

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for efficient containment and management of climate change costs.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

(no.) _____

(title) _____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the end, add the following:

2 **TITLE _____—CONTAINING AND**
3 **MANAGING CLIMATE CHANGE**
4 **COSTS EFFICIENTLY**

5 **SEC. __01. SHORT TITLE.**

6 This title may be cited as the “Containing and Man-
7 aging Climate Change Costs Efficiently Act”.

8 **SEC. __02. PURPOSES.**

9 The purposes of this title are—

1 (1) to ensure that the imposition of limits on
2 greenhouse gas emissions will not significantly harm
3 the economy of the United States; and

4 (2) to establish a Carbon Market Efficiency
5 Board to ensure the implementation and maintenance of a stable, functioning, and efficient market
6 in tradeable permits to emit greenhouse gases.

8 **SEC. 03. ESTABLISHMENT OF CARBON MARKET EFFI-**
9 **CIENCY BOARD.**

10 (a) **ESTABLISHMENT.**—There is established a board,
11 to be known as the “Carbon Market Efficiency Board”
12 (referred to in this title as the “Board”).

13 (b) **PURPOSES.**—The purposes of the Board are—

14 (1) to promote the achievement of the environ-
15 mental objectives (including the national mandatory
16 greenhouse gas emissions cap and reduction targets)
17 of this Act;

18 (2) to observe the national greenhouse gas
19 emission market and evaluate periods during which
20 the cost of permits provided under this Act might
21 pose significant harm to the economy;

22 (3) to conduct observation during the 2-year pe-
23 riod following the establishment of a market pro-
24 gram for permits under this Act, and to provide
25 temporary, short-term relief at any time at which

1 the program is determined to pose a significant
2 harm to the economy using the cost relief measures
3 prescribed under section __ 05; and

4 (4) to submit to the President and Congress
5 quarterly reports—

6 (A) describing the status of the greenhouse
7 gas emission market established under this Act,
8 the economic effects of the market, regional, in-
9 dustrial, and consumer responses to the market,
10 any corrective measures that should be carried
11 out to relieve excessive costs of the market, and
12 plans to compensate for those measures;

13 (B) that are timely and succinct to ensure
14 regular monitoring of market trends; and

15 (C) that are prepared independently by the
16 Board.

17 (c) MEMBERSHIP.—

18 (1) COMPOSITION.—The Board shall be com-
19 posed of 7 members, to be appointed by the Presi-
20 dent, by and with the advice and consent of the Sen-
21 ate.

22 (2) REQUIREMENTS.—In appointing members
23 of the Board under paragraph (1), the President
24 shall—

1 (A) ensure fair representation of the finan-
2 cial, agricultural, industrial, and commercial
3 sectors, and the geographical regions, of the
4 United States; and

5 (B) appoint not more than 1 member from
6 each such geographical region.

7 (3) COMPENSATION.—

8 (A) IN GENERAL.—A member of the Board
9 shall be compensated at a rate equal to the
10 daily equivalent of the annual rate of basic pay
11 prescribed for level II of the Executive Schedule
12 under section 5313 of title 5, United States
13 Code, for each day (including travel time) dur-
14 ing which the member is engaged in the per-
15 formance of the duties of the Board.

16 (B) CHAIRPERSON.—The Chairperson of
17 the Board shall be compensated at a rate equal
18 to the daily equivalent of the annual rate of
19 basic pay prescribed for level I of the Executive
20 Schedule under section 5312 of title 5, United
21 States Code, for each day (including travel
22 time) during which the member is engaged in
23 the performance of the duties of the Board.

24 (4) PROHIBITIONS.—

1 (A) CONFLICTS OF INTEREST.—An indi-
2 vidual employed by, or holding any official rela-
3 tionship (including any shareholder) with, any
4 entity engaged in the generation, transmission,
5 distribution, or sale of energy, or an individual
6 who has any pecuniary interest in the genera-
7 tion, transmission, distribution, or sale of en-
8 ergy, shall not be appointed to the Board under
9 this subsection.

10 (B) NO OTHER EMPLOYMENT.—A member
11 of the Board shall not hold any other employ-
12 ment during the term of service of the member.

13 (d) TERM; VACANCIES.—

14 (1) TERM.—

15 (A) IN GENERAL.—The term of a member
16 of the Board shall be 14 years, except that the
17 members first appointed to the Board shall be
18 appointed for terms in a manner that ensures
19 that—

20 (i) the term of not more than 1 mem-
21 ber shall expire during any 2-year period;
22 and

23 (ii) no member serves a term of more
24 than 14 years.

1 (B) OATH OF OFFICE.—A member shall
2 take the oath of office of the Board by not later
3 than 15 days after the date on which the mem-
4 ber is appointed under subsection (c)(1).

5 (C) REMOVAL.—

6 (i) IN GENERAL.—A member may be
7 removed from the Board on determination
8 of the President for cause.

9 (ii) NOTIFICATION.—The President
10 shall submit to Congress a notification of
11 any determination by the President to re-
12 move a member of the Board for cause
13 under clause (i).

14 (2) VACANCIES.—

15 (A) IN GENERAL.—A vacancy on the
16 Board—

17 (i) shall not affect the powers of the
18 Board; and

19 (ii) shall be filled in the same manner
20 as the original appointment was made.

21 (B) SERVICE UNTIL NEW APPOINTMENT.—

22 A member of the Board the term of whom has
23 expired or otherwise been terminated shall con-
24 tinue to serve until the date on which a replace-

1 ment is appointed under subparagraph (A)(ii),
2 as the President determines to be appropriate.

3 (e) CHAIRPERSON AND VICE-CHAIRPERSON.—Of
4 members of the Board, the President shall appoint—

5 (1) 1 member to serve as Chairperson of the
6 Board for a term of 4 years; and

7 (2) 1 member to serve as Vice-Chairperson of
8 the Board for a term of 4 years.

9 (f) MEETINGS.—

10 (1) INITIAL MEETING.—The Board shall hold
11 the initial meeting of the Board as soon as prac-
12 ticable after the date on which all members have
13 been appointed to the Board under subsection
14 (e)(1).

15 (2) PRESIDING OFFICER.—A meeting of the
16 Board shall be presided over by—

17 (A) the Chairperson;

18 (B) in any case in which the Chairperson
19 is absent, the Vice-Chairperson; or

20 (C) in any case in which the Chairperson
21 and Vice-Chairperson are absent, a chairperson
22 pro tempore, to be elected by the members of
23 the Board.

24 **SEC. 04. DUTIES.**

25 (a) INFORMATION GATHERING.—

1 (1) AUTHORITY.—The Board shall collect and
2 analyze relevant market information to promote a
3 full understanding of the dynamics of the market.

4 (2) INFORMATION.—The Board shall gather
5 such information as the Board determines to be ap-
6 propriate regarding the status of the market, includ-
7 ing information relating to—

8 (A) permit allocation and availability;

9 (B) the price of permits;

10 (C) macro- and micro- economic effects of
11 the market; and

12 (D) the success of the market in achieving
13 the environmental objectives of the market.

14 (b) TREATMENT AS PRIMARY ACTIVITY.—

15 (1) IN GENERAL.—During the initial 2-year pe-
16 riod of operation of the Board, information gath-
17 ering under subsection (a) shall be the primary ac-
18 tivity of the Board.

19 (2) SUBSEQUENT AUTHORITY.—After the 2-
20 year period described in paragraph (1), the Board
21 shall assume authority to implement the cost-relief
22 measures described in section __05(a).

23 (c) STUDY.—During the 2-year period beginning on
24 the date on which the market for greenhouse gas permit
25 trading opens under this Act, the Board shall—

1 (1) conduct a study of other markets for
2 tradeable permits to emit covered greenhouse gases
3 in the United States; and

4 (2) not later than 180 days after that date,
5 submit to Congress a report describing the status of
6 the carbon market, specifically with respect to vola-
7 tility within the market and the average price of
8 greenhouse gas permits during that 180-day period.

9 (d) EMPLOYMENT OF COST RELIEF MEASURES.—

10 (1) IN GENERAL.—If the greenhouse gas emis-
11 sion permit program under this Act is determined by
12 the Board to pose a significant harm to the economy
13 of the United States, the Board shall carry out such
14 cost relief measures as the Board determines to be
15 appropriate under section __05(a).

16 (2) INITIAL PERIOD.—During the 2-year period
17 beginning on the date on which the market for
18 greenhouse gas permit trading opens under this Act,
19 if the Board determines that the average daily clos-
20 ing price of greenhouse gas permits during a 180-
21 day period exceeds the upper range of the estimate
22 provided under section __06, the Board shall—

23 (A) increase the quantity of permits that
24 covered entities may borrow from the prescribed

1 allocations of the covered entities for future
2 years; and

3 (B) take subsequent action as described in
4 section __05(a)(2).

5 (3) REQUIREMENTS.—Any action carried out
6 pursuant to this subsection shall be subject to the
7 requirements of section __05(a)(3)(B).

8 (e) REPORTS.—The Board shall submit to the Presi-
9 dent and Congress quarterly reports—

10 (1) describing the status of the greenhouse gas
11 emission market established under this Act, the eco-
12 nomic effects of the market, regional, industrial, and
13 consumer responses to the market, any corrective
14 measures that should be carried out to relieve exces-
15 sive costs of the market, and plans to compensate
16 for those measures; and

17 (2) that are prepared independently by the
18 Board, and not in partnership with Federal agen-
19 cies.

20 **SEC. __05. POWERS.**

21 (a) COST RELIEF MEASURES.—

22 (1) IN GENERAL.—Beginning on the day after
23 the date of expiration of the 2-year period described
24 in section __04(b), the Board may carry out 1 or
25 more of the following cost relief measures to ensure

1 a functioning, stable, and efficient market for
2 tradeable permits to emit greenhouse gases:

3 (A) Increase the quantity of permits that
4 covered entities may borrow from the prescribed
5 allocations of the covered entities for future
6 years.

7 (B) Expand the period during which a cov-
8 ered entity may repay the allocating agency for
9 a permit borrowed as described in subpara-
10 graph (A).

11 (C) Lower the interest rate at which a per-
12 mit may be borrowed as described in subpara-
13 graph (A).

14 (D) Expand the total quantity of permits
15 made available to all covered entities at any
16 given time by borrowing against the total allow-
17 able quantity of permits to be provided for fu-
18 ture years.

19 (2) SUBSEQUENT ACTIONS.—On determination
20 by the Board to carry out a cost relief measure pur-
21 suant to paragraph (1), the Board shall—

22 (A) allow the cost relief measure to be
23 used only during the applicable allocation year;

24 (B) exercise the cost relief measure incre-
25 mentally, and only as needed to avoid signifi-

1 cant economic harm during the applicable allo-
2 cation year;

3 (C) specify the terms of the relief to be
4 achieved using the cost relief measure, includ-
5 ing requirements for entity-level or national
6 market-level compensation to be achieved by a
7 specific date or within a specific time period;

8 (D) in accordance with section __04(e),
9 submit to the President and Congress a report
10 describing the actions carried out by the Board
11 and recommendations for the terms under
12 which the cost relief measure should be author-
13 ized by Congress and carried out by Federal en-
14 tities; and

15 (E) evaluate, at the end of the applicable
16 allocation year, actions that need to be carried
17 out during subsequent years to compensate for
18 any cost relief measure carried out during the
19 applicable allocation year.

20 (3) ACTION ON EXPANSION OF BORROWING.—

21 (A) IN GENERAL.—If the Board carries
22 out a cost relief measure pursuant to paragraph
23 (1) that results in the expansion of borrowing
24 of permits under this Act, and if the average
25 daily closing price of permits for the 180-day

1 period beginning on the date on which bor-
2 rowing is so expanded exceeds the upper range
3 of the estimate provided under section __06,
4 the Board shall increase the quantity of permits
5 available for the applicable allocation year in
6 accordance with this paragraph.

7 (B) REQUIREMENTS.—An increase in the
8 quantity of permits under subparagraph (A)
9 shall—

10 (i) apply to all covered entities;

11 (ii) be allocated in accordance with
12 the applicable formulas and procedures es-
13 tablished under this Act;

14 (iii) be equal to not more than 5 per-
15 cent of the total quantity of permits other-
16 wise available for the applicable allocation
17 year under this Act;

18 (iv) remain in effect only for the ap-
19 plicable allocation year;

20 (v) specify the date by which the in-
21 crease shall be repaid by covered entities
22 through a proportionate reduction of per-
23 mits available for subsequent allocation
24 years; and

1 (vi) require the repayment under
2 clause (v) to be made by not later than the
3 later of—

4 (I) the date that is 15 years after
5 the date on which the increase is pro-
6 vided; and

7 (II) the date on which the subse-
8 quent phase of greenhouse gas reduc-
9 tions takes effect under this Act.

10 (b) ASSESSMENTS.—Not more frequently than semi-
11 annually, the Board may levy on participants in the permit
12 trading system established under this Act, in proportion
13 to the capital stock and surplus of the participants, an
14 assessment sufficient to pay the estimated expenses of the
15 Board and the salaries of members of and employees of
16 the Board during the 180-day period beginning on the
17 date on which the assessment is levied, taking into account
18 any deficit carried forward from the preceding 180-day pe-
19 riod.

20 (c) LIMITATIONS.—Nothing in this section gives the
21 Board the authority—

22 (1) to consider or prescribe entity-level petitions
23 for relief from the costs of the permit allocation and
24 trading programs established under this Act;

1 (2) to carry out any investigative or punitive
2 process under the jurisdiction of any Federal or
3 State court;

4 (3) to interfere with, modify, or adjust the per-
5 mit allocation scheme established under this Act; or

6 (4) to modify the goals of the limits on green-
7 house gas emissions under this Act.

8 **SEC. _06. ESTIMATE OF COSTS TO ECONOMY OF LIMITING**
9 **GREENHOUSE GAS EMISSIONS.**

10 The Director of the Congressional Budget Office,
11 using economic and scientific analyses, shall submit to
12 Congress a report that describes the projected price range
13 at which greenhouse gas permits are expected to trade
14 during the initial 2-year period of the cap and trade sys-
15 tem established under this Act.

16 **SEC. _07. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as are necessary to carry out this title.