

115TH CONGRESS
2D SESSION

S. _____

To support carbon dioxide utilization and direct air capture research, to facilitate the permitting and development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO (for himself, Mr. WHITEHOUSE, Mrs. CAPITO, and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To support carbon dioxide utilization and direct air capture research, to facilitate the permitting and development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, 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 “Utilizing Significant
5 Emissions with Innovative Technologies Act” or the “USE
6 IT Act”.

1 **TITLE** **I—ENCOURAGING**
2 **PROJECTS TO REDUCE EMIS-**
3 **SIONS**

4 **SEC. 101. RESEARCH, INVESTIGATION, TRAINING, AND**
5 **OTHER ACTIVITIES.**

6 Section 103 of the Clean Air Act (42 U.S.C. 7403)
7 is amended—

8 (1) in subsection (c)(3), in the first sentence of
9 the matter preceding subparagraph (A), by striking
10 “percursors” and inserting “precursors”; and

11 (2) in subsection (g)—

12 (A) by redesignating paragraphs (1)
13 through (4) as subparagraphs (A) through (D),
14 respectively, and indenting appropriately;

15 (B) in the undesignated matter following
16 subparagraph (D) (as so redesignated)—

17 (i) in the second sentence, by striking
18 “The Administrator” and inserting the fol-
19 lowing:

20 “(5) COORDINATION AND AVOIDANCE OF DU-
21 PPLICATION.—The Administrator”; and

22 (ii) in the first sentence, by striking
23 “Nothing” and inserting the following:

24 “(4) EFFECT OF SUBSECTION.—Nothing”;

1 (C) in the matter preceding subparagraph

2 (A) (as so redesignated)—

3 (i) in the third sentence, by striking

4 “Such program” and inserting the fol-

5 lowing:

6 “(3) PROGRAM INCLUSIONS.—The program

7 under this subsection”;

8 (ii) in the second sentence—

9 (I) by inserting “States, institu-

10 tions of higher education,” after “sci-

11 entists,”; and

12 (II) by striking “Such strategies

13 and technologies shall be developed”

14 and inserting the following:

15 “(2) PARTICIPATION REQUIREMENT.—Such

16 strategies and technologies described in paragraph

17 (1) shall be developed”; and

18 (iii) in the first sentence, by striking

19 “In carrying out” and inserting the fol-

20 lowing:

21 “(1) IN GENERAL.—In carrying out”; and

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

23 “(6) CERTAIN CARBON DIOXIDE ACTIVITIES.—

24 “(A) IN GENERAL.—In carrying out para-

25 graph (3)(A) with respect to carbon dioxide, the

1 Administrator shall carry out the activities de-
2 scribed in each of subparagraphs (B) and (C).

3 “(B) DIRECT AIR CAPTURE RESEARCH.—

4 “(i) DEFINITIONS.—In this subpara-
5 graph:

6 “(I) BOARD.—The term ‘Board’
7 means the Direct Air Capture Tech-
8 nology Advisory Board established by
9 clause (iii)(I).

10 “(II) DILUTE.—The term ‘dilute’
11 means a concentration of less than 1
12 percent by volume.

13 “(III) DIRECT AIR CAPTURE.—

14 “(aa) IN GENERAL.—The
15 term ‘direct air capture’, with re-
16 spect to a facility, technology, or
17 system, means that the facility,
18 technology, or system uses car-
19 bon capture equipment to cap-
20 ture carbon dioxide directly from
21 the air.

22 “(bb) EXCLUSION.—The
23 term ‘direct air capture’ does not
24 include any facility, technology,

1 or system that captures carbon
2 dioxide—

3 “(AA) that is delib-
4 erately released from a natu-
5 rally occurring subsurface
6 spring; or

7 “(BB) using natural
8 photosynthesis.

9 “(IV) INTELLECTUAL PROP-
10 ERTY.—The term ‘intellectual prop-
11 erty’ means—

12 “(aa) an invention that is
13 patentable under title 35, United
14 States Code; and

15 “(bb) any patent on an in-
16 vention described in item (aa).

17 “(ii) TECHNOLOGY PRIZES.—

18 “(I) IN GENERAL.—Not later
19 than 1 year after the date of enact-
20 ment of the USE IT Act, the Admin-
21 istrator shall establish a program to
22 provide, and shall provide, financial
23 awards on a competitive basis for di-
24 rect air capture from media in which

1 the concentration of carbon dioxide is
2 dilute.

3 “(II) DUTIES.—In carrying out
4 this clause, the Administrator shall—

5 “(aa) subject to subclause
6 (III), develop specific require-
7 ments for—

8 “(AA) the competition
9 process; and

10 “(BB) monitoring and
11 verification procedures for
12 approved projects;

13 “(bb) offer financial awards
14 for a project designed—

15 “(AA) to capture more
16 than 10,000 tons of carbon
17 dioxide per year; and

18 “(BB) to be deployed
19 at a cost of less than \$200
20 per ton of carbon dioxide
21 captured; and

22 “(cc) to the maximum ex-
23 tent practicable, make financial
24 awards to geographically diverse
25 projects, including at least—

1 “(AA) 1 project in a
2 coastal State; and

3 “(BB) 1 project in a
4 rural State.

5 “(III) PUBLIC PARTICIPATION.—
6 In carrying out subclause (II)(aa), the
7 Board shall—

8 “(aa) provide notice of and,
9 for a period of not less than 60
10 days, an opportunity for public
11 comment on, any draft or pro-
12 posed version of the requirements
13 described in subclause (II)(aa);
14 and

15 “(bb) take into account pub-
16 lic comments received in devel-
17 oping the final version of those
18 requirements.

19 “(IV) PEER REVIEW.—No finan-
20 cial awards may be provided under
21 this clause until the proposal for
22 which the award is sought has been
23 peer reviewed in accordance with such
24 standards for peer review as are es-
25 tablished by the Administrator.

1 “(iii) DIRECT AIR CAPTURE TECH-
2 NOLOGY ADVISORY BOARD.—

3 “(I) ESTABLISHMENT.—There is
4 established an advisory board to be
5 known as the ‘Direct Air Capture
6 Technology Advisory Board’.

7 “(II) COMPOSITION.—The Board
8 shall be composed of 9 members ap-
9 pointed by the Administrator, who
10 shall provide expertise in—

11 “(aa) climate science;

12 “(bb) physics;

13 “(cc) chemistry;

14 “(dd) biology;

15 “(ee) engineering;

16 “(ff) economics;

17 “(gg) business management;

18 and

19 “(hh) such other disciplines
20 as the Administrator determines
21 to be necessary to achieve the
22 purposes of this subparagraph.

23 “(III) TERM; VACANCIES.—

1 “(aa) TERM.—A member of
2 the Board shall serve for a term
3 of 6 years.

4 “(bb) VACANCIES.—A va-
5 cancy on the Board—

6 “(AA) shall not affect
7 the powers of the Board;
8 and

9 “(BB) shall be filled in
10 the same manner as the
11 original appointment was
12 made.

13 “(IV) INITIAL MEETING.—Not
14 later than 30 days after the date on
15 which all members of the Board have
16 been appointed, the Board shall hold
17 the initial meeting of the Board.

18 “(V) MEETINGS.—The Board
19 shall meet at the call of the Chair-
20 person.

21 “(VI) QUORUM.—A majority of
22 the members of the Board shall con-
23 stitute a quorum, but a lesser number
24 of members may hold hearings.

1 “(VII) CHAIRPERSON AND VICE
2 CHAIRPERSON.—The Board shall se-
3 lect a Chairperson and Vice Chair-
4 person from among the members of
5 the Board.

6 “(VIII) COMPENSATION.—Each
7 member of the Board may be com-
8 pensated at not to exceed the daily
9 equivalent of the annual rate of basic
10 pay in effect for a position at level V
11 of the Executive Schedule under sec-
12 tion 5316 of title 5, United States
13 Code, for each day during which the
14 member is engaged in the actual per-
15 formance of the duties of the Board.

16 “(IX) DUTIES.—The Board shall
17 advise the Administrator on carrying
18 out the duties of the Administrator
19 under this subparagraph.

20 “(X) FACA.—The Federal Advi-
21 sory Committee Act (5 U.S.C. App.)
22 shall apply to the Board.

23 “(iv) INTELLECTUAL PROPERTY.—

24 “(I) IN GENERAL.—As a condi-
25 tion of receiving a financial award

1 under this subparagraph, an applicant
2 shall agree to vest the intellectual
3 property of the applicant derived from
4 the technology in 1 or more entities
5 that are incorporated in the United
6 States.

7 “(II) RESERVATION OF LI-
8 CENSE.—The United States—

9 “(aa) may reserve a non-
10 exclusive, nontransferable, irrev-
11 ocable, paid-up license, to have
12 practiced for or on behalf of the
13 United States, in connection with
14 any intellectual property de-
15 scribed in subclause (I); but

16 “(bb) shall not, in the exer-
17 cise of a license reserved under
18 item (aa), publicly disclose pro-
19 prietary information relating to
20 the license.

21 “(III) TRANSFER OF TITLE.—
22 Title to any intellectual property de-
23 scribed in subclause (I) shall not be
24 transferred or passed, except to an
25 entity that is incorporated in the

1 United States, until the expiration of
2 the first patent obtained in connection
3 with the intellectual property.

4 “(v) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appro-
6 priated to carry out this subparagraph
7 \$25,000,000, to remain available until ex-
8 pended.

9 “(vi) TERMINATION OF AUTHORITY.—
10 The Board and all authority provided
11 under this subparagraph shall terminate
12 on December 31, 2028.

13 “(C) CARBON DIOXIDE UTILIZATION RE-
14 SEARCH.—

15 “(i) DEFINITION OF CARBON DIOXIDE
16 UTILIZATION.—In this subparagraph, the
17 term ‘carbon dioxide utilization’ refers to
18 technologies or approaches that lead to the
19 use of carbon dioxide—

20 “(I) through the fixation of car-
21 bon dioxide through photosynthesis or
22 chemosynthesis, such as through the
23 growing of algae or bacteria;

24 “(II) through the chemical con-
25 version of carbon dioxide to a material

1 or chemical compound in which the
2 carbon dioxide is securely stored; or

3 “(III) through the use of carbon
4 dioxide for any other purpose for
5 which a commercial market exists, as
6 determined by the Administrator.

7 “(ii) PROGRAM.—The Administrator
8 shall carry out a research and development
9 program for carbon dioxide utilization to
10 promote technologies that transform car-
11 bon dioxide generated by industrial proc-
12 esses into a product of commercial value,
13 or as an input to products of commercial
14 value.

15 “(iii) TECHNICAL AND FINANCIAL AS-
16 SISTANCE.—Not later than 2 years after
17 the date of enactment of the USE IT Act,
18 in carrying out this subsection, the Admin-
19 istrator shall support research and infra-
20 structure activities relating to carbon diox-
21 ide utilization by providing technical assist-
22 ance and financial assistance in accordance
23 with clause (iv).

24 “(iv) ELIGIBILITY.—To be eligible to
25 receive technical assistance and financial

1 assistance under clause (iii), a carbon diox-
2 ide utilization project shall—

3 “(I) have access to an emissions
4 stream generated by a stationary
5 source within the United States that
6 is capable of supplying not less than
7 250 metric tons per day of carbon di-
8 oxide for research;

9 “(II) have access to adequate
10 space for a laboratory and equipment
11 for testing small-scale carbon dioxide
12 utilization technologies, with onsite
13 access to larger test bays for scale-up;
14 and

15 “(III) have existing partnerships
16 with institutions of higher education,
17 private companies, States, or other
18 government entities.

19 “(v) COORDINATION.—In supporting
20 carbon dioxide utilization projects under
21 this paragraph, the Administrator shall
22 collaborate, as appropriate, with the head
23 of any relevant Federal agency, States, the
24 private sector, and institutions of higher
25 education to develop methods and tech-

1 nologies to account for the carbon dioxide
2 emissions avoided by the carbon dioxide
3 utilization projects.

4 “(vi) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appro-
6 priated to carry out this subparagraph
7 \$50,000,000, to remain available until ex-
8 pended.

9 “(D) REPORT ON CARBON DIOXIDE NON-
10 REGULATORY STRATEGIES AND TECH-
11 NOLOGIES.—

12 “(i) IN GENERAL.—Not less fre-
13 quently than once every 2 years, the Ad-
14 ministrator shall submit to the Committee
15 on Environment and Public Works of the
16 Senate and the Committee on Energy and
17 Commerce of the House of Representatives
18 a report that describes—

19 “(I) the recipients of assistance
20 under subparagraphs (B) and (C);
21 and

22 “(II) a plan for supporting addi-
23 tional nonregulatory strategies and
24 technologies that could significantly
25 prevent carbon dioxide emissions or

1 reduce carbon dioxide levels in the air,
2 in conjunction with other Federal
3 agencies.

4 “(ii) INCLUSIONS.—The plan sub-
5 mitted under clause (i) shall include—

6 “(I) a methodology for evaluating
7 and ranking technologies based on the
8 ability of the technologies to cost ef-
9 fectively reduce carbon dioxide emis-
10 sions or carbon dioxide levels in the
11 air; and

12 “(II) a description of any nonair-
13 related environmental or energy con-
14 siderations regarding the tech-
15 nologies.”.

16 **TITLE II—IMPROVEMENT OF**
17 **PERMITTING PROCESS FOR**
18 **CARBON DIOXIDE CAPTURE**
19 **AND INFRASTRUCTURE**
20 **PROJECTS**

21 **SEC. 201. INCLUSION OF CARBON CAPTURE INFRASTRUC-**
22 **TURE PROJECTS.**

23 Section 41001(6) of the FAST Act (42 U.S.C.
24 4370m(6)) is amended—

25 (1) in subparagraph (A)—

1 (A) in the matter preceding clause (i), by
2 inserting “carbon capture,” before “renewable
3 or conventional”;

4 (B) in clause (i)(III), by striking “or” at
5 the end;

6 (C) by redesignating clause (ii) as clause
7 (iii); and

8 (D) by inserting after clause (i) the fol-
9 lowing:

10 “(ii) is covered by a programmatic
11 plan or environmental review developed for
12 the primary purpose of facilitating develop-
13 ment of carbon dioxide pipelines; or”; and
14 (2) by adding at the end the following:

15 “(C) ASSOCIATED DEFINITION.—For pur-
16 poses of subparagraph (A), the term ‘construc-
17 tion of infrastructure for carbon capture’ in-
18 cludes construction of any facility, technology,
19 or system that captures, utilizes, or sequesters
20 carbon dioxide emissions and carbon dioxide
21 pipelines.”.

1 **SEC. 202. DEVELOPMENT OF CARBON CAPTURE, UTILIZA-**
2 **TION, AND SEQUESTRATION PERMITTING**
3 **GUIDANCE AND REGIONAL PERMITTING**
4 **TASK FORCE.**

5 (a) DEVELOPMENT OF GUIDANCE.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, the Chair of the
8 Council on Environmental Quality (referred to in
9 this section as the “Chair”), in consultation with the
10 Administrator of the Environmental Protection
11 Agency, the Secretary of Energy, the Secretary of
12 the Interior, and the head of any other relevant Fed-
13 eral agency (as determined by the President), shall
14 prepare guidance—

15 (A) to facilitate reviews associated with the
16 deployment of carbon capture, utilization, and
17 sequestration projects and carbon dioxide pipe-
18 lines; and

19 (B) that identifies current or emerging ac-
20 tivities that transform captured carbon dioxide
21 into a product of commercial value, or as an
22 input to products of commercial value.

23 (2) REQUIREMENTS.—The guidance under
24 paragraph (1) shall—

25 (A) address requirements under—

1 (i) the National Environmental Policy
2 Act of 1969 (42 U.S.C. 4321 et seq.);

3 (ii) the Federal Water Pollution Con-
4 trol Act (33 U.S.C. 1251 et seq.);

5 (iii) the Clean Air Act (42 U.S.C.
6 7401 et seq.);

7 (iv) the Safe Drinking Water Act (42
8 U.S.C. 300f et seq.);

9 (v) the Endangered Species Act of
10 1973 (16 U.S.C. 1531 et seq.);

11 (vi) division A of subtitle III of title
12 54, United States Code (formerly known
13 as the “National Historic Preservation
14 Act”);

15 (vii) the Migratory Bird Treaty Act
16 (16 U.S.C. 703 et seq.);

17 (viii) the Act of June 8, 1940 (16
18 U.S.C. 668 et seq.) (commonly known as
19 the “Bald and Golden Eagle Protection
20 Act”); and

21 (ix) any other Federal law that the
22 Chair determines to be appropriate; and

23 (B) include guidance to States for the de-
24 velopment of programmatic environmental re-
25 views under the National Environmental Policy

1 Act of 1969 (42 U.S.C. 4321 et seq.) for siting,
2 analyzing, and authorizing carbon dioxide pipe-
3 line networks.

4 (3) SUBMISSION; PUBLICATION.—The Chair
5 shall—

6 (A) submit the guidance under paragraph
7 (1) to the Committee on Environment and Pub-
8 lic Works of the Senate and the Committee on
9 Energy and Commerce of the House of Rep-
10 resentatives; and

11 (B) publish and make publicly available
12 the guidance under paragraph (1).

13 (b) TASK FORCE.—

14 (1) ESTABLISHMENT.—Not later than 18
15 months after the date of enactment of this Act, the
16 Chair shall establish not less than 2 task forces,
17 which shall each cover a different geographical area
18 that faces differing demographic, land use, or geo-
19 logical issues, to identify permitting challenges that
20 permitting authorities and project developers and
21 operators face.

22 (2) MEMBERS AND SELECTION.—

23 (A) IN GENERAL.—The Chair shall—

24 (i) develop criteria for the selection of
25 members to each task force; and

1 (ii) select members for each task force
2 in accordance with clause (i) and subpara-
3 graph (B).

4 (B) MEMBERS.—Each task force—

5 (i) shall include not less than 1 rep-
6 resentative of each of—

7 (I) the Environmental Protection
8 Agency;

9 (II) the Department of Energy;

10 (III) the Department of the Inte-
11 rior;

12 (IV) any other Federal agency
13 the Chair determines to be appro-
14 priate;

15 (V) any State that requests par-
16 ticipation in the geographical area
17 covered by the task force;

18 (VI) industry; and

19 (VII) nongovernmental organiza-
20 tions; and

21 (ii) at the request of a Tribal or local
22 government, may include a representative
23 of—

1 (I) not less than 1 local govern-
2 ment in the geographical area covered
3 by the task force; and

4 (II) not less than 1 Tribal gov-
5 ernment in the geographical area cov-
6 ered by the task force.

7 (3) MEETINGS.—

8 (A) IN GENERAL.—Each task force shall
9 meet not less than twice each year.

10 (B) JOINT MEETING.—To the maximum
11 extent practicable, the task forces shall meet
12 collectively not less than once each year.

13 (4) DUTIES.—Each task force shall—

14 (A) inventory existing or potential ap-
15 proaches to facilitate reviews associated with
16 the deployment of carbon capture, utilization,
17 and sequestration projects and carbon dioxide
18 pipelines;

19 (B) develop common models for State-level
20 carbon dioxide pipeline regulation and oversight
21 guidelines that can be shared with States in the
22 geographical area covered by the task force;

23 (C) provide technical assistance to States
24 in the geographical area covered by the task
25 force in implementing regulatory requirements

1 and any models developed under subparagraph
2 (B); and

3 (D) develop guidance for relevant Federal
4 agencies on how to develop and research tech-
5 nologies that—

6 (i) can capture carbon dioxide; and

7 (ii) would be able to be deployed with-
8 in the region covered by the task force, in-
9 cluding any projects that have received
10 technical or financial assistance for re-
11 search under paragraph (6) of section
12 103(g) of the Clean Air Act (42 U.S.C.
13 7403(g)).

14 (5) REPORT.—Each year, each task force shall
15 prepare and submit to the Chair and to the other
16 task forces a report that includes—

17 (A) any recommendations for improve-
18 ments in the issuance or administration of Fed-
19 eral permits and other Federal authorizations
20 required under a law described in subsection
21 (a)(2)(A); and

22 (B) any other nationally relevant informa-
23 tion that the task force has collected in carrying
24 out the duties under paragraph (4).

1 (6) EVALUATION AND REVISION.—The Chair
2 shall—

3 (A) evaluate the reports under paragraph
4 (5) and, as necessary, revise the guidance under
5 subsection (a); and

6 (B) submit to the Committee on Environ-
7 ment and Public Works of the Senate, the Com-
8 mittee on Energy and Commerce of the House
9 of Representatives, and relevant Federal agen-
10 cies each year any revisions to the guidance
11 under subsection (a) and a report that describes
12 any recommendations for legislation, rules, or
13 revisions to rules that would address the issues
14 identified by the task forces under paragraph
15 (5).