of geologic carbon
8 storage deployment that may be need-
9 ed, and developing strategies and re-
10 sources to enable the deployment.”;

11 (3) by redesignating subsections (e) through (g)
12 as subsections (f) through (h), respectively;

13 (4) by inserting after subsection (d) the fol-
14 lowing:

15 “(e) LARGE-SCALE CARBON STORAGE COMMER-
16 CIALIZATION PROGRAM.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish a commercialization program under which the
19 Secretary shall provide funding for the development
20 of new or expanded commercial large-scale carbon
21 sequestration projects and associated carbon dioxide
22 transport infrastructure, including funding for the
23 feasibility, site characterization, permitting, and con-
24 struction stages of project development.

25 “(2) APPLICATIONS; SELECTION.—

1 “(A) IN GENERAL.—To be eligible to enter
2 into an agreement with the Secretary for fund-
3 ing under paragraph (1), an entity shall submit
4 to the Secretary an application at such time, in
5 such manner, and containing such information
6 as the Secretary determines to be appropriate.

7 “(B) APPLICATION PROCESS.—The Sec-
8 retary shall establish an application process
9 that, to the maximum extent practicable—

10 “(i) is open to projects at any stage of
11 development described in paragraph (1);
12 and

13 “(ii) facilitates expeditious develop-
14 ment of projects described in that para-
15 graph.

16 “(C) PROJECT SELECTION.—In selecting
17 projects for funding under paragraph (1), the
18 Secretary shall give priority to—

19 “(i) projects with substantial carbon
20 dioxide storage capacity; or

21 “(ii) projects that will store carbon di-
22 oxide from multiple carbon capture facili-
23 ties.”;

24 (5) in subsection (f) (as so redesignated), in
25 paragraph (1), by inserting “with respect to the re-

1 search, development, demonstration program compo-
 2 nents described in subsections (b) through (d)” be-
 3 fore “give preference”; and

4 (6) in subsection (h) (as so redesignated)—

5 (A) in paragraph (5), by striking the pe-
 6 riod at the end and inserting “; and”;

7 (B) by redesignating paragraphs (1)
 8 through (5) as subparagraphs (A) through (E),
 9 respectively, and indenting appropriately;

10 (C) by inserting before subparagraph (A)
 11 (as so redesignated) the following:

12 “(1) for activities under the research, develop-
 13 ment, demonstration program components described
 14 in subsections (b) through (d)—”; and

15 (D) by adding at the end the following:

16 “(2) for activities under the commercialization
 17 program component described in subsection (e), to
 18 remain available until expended, \$500,000,000 for
 19 each of fiscal years 2022 through 2026.”.

20 **SEC. 302. SECURE GEOLOGIC STORAGE PERMITTING.**

21 (a) DEFINITIONS.—In this section:

22 (1) ADMINISTRATOR.—The term “Adminis-
 23 trator” means the Administrator of the Environ-
 24 mental Protection Agency.

1 (2) CLASS VI WELL.—The term “Class VI well”
2 means a well described in section 144.6(f) of title
3 40, Code of Federal Regulations (or successor regu-
4 lations).

5 (b) GEOLOGIC SEQUESTRATION PERMITTING.—For
6 the permitting of Class VI wells by the Administrator for
7 the injection of carbon dioxide for the purpose of geologic
8 sequestration in accordance with the requirements of the
9 Safe Drinking Water Act (42 U.S.C. 300f et seq.) and
10 the final rule of the Administrator entitled “Federal Re-
11 quirements Under the Underground Injection Control
12 (UIC) Program for Carbon Dioxide (CO₂) Geologic Se-
13 questration (GS) Wells” (75 Fed. Reg. 77230 (December
14 10, 2010)), there is authorized to be appropriated for each
15 of fiscal years 2022 through 2026, \$5,000,000.

16 (c) STATE PERMITTING PROGRAM GRANTS.—

17 (1) ESTABLISHMENT.—The Administrator shall
18 award grants to States that, pursuant to section
19 1422 of the Safe Drinking Water Act (42 U.S.C.
20 300h–1), receive the approval of the Administrator
21 for a State underground injection control program
22 for permitting Class VI wells for the injection of car-
23 bon dioxide.

24 (2) USE OF FUNDS.—A State that receives a
25 grant under paragraph (1) shall use the amounts re-

1 ceived under the grant to defray the expenses of the
2 State related to the establishment and operation of
3 a State underground injection control program de-
4 scribed in paragraph (1).

5 (3) AUTHORIZATION OF APPROPRIATIONS.—

6 There is authorized to be appropriated to carry out
7 this subsection, for the period of fiscal years 2022
8 through 2026, \$50,000,000.

○