

110TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To accelerate the development and early deployment of systems for the capture and storage of carbon dioxide emissions from fossil fuel electric generation facilities, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. BOUCHER (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

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**A BILL**

To accelerate the development and early deployment of systems for the capture and storage of carbon dioxide emissions from fossil fuel electric generation facilities, 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 “Carbon Capture and  
5       Storage Early Deployment Act”.

6       **SEC. 2. DEFINITIONS.**

7               (1) SECRETARY.—The term “Secretary” means  
8       the Secretary of Energy.

1           (2) DISTRIBUTION UTILITY.—The term “dis-  
2           tribution utility” means an electric utility that has  
3           a legal, regulatory, or contractual obligation to de-  
4           liver electricity directly to retail consumers.

5           (3) ELECTRIC UTILITY.—The term “electric  
6           utility” has the meaning provided by section 3(22)  
7           of the Federal Power Act (16 U.S.C. 796(22)).

8           (4) FOSSIL FUEL-BASED ELECTRICITY.—The  
9           term “fossil fuel-based electricity” means electricity  
10          that is produced from the combustion of fossil fuels.

11          (5) FOSSIL FUEL.—The term “fossil fuel”  
12          means coal, petroleum, natural gas or any derivative  
13          of coal, petroleum, or natural gas.

14          (6) CORPORATION.—The term “Corporation”  
15          means the Carbon Storage Research Corporation es-  
16          tablished in accordance with this Act.

17          (7) QUALIFIED INDUSTRY ORGANIZATION.—The  
18          term “qualified industry organization” means any  
19          association or group of owners or operators of dis-  
20          tribution utilities delivering fossil fuel-based elec-  
21          tricity who collectively represent at least 20 percent  
22          of the volume of fossil fuel-based electricity delivered  
23          by distribution utilities to consumers in the United  
24          States.

1 **SEC. 3. CARBON STORAGE RESEARCH CORPORATION.**

2 (a) ESTABLISHMENT.—Qualified industry organiza-  
3 tions may conduct, at their own expense, a referendum  
4 among the owners or operators of distribution utilities de-  
5 livering fossil fuel-based electricity for the creation of a  
6 Carbon Storage Research Corporation. Such referendum  
7 shall be conducted by an independent auditing firm agreed  
8 to by the qualified industry organizations. Voting rights  
9 in such referendum shall be based on the quantity of fossil  
10 fuel-based electricity delivered to consumers in the pre-  
11 vious calendar year or other representative period. Upon  
12 approval of those persons representing two-thirds of the  
13 total quantity of fossil fuel-based electricity delivered to  
14 retail consumers, the Corporation shall be established. All  
15 distribution utilities voting in the referendum shall certify  
16 to the independent auditing firm the quantity of fossil  
17 fuel-based electricity represented by their vote.

18 (b) TERMINATION.—The Corporation shall be au-  
19 thorized to collect assessments and conduct operations  
20 pursuant to this Act for a 10-year period from the date  
21 6 months after the date of enactment of this Act. After  
22 such 10-year period, the Corporation is no longer author-  
23 ized to collect assessments and shall be dissolved on the  
24 date 15 years after such date of enactment, unless the  
25 period is extended by an Act of Congress.

1           (c) GOVERNANCE.—The Corporation shall operate as  
2 a division or affiliate of the Electric Power Research Insti-  
3 tute (EPRI) and be managed by a Board of not more than  
4 12 members responsible for its operations, including com-  
5 pliance with this Act. The Institute, working in consulta-  
6 tion with industry organizations representing investor-  
7 owned utilities, utilities owned by a Federal or State agen-  
8 cy or municipality, and rural electric cooperatives, shall  
9 appoint the Board. The Board shall include at least one  
10 representative of each of the following:

- 11           (1) Investor-owned utilities.
- 12           (2) Utilities owned by a Federal or State agen-  
13           cy or a municipality.
- 14           (3) Rural electric cooperatives.
- 15           (4) Fossil fuel producers.

16           (d) COMPENSATION.—Corporation Board members  
17 shall receive no compensation for their services, nor shall  
18 Corporation Board members be reimbursed for expenses  
19 relating to their service.

20           (e) TERMS.—Corporation Board members shall serve  
21 terms of 4 years and may serve not more than 2 full con-  
22 secutive terms. Members filling unexpired terms may serve  
23 not more than a total of 8 consecutive years. Former  
24 members of the Corporation Board may be reappointed  
25 to the Corporation Board if they have not been members

1 for a period of 2 years. Initial appointments to the Cor-  
2 poration Board shall be for terms of 1, 2, 3, and 4 years,  
3 staggered to provide for the selection of 3 members each  
4 year.

5 (f) STATUS OF CORPORATION.—The Corporation  
6 shall not be considered to be an agency, department, or  
7 instrumentality of the United States, and no officer or di-  
8 rector or employee of the Corporation shall be considered  
9 to be an officer or employee of the United States Govern-  
10 ment, for purposes of title 5 or title 31 of the United  
11 States Code, or for any other purpose, and no funds of  
12 the Corporation shall be treated as public money for pur-  
13 poses of chapter 33 of title 31, United States Code, or  
14 for any other purpose.

15 **SEC. 4. FUNCTIONS AND ADMINISTRATION OF THE COR-**  
16 **PORATION.**

17 (a) IN GENERAL.—Except as provided in subsection  
18 (d), the Corporation shall use all funds derived from as-  
19 sessments under section 5 to issue grants and contracts  
20 to private, academic, and governmental entities with the  
21 purpose of accelerating the commercial demonstration or  
22 availability of carbon dioxide capture and storage tech-  
23 nologies and methods, including technologies which cap-  
24 ture and store, or capture and convert, carbon dioxide.  
25 Grants and awards shall be made on a competitive basis

1 reflecting best overall value and prospect for achieving the  
2 purposes of this Act. Board Members shall not participate  
3 in making grants or awards to entities with whom they  
4 are affiliated. The Corporation may use such funds to pur-  
5 chase carbon dioxide through reverse auctions or other ac-  
6 quisition methods, when needed to conduct tests of carbon  
7 dioxide storage sites, in the case of established projects  
8 that are storing carbon dioxide emissions or for other pur-  
9 poses consistent with the purposes of this Act. The Cor-  
10 poration shall support large-scale demonstrations of car-  
11 bon capture and Storage technologies capable of advanc-  
12 ing the technologies to commercial readiness. Pilot-scale  
13 and similar small-scale projects are not eligible for support  
14 by the Corporation. Supported projects should encompass  
15 a range of different coal and other fossil fuel varieties,  
16 be geographically diverse, involve diverse storage media,  
17 and employ capture and storage, or capture and conver-  
18 sion, technologies potentially suitable either for new or for  
19 retrofit applications. The Board shall also establish poli-  
20 cies regarding the ownership of intellectual property devel-  
21 oped as a result of Corporation grants and other forms  
22 of technology support. Such policies shall encourage indi-  
23 vidual ingenuity and invention.

24 (b) RELATIONSHIP TO DEPARTMENT OF ENERGY  
25 AND ACADEMIC ORGANIZATIONS.—The Board may ap-

1 prove grants or contracts to support programs or projects  
2 under the auspices of the Department of Energy or its  
3 affiliated national laboratories and other fossil energy re-  
4 search entities, including the Regional Carbon Sequestra-  
5 tion Partnerships, where such support promises to accel-  
6 erate the commercial development and demonstration of  
7 carbon capture and storage, or carbon capture and conver-  
8 sion, technologies. Grant and contract support also may  
9 be provided to projects or programs managed by academic  
10 organizations or consortia, where such support promises  
11 to accelerate the commercial development and demonstra-  
12 tion of carbon capture and storage technologies

13 (c) ADMINISTRATION.—The members of the Board of  
14 Directors of the Corporation shall elect a Chairman and  
15 other officers as necessary, may establish committees and  
16 subcommittees of the Corporation, and shall adopt rules  
17 and bylaws for the conduct of business and the implemen-  
18 tation of this Act. The Corporation Board shall consult  
19 with the Electric Power Research Institute Advisory Coun-  
20 cil and the Secretary and the Director of the Department's  
21 National Energy Technology Laboratory to obtain advice  
22 and recommendations on plans, programs, project selec-  
23 tion criteria, and projects to be funded by the Corporation.  
24 The Board shall appoint an Executive Director and pro-

1 fessional support staff who may be employees of the Elec-  
2 tric Power Research Institute.

3 (d) ADMINISTRATIVE EXPENSES.—Up to 5 percent  
4 of the funds collected in any fiscal year under section 5  
5 may be used for the administrative expenses of operating  
6 the Corporation (not including costs incurred in the deter-  
7 mination and collection of the assessments pursuant to  
8 section 5).

9 (e) BUDGET.—Before August 1 each year, the Cor-  
10 poration shall publish for public review and comment a  
11 budget plan for the next calendar year, including the prob-  
12 able costs of all programs, projects, and contracts and a  
13 recommended rate of assessment sufficient to cover such  
14 costs. The Secretary may recommend programs and activi-  
15 ties the Secretary considers appropriate.

16 (f) RECORDS; AUDITS.—The Corporation shall keep  
17 minutes, books, and records that clearly reflect all of the  
18 acts and transactions of the Corporation and make public  
19 such information. The books of the Corporation shall be  
20 audited by a certified public accountant at least once each  
21 fiscal year and at such other times as the Corporation may  
22 designate. Copies of each audit shall be provided to the  
23 Congress, all members of the Corporation, all qualified in-  
24 dustry organizations, and to other members of the indus-  
25 try upon request. If the audit determines that the Cor-

1 poration's practices fail to meet generally accepted ac-  
2 counting principles the assessment collection authority of  
3 the Corporation under section 5 shall be suspended until  
4 a certified public accountant renders a subsequent opinion  
5 that the failure has been corrected.

6 (g) PUBLIC ACCESS.—(1) The Corporation Board's  
7 meetings shall be open to the public and shall occur after  
8 at least 30 days advance public notice. Meetings of the  
9 Board of Directors may be closed to the public where the  
10 agenda of such meetings includes only confidential matters  
11 pertaining to project selection, the award of grants or con-  
12 tracts, personnel matter, or the receipt of legal advice.

13 (2) The minutes of all meetings of the Corporation  
14 shall be made available to and readily accessible by the  
15 public.

16 (h) ANNUAL REPORT.—Each year the Corporation  
17 shall prepare and make publicly available a report which  
18 includes an identification and description of all programs  
19 and projects undertaken by the Corporation during the  
20 previous year as well as those planned for the coming year.  
21 The report shall also detail the allocation or planned allo-  
22 cation of Corporation resources for each such program  
23 and project.

1 **SEC. 5. ASSESSMENTS.**

2 (a) AMOUNT.—(1) In all calendar years following its  
 3 establishment, the Corporation shall collect an assessment  
 4 on distribution utilities for all fossil fuel-based electricity  
 5 delivered directly to retail consumers. The assessments  
 6 shall reflect the relative carbon dioxide emission rates of  
 7 different fossil fuel-based electricity, and initially shall be  
 8 not less than the following amounts for coal, natural gas,  
 9 and oil:

<b>Fuel type</b>	<b>Rate of assessment per kilowatt hour</b>
Coal .....	\$0.00043
Natural Gas .....	\$0.00022
Oil .....	\$0.00032

10 (2) The Corporation is authorized to adjust the as-  
 11 sessments on fossil fuel-based electricity to reflect changes  
 12 in the expected quantities of such electricity from different  
 13 fuel types, such that the assessments generate not less  
 14 than \$1.0 billion and not more than \$1.1 billion annually.  
 15 The Corporation is authorized to supplement assessments  
 16 through additional financial commitments.

17 (b) INVESTMENT OF FUNDS.—Pending disbursement  
 18 pursuant to a program, plan, or project, the Corporation  
 19 may invest funds collected through assessments under this  
 20 section, and any other funds received by the Corporation,  
 21 only in obligations of the United States or any agency  
 22 thereof, in general obligations of any State or any political

1 subdivision thereof, in any interest-bearing account or cer-  
2 tificate of deposit of a bank that is a member of the Fed-  
3 eral Reserve System, or in obligations fully guaranteed as  
4 to principal and interest by the United States.

5 (c) REVERSION OF UNUSED FUNDS.—If the Cor-  
6 poration does not disburse, dedicate or assign 75 percent  
7 or more of the available proceeds of the assessed fees in  
8 any calendar year 7 or more years following its establish-  
9 ment, due to an absence of qualified projects or similar  
10 circumstances, it shall reimburse the remaining  
11 undedicated or unassigned balance of such fees, less ad-  
12 ministrative and other expenses authorized by this Act, to  
13 the distribution utilities upon which such fees were as-  
14 sessed, in proportion to their collected assessments.

15 **SEC. 6. COMPLIANCE WITH CORPORATION ASSESSMENTS.**

16 The Corporation may bring an action in the appro-  
17 priate court of the United States to compel compliance  
18 with an assessment levied by the Corporation under this  
19 Act. A successful action for compliance under this section  
20 may also require payment by the defendant of the costs  
21 incurred by the Corporation in bringing such action.

22 **SEC. 7. MIDCOURSE REVIEW.**

23 Not later than 5 years following establishment of the  
24 Corporation, the Comptroller General of the United States  
25 shall prepare an analysis, and report to Congress, assess-

1 ing the Corporation's activities, including project selection  
2 and methods of disbursement of assessed fees, impacts on  
3 the prospects for commercialization of carbon capture and  
4 storage technologies, and adequacy of funding. The report  
5 shall also make such recommendations as may be appro-  
6 priate in each of these areas. The Corporation shall reim-  
7 burse the Government Accountability Office for the costs  
8 associated with performing this midcourse review.

9 **SEC. 8. RECOVERY OF COSTS.**

10 (a) IN GENERAL.—All costs that are incurred by a  
11 distribution utility to comply with the requirements of this  
12 Act shall be deemed necessary and reasonable costs and  
13 shall be fully and contemporaneously recoverable in all ju-  
14 risdictions. A distribution utility whose transmission, de-  
15 livery, or sales of electric energy are subject to any form  
16 of rate regulation shall not be denied the opportunity to  
17 recover the full amount of the costs associated with com-  
18 plying with this Act, notwithstanding any other law, regu-  
19 lation, rule, administrative order, or any agreement, in-  
20 cluding any settlement agreement, between the distribu-  
21 tion utility and any regulatory authority, including any  
22 State regulatory authority, or any other party.

23 (b) RATEPAYER REBATES.—Regulatory authorities  
24 that approve cost recovery pursuant to section 8(a) may  
25 order rebates to ratepayers to the extent that distribution

1 utilities are reimbursed undedicated or unassigned bal-  
2 ances pursuant to section 5(c).

3 **SEC. 9. LOBBYING RESTRICTIONS.**

4 No funds collected by the Corporation shall be used  
5 in any manner for influencing legislation or elections, ex-  
6 cept that the Corporation may recommend to the Sec-  
7 retary and the Congress changes in this Act or other stat-  
8 utes that would further the purposes of this Act.

9 **SEC. 10. DAVIS-BACON COMPLIANCE.**

10 The Corporation shall ensure that entities receiving  
11 grants, contracts, or other financial support from the Cor-  
12 poration for the project activities authorized by this Act  
13 are in compliance with the Davis-Bacon Act (40 U.S.C.  
14 276a-276a-5).