

1 Purpose: In the nature of a substitute.

2  
3

4 H. R. 5376

5 To provide for reconciliation pursuant to title II of S. Con. Res.  
6 14.

7 Referred to the Committee on \_\_\_\_\_ and ordered to be  
8 printed

9 Ordered to lie on the table and to be printed

10 AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO  
11 BE PROPOSED BY \_\_\_\_\_

12 Viz:

13 Strike all after the enacting clause and insert the following:

14 SECTION 1. SHORT TITLE.

15 This Act may be cited as the “Inflation Reduction Act of 2022”.

16 TITLE I—COMMITTEE ON FINANCE

17 Subtitle A—Deficit Reduction

18 SEC. 10001. AMENDMENT OF 1986 CODE.

19 Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is  
20 expressed in terms of an amendment to, or repeal of, a section or other provision, the reference  
21 shall be considered to be made to a section or other provision of the Internal Revenue Code of  
22 1986.

23 PART 1—CORPORATE TAX REFORM

24 SEC. 10101. CORPORATE ALTERNATIVE MINIMUM  
25 TAX.

26 (a) Imposition of Tax.—

27 (1) IN GENERAL.—Paragraph (2) of section 55(b) is amended to read as follows:

28 “(2) CORPORATIONS.—

29 “(A) APPLICABLE CORPORATIONS.—In the case of an applicable corporation, the  
30 tentative minimum tax for the taxable year shall be the excess of—

31 “(i) 15 percent of the adjusted financial statement income for the taxable year

1 (as determined under section 56A), over

2 “(ii) the corporate AMT foreign tax credit for the taxable year.

3 “(B) OTHER CORPORATIONS.—In the case of any corporation which is not an  
4 applicable corporation, the tentative minimum tax for the taxable year shall be zero.”.

5 (2) APPLICABLE CORPORATION.—Section 59 is amended by adding at the end the  
6 following new subsection:

7 “(k) Applicable Corporation.—For purposes of this part—

8 “(1) APPLICABLE CORPORATION DEFINED.—

9 “(A) IN GENERAL.—The term ‘applicable corporation’ means, with respect to any  
10 taxable year, any corporation (other than an S corporation, a regulated investment  
11 company, or a real estate investment trust) which meets the average annual adjusted  
12 financial statement income test of subparagraph (B) for one or more taxable years  
13 which—

14 “(i) are prior to such taxable year, and

15 “(ii) end after December 31, 2021.

16 “(B) AVERAGE ANNUAL ADJUSTED FINANCIAL STATEMENT INCOME TEST.—For  
17 purposes of this subsection—

18 “(i) a corporation meets the average annual adjusted financial statement income  
19 test for a taxable year if the average annual adjusted financial statement income of  
20 such corporation **(determined without regard to section 56A(d))** for the 3-  
21 taxable-year period ending with such taxable year exceeds \$1,000,000,000, and

22 “(ii) in the case of a corporation described in paragraph (2), such corporation  
23 meets the average annual adjusted financial statement income test for a taxable  
24 year if—

25 “(I) the corporation meets the requirements of clause (i) for such taxable  
26 year (determined after the application of paragraph (2)), and

27 “(II) the average annual adjusted financial statement income of such  
28 corporation (determined without regard to the application of paragraph (2) )  
29 **and without regard to section 56A(d))** for the 3-taxable-year-period ending  
30 with such taxable year is \$100,000,000 or more.

31 “(C) EXCEPTION.—Notwithstanding subparagraph (A), the term ‘applicable  
32 corporation’ shall not include any corporation which otherwise meets the requirements  
33 of subparagraph (A) if—

34 “(i) such corporation—

35 “(I) has a change in ownership, or

36 “(II) has a specified number (to be determined by the Secretary and which  
37 shall, as appropriate, take into account the facts and circumstances of the  
38 taxpayer) of consecutive taxable years, including the most recent taxable  
39 year, in which the corporation does not meet the average annual adjusted

1 financial statement income test of subparagraph (B), and

2 “(ii) the Secretary determines that it would not be appropriate to continue to  
3 treat such corporation as an applicable corporation.

4 The preceding sentence shall not apply to any corporation if, after the Secretary makes  
5 the determination described in clause (ii), such corporation meets the average annual  
6 adjusted financial statement income test of subparagraph (B) for any taxable year  
7 beginning after the first taxable year for which such determination applies.

8 “(D) SPECIAL RULES FOR DETERMINING APPLICABLE CORPORATION STATUS.—  
9 SOLELY STATUS.—

10 “(i) IN GENERAL.—Solely for purposes of determining whether a corporation is  
11 an applicable corporation under this paragraph (1), all adjusted financial statement  
12 income of persons treated as a single employer with such corporation under  
13 subsection (a) or (b) of section 52 (determined with the modifications  
14 described in clause (ii)) shall be treated as adjusted financial statement of income  
15 of such corporation, and adjusted financial statement income of such corporation  
16 shall be determined without regard to paragraphs (2)(D)(i) and (11) of section  
17 56A(c).

18 “(ii) MODIFICATIONS.—For purposes of this subparagraph—

19 “(I) section 52(a) shall be applied by substituting ‘component  
20 members’ for ‘members’, and

21 “(II) for purposes of applying section 52(b), the term ‘trade or  
22 business’ shall include any activity treated as a trade or business under  
23 paragraph (5) or (6) of section 469(c) (determined without regard to the  
24 phrase ‘To the extent provided in regulations’ in such paragraph (6)).

25 “(iii) COMPONENT MEMBER.—For purposes of this subparagraph, the term  
26 ‘component member’ has the meaning given such term by section 1563(b),  
27 except that the determination shall be made without regard to section  
28 1563(b)(2).

29 “(E) OTHER SPECIAL RULES.—

30 “(i) CORPORATIONS IN EXISTENCE FOR LESS THAN 3 YEARS.—If the corporation  
31 was in existence for less than 3-taxable years, subparagraph (B) shall be applied  
32 on the basis of the period during which such corporation was in existence.

33 “(ii) SHORT TAXABLE YEARS.—Adjusted financial statement income for any  
34 taxable year of less than 12 months shall be annualized by multiplying the  
35 adjusted financial statement income for the short period by 12 and dividing the  
36 result by the number of months in the short period.

37 “(iii) TREATMENT OF PREDECESSORS.—Any reference in this subparagraph to a  
38 corporation shall include a reference to any predecessor of such corporation.

39 “(2) SPECIAL RULE FOR FOREIGN-PARENTED CORPORATIONS.— MULTINATIONAL  
40 GROUPS.—

1 ~~“(A) In general.—Solely“(A) IN GENERAL.—If a corporation is a member of a~~  
2 ~~foreign-parented multinational group for any taxable year, then, solely~~ for  
3 purposes of determining whether a ~~such~~ corporation meets the average annual adjusted  
4 financial statement income test under paragraph (1)(B)(ii)(I), ~~in the case of any~~  
5 ~~corporation which for any taxable year is a member of an international financial~~  
6 ~~reporting group the common parent of which is a foreign corporation, such corporation~~  
7 ~~shall include in~~ **for such taxable year**, the adjusted financial statement income of such  
8 corporation for such taxable year **shall include** the adjusted financial statement income  
9 of all **foreign** members of such group. Solely for purposes of this subparagraph,  
10 adjusted financial statement income shall be determined without regard to paragraphs  
11 (2)(D)(i), (3), (4), and (11) of section 56A(c).

12 ~~“(B) INTERNATIONAL FINANCIAL REPORTING FOREIGN-PARENTED~~  
13 ~~MULTINATIONAL GROUP.—For purposes of subparagraph (A), the term ‘international~~  
14 ~~financial reporting group’ shall have the meaning given such term by section 163(n)~~  
15 ~~(3). ‘foreign-parented multinational group’ means, with respect to any taxable~~  
16 ~~year, two or more entities if—~~

17 ~~“(C) Common parent.—For purposes of subparagraph (A), the term ‘common~~  
18 ~~parent’ has the meaning given such term under section 163(n)(5).“(i) at least one~~  
19 ~~entity is a domestic corporation and another entity is a foreign corporation,~~

20 ~~“(ii) such entities are included in the same applicable financial statement~~  
21 ~~with respect to such year, and~~

22 ~~“(iii) either—~~

23 ~~“(I) the common parent of such entities is a foreign corporation, or~~

24 ~~“(II) if there is no common parent, the entities are treated as having a~~  
25 ~~common parent which is a foreign corporation under subparagraph (D).~~

26 ~~“(C) FOREIGN CORPORATIONS ENGAGED IN A TRADE OR BUSINESS WITHIN THE~~  
27 ~~UNITED STATES.—For purposes of this paragraph, if a foreign corporation is~~  
28 ~~engaged in a trade or business within the United States, such trade or business~~  
29 ~~shall be treated as a separate domestic corporation that is wholly owned by the~~  
30 ~~foreign corporation.~~

31 ~~“(D) OTHER RULES.—The Secretary shall, applying the principles of this~~  
32 ~~section, prescribe rules for the application of this paragraph, including rules for~~  
33 ~~the determination of—~~

34 ~~“(i) the entities (if any) which are to be to be treated under subparagraph~~  
35 ~~(B)(iii)(II) as having a common parent which is a foreign corporation,~~

36 ~~“(ii) the entities to be included in a foreign-parented multinational group,~~  
37 ~~and~~

38 ~~“(iii) the common parent of a foreign-parented multinational group.~~

39 ~~“(3) REGULATIONS OR OTHER GUIDANCE.—The Secretary shall provide regulations or~~  
40 ~~other guidance for the purposes of carrying out this subsection, including regulations or~~  
41 ~~other guidance—~~

1 “(A) providing a simplified method for determining whether a corporation meets the  
2 requirements of paragraph (1), and

3 “(B) addressing the application of this subsection to a corporation that experiences  
4 a change in ownership.”.

5 (3) REDUCTION FOR BASE EROSION AND ANTI-ABUSE TAX.—Section 55(a)(2) is amended  
6 by inserting “plus, in the case of an applicable corporation, the tax imposed by section 59A”  
7 before the period at the end.

8 (4) CONFORMING AMENDMENTS.—

9 (A) Section 55(a) is amended by striking “In the case of a taxpayer other than a  
10 corporation, there” and inserting “There”.

11 (B)(i) Section 55(b)(1) is amended—

12 (I) by striking so much as precedes subparagraph (A) and inserting the  
13 following:

14 “(1) NONCORPORATE TAXPAYERS.—In the case of a taxpayer other than a corporation—”,  
15 and

16 (II) by adding at the end the following new subparagraph:

17 “(D) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term ‘alternative minimum  
18 taxable income’ means the taxable income of the taxpayer for the taxable year—

19 “(i) determined with the adjustments provided in section 56 and section 58, and

20 “(ii) increased by the amount of the items of tax preference described in section  
21 57.

22 If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax  
23 imposed by this section (and, if the regular tax is determined by reference to an amount  
24 other than taxable income, such amount shall be treated as the taxable income of such  
25 taxpayer for purposes of the preceding sentence).”.

26 (ii) Section 860E(a)(4) is amended by striking “55(b)(2)” and inserting “55(b)(1)  
27 (D)”.

28 (iii) Section 897(a)(2)(A)(i) is amended by striking “55(b)(2)” and inserting “55(b)  
29 (1)(D)”.

30 (C) Section 11(d) is amended by striking “the tax imposed by subsection (a)” and  
31 inserting “the taxes imposed by subsection (a) and section 55”.

32 (D) Section 12 is amended by adding at the end the following new paragraph:

33 “(5) For alternative minimum tax, see section 55.”.

34 (E) Section 882(a)(1) is amended by inserting “, 55,” after “section 11”.

35 (F) Section 6425(c)(1)(A) is amended to read as follows:

36 “(A) the sum of—

37 “(i) the tax imposed by section 11 or subchapter L of chapter 1, whichever is

1 applicable, plus

2 “(ii) the tax imposed by section 55, plus

3 “(iii) the tax imposed by section 59A, over”.

4 (G) Section 6655(e)(2) is amended by inserting “, adjusted financial statement  
5 income (as defined in section 56A),” before “and modified taxable income” each place  
6 it appears in subparagraphs (A)(i) and (B)(i).

7 (H) Section 6655(g)(1)(A) is amended by redesignating clauses (ii) and (iii) as  
8 clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new  
9 clause:

10 “(ii) the tax imposed by section 55,”.

11 (b) Adjusted Financial Statement Income.—

12 (1) IN GENERAL.—Part VI of subchapter A of chapter 1 is amended by inserting after  
13 section 56 the following new section:

14 **“SEC. 56A. ADJUSTED FINANCIAL STATEMENT**  
15 **INCOME.**

16 “(a) In General.—For purposes of this part, the term ‘adjusted financial statement income’  
17 means, with respect to any corporation for any taxable year, the net income or loss of the  
18 taxpayer set forth on the taxpayer’s applicable financial statement for such taxable year, adjusted  
19 as provided in this section.

20 “(b) Applicable Financial Statement.—For purposes of this section, the term ‘applicable  
21 financial statement’ means, with respect to any taxable year, an applicable financial statement (as  
22 defined in section 451(b)(3) or as specified by the Secretary in regulations or other guidance)  
23 which covers such taxable year.

24 “(c) General Adjustments.—

25 “(1) STATEMENTS COVERING DIFFERENT TAXABLE YEARS.—Appropriate adjustments  
26 shall be made in adjusted financial statement income in any case in which an applicable  
27 financial statement covers a period other than the taxable year.

28 “(2) SPECIAL RULES FOR RELATED ENTITIES.—

29 “(A) CONSOLIDATED FINANCIAL STATEMENTS.—If the financial results of a taxpayer  
30 are reported on the applicable financial statement for a group of entities, rules similar  
31 to the rules of section 451(b)(5) shall apply.

32 “(B) CONSOLIDATED RETURNS.—Except as provided in regulations prescribed by  
33 the Secretary, if the taxpayer is part of an affiliated group of corporations filing a  
34 consolidated return for any taxable year, adjusted financial statement income for such  
35 group for such taxable year shall take into account items on the group’s applicable  
36 financial statement which are properly allocable to members of such group.

37 “(C) TREATMENT OF DIVIDENDS AND OTHER AMOUNTS.—In the case of any  
38 corporation which is not included on a consolidated return with the taxpayer, adjusted  
39 financial statement income of the taxpayer with respect to such other corporation shall

1 be determined by only taking into account the dividends received from such other  
2 corporation (reduced to the extent provided by the Secretary in regulations or other  
3 guidance) and other amounts which are includible in gross income or deductible as a  
4 loss under this chapter (other than amounts required to be included under sections 951  
5 and 951A or such other amounts as provided by the Secretary) with respect to such  
6 other corporation.

7 “(D) TREATMENT OF PARTNERSHIPS.—

8 “(i) IN GENERAL.—Except as provided by the Secretary, if the taxpayer is a  
9 partner in a partnership, adjusted financial statement income of the taxpayer **with**  
10 **respect to such partnership** shall be adjusted to only take into account the  
11 taxpayer’s distributive share of adjusted financial statement income of such  
12 partnership.

13 “(ii) ADJUSTED FINANCIAL STATEMENT INCOME OF PARTNERSHIPS.—For the  
14 purposes of this part, the adjusted financial statement income of a partnership  
15 shall be the partnership’s net income or loss set forth on such partnership’s  
16 applicable financial statement (adjusted under rules similar to the rules of this  
17 section).

18 “(3) ADJUSTMENTS TO TAKE INTO ACCOUNT CERTAIN ITEMS OF FOREIGN INCOME.—

19 “(A) IN GENERAL.—If, for any taxable year, a taxpayer is a United States  
20 shareholder of one or more controlled foreign corporations, the adjusted financial  
21 statement income of such taxpayer **with respect to such controlled foreign**  
22 **corporation (as determined under paragraph (2)(C))** shall be adjusted to **also** take  
23 into account such taxpayer’s pro rata share (determined under rules similar to the rules  
24 under section 951(a)(2)) of items taken into account in computing the net income or  
25 loss set forth on the applicable financial statement (as adjusted under rules similar to  
26 those that apply in determining adjusted financial statement income) of each such  
27 controlled foreign corporation with respect to which such taxpayer is a United States  
28 shareholder.

29 “(B) NEGATIVE ADJUSTMENTS.—In any case in which the adjustment determined  
30 under subparagraph (A) would result in a negative adjustment for such taxable year—

31 “(i) no adjustment shall be made under this paragraph for such taxable year,  
32 and

33 “(ii) the amount of the adjustment determined under this paragraph for the  
34 succeeding taxable year (determined without regard to this paragraph) shall be  
35 reduced by an amount equal to the negative adjustment for such taxable year.

36 “(4) EFFECTIVELY CONNECTED INCOME.—In the case of a foreign corporation, to  
37 determine adjusted financial statement income, the principles of section 882 shall apply.

38 “(5) ADJUSTMENTS FOR CERTAIN TAXES.—Adjusted financial statement income shall be  
39 appropriately adjusted to disregard any Federal income taxes, or income, war profits, or  
40 excess profits taxes (within the meaning of section 901) with respect to a foreign country or  
41 possession of the United States, which are taken into account on the taxpayer’s applicable  
42 financial statement. To the extent provided by the Secretary, the preceding sentence shall

1 not apply to income, war profits, or excess profits taxes (within the meaning of section 901)  
2 that are imposed by a foreign country or possession of the United States and taken into  
3 account on the taxpayer's applicable financial statement if the taxpayer does not choose to  
4 have the benefits of subpart A of part III of subchapter N for the taxable year. The Secretary  
5 shall prescribe such regulations or other guidance as may be necessary and appropriate to  
6 provide for the proper treatment of current and deferred taxes for purposes of this  
7 paragraph, including the time at which such taxes are properly taken into account.

8 “(6) ADJUSTMENT WITH RESPECT TO DISREGARDED ENTITIES.—Adjusted financial  
9 statement income shall be adjusted to take into account any adjusted financial statement  
10 income of a disregarded entity owned by the taxpayer.

11 “(7) SPECIAL RULE FOR COOPERATIVES.—In the case of a cooperative to which section  
12 1381 applies, the adjusted financial statement income (determined without regard to this  
13 paragraph) shall be reduced by the amounts referred to in section 1382(b) (relating to  
14 patronage dividends and per-unit retain allocations) to the extent such amounts were not  
15 otherwise taken into account in determining adjusted financial statement income.

16 “(8) RULES FOR ALASKA NATIVE CORPORATIONS.—Adjusted financial statement income  
17 shall be appropriately adjusted to allow—

18 “(A) cost recovery and depletion attributable to property the basis of which is  
19 determined under section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C.  
20 1620(c)), and

21 “(B) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of  
22 such Act (43 U.S.C. 1606(i) and 1606(j)) only at such time as the deductions are  
23 allowed for tax purposes.

24 “(9) AMOUNTS ATTRIBUTABLE TO ELECTIONS FOR DIRECT PAYMENT OF CERTAIN  
25 CREDITS.—Adjusted financial statement income shall be appropriately adjusted to disregard  
26 any amount treated as a payment against the tax imposed by subtitle A pursuant to an  
27 election under section 48D(d) or 6417, to the extent such amount was not otherwise taken  
28 into account under paragraph (5).

29 “(10) CONSISTENT TREATMENT OF MORTGAGE SERVICING INCOME OF TAXPAYER OTHER  
30 THAN A REGULATED INVESTMENT COMPANY.—

31 “(A) IN GENERAL.—Adjusted financial statement income shall be adjusted so as not  
32 to include any item of income in connection with a mortgage servicing contract any  
33 earlier than when such income is included in gross income under any other provision  
34 of this chapter.

35 “(B) RULES FOR AMOUNTS NOT REPRESENTING REASONABLE COMPENSATION.—The  
36 Secretary shall provide regulations to prevent the avoidance of taxes imposed by this  
37 chapter with respect to amounts not representing reasonable compensation (as  
38 determined by the Secretary) with respect to a mortgage servicing contract.

39 “(11) ADJUSTMENT WITH RESPECT TO DEFINED BENEFIT PENSIONS.—

40 “(A) IN GENERAL.—Except as otherwise provided in rules prescribed by the  
41 Secretary in regulations or other guidance, adjusted financial statement income shall be  
42 —



1 “(i) adjusted to disregard any amount of income, cost, or expense that would  
2 otherwise be included on the applicable financial statement in connection with  
3 any covered benefit plan,

4 “(ii) increased by any amount of income in connection with any such covered  
5 benefit plan that is included in the gross income of the corporation under any  
6 other provision of this chapter, and

7 “(iii) reduced by deductions allowed under any other provision of this chapter  
8 with respect to any such covered benefit plan.

9 “(B) COVERED BENEFIT PLAN.—For purposes of this paragraph, the term ‘covered  
10 benefit plan’ means—

11 “(i) a defined benefit plan (other than a multiemployer plan described in section  
12 414(f)) if the trust which is part of such plan is an employees’ trust described in  
13 section 401(a) which is exempt from tax under section 501(a),

14 “(ii) any qualified foreign plan (as defined in section 404A(e)), or

15 “(iii) any other defined benefit plan which provides post-employment benefits  
16 other than pension benefits.

17 “(12) TAX-EXEMPT ENTITIES.—In the case of an organization subject to tax under section  
18 511, adjusted financial statement income shall be appropriately adjusted to only take into  
19 account any adjusted financial statement income—

20 “(A) of an unrelated trade or business (as defined in section 513) of such  
21 organization, or

22 “(B) derived from debt-financed property (as defined in section 514) to the extent  
23 that income from such property is treated as unrelated business taxable income.

24 “(13) **DEPRECIATION.—Adjusted financial statement income shall be—**

25 **“(A) reduced by depreciation deductions allowed under section 167 with**  
26 **respect to property to which section 168 applies to the extent of the amount**  
27 **allowed as deductions in computing taxable income for the taxable year, and**

28 **“(B) appropriately adjusted—**

29 **“(i) to disregard any amount of depreciation expense that is taken into**  
30 **account on the taxpayer’s applicable financial statement with respect to such**  
31 **property, and**

32 **“(ii) to take into account any other item specified by the Secretary in order**  
33 **to provide that such property is accounted for in the same manner as it is**  
34 **accounted for under this chapter.**

35 **“(14) QUALIFIED WIRELESS SPECTRUM.—**

36 **“(A) IN GENERAL.—Adjusted financial statement income shall be—**

37 **“(i) reduced by amortization deductions allowed under section 197 with**  
38 **respect to qualified wireless spectrum to the extent of the amount allowed as**  
39 **deductions in computing taxable income for the taxable year, and**

1 **“(ii) appropriately adjusted—**

2 **“(I) to disregard any amount of amortization expense that is taken**  
3 **into account on the taxpayer’s applicable financial statement with**  
4 **respect to such qualified wireless spectrum, and**

5 **“(II) to take into account any other item specified by the Secretary in**  
6 **order to provide that such qualified wireless spectrum is accounted for**  
7 **in the same manner as it is accounted for under this chapter.**

8 **“(B) QUALIFIED WIRELESS SPECTRUM.—For purposes of this paragraph, the**  
9 **term ‘qualified wireless spectrum’ means wireless spectrum which—**

10 **“(i) is used in the trade or business of a wireless telecommunications**  
11 **carrier, and**

12 **“(ii) was acquired after December 31, 2007, and before the date of**  
13 **enactment of this section.**

14 **“(15) SECRETARIAL AUTHORITY TO ADJUST ITEMS.—**The Secretary shall issue regulations  
15 or other guidance to provide for such adjustments to adjusted financial statement income as  
16 the Secretary determines necessary to carry out the purposes of this section, including  
17 adjustments—

18 **“(A) to prevent the omission or duplication of any item, and**

19 **“(B) to carry out the principles of part II of subchapter C of this chapter (relating to**  
20 **corporate liquidations), part III of subchapter C of this chapter (relating to corporate**  
21 **organizations and reorganizations), and part II of subchapter K of this chapter (relating**  
22 **to partnership contributions and distributions).**

23 **“(d) Deduction for Financial Statement Net Operating Loss.—**

24 **“(1) IN GENERAL.—**Adjusted financial statement income (determined after application of  
25 subsection (c) and without regard to this subsection) shall be reduced by an amount equal to  
26 the lesser of—

27 **“(A) the aggregate amount of financial statement net operating loss carryovers to the**  
28 **taxable year, or**

29 **“(B) 80 percent of adjusted financial statement income computed without regard to**  
30 **the deduction allowable under this subsection.**

31 **“(2) FINANCIAL STATEMENT NET OPERATING LOSS CARRYOVER.—**A financial statement  
32 net operating loss for any taxable year shall be a financial statement net operating loss  
33 carryover to each taxable year following the taxable year of the loss. The portion of such  
34 loss which shall be carried to subsequent taxable years shall be the amount of such loss  
35 remaining (if any) after the application of paragraph (1).

36 **“(3) FINANCIAL STATEMENT NET OPERATING LOSS DEFINED.—**For purposes of this  
37 subsection, the term ‘financial statement net operating loss’ means the amount of the net  
38 loss (if any) set forth on the corporation’s applicable financial statement (determined after  
39 application of subsection (c) and without regard to this subsection) for taxable years ending  
40 after December 31, 2019.

1 “(e) Regulations and Other Guidance.—The Secretary shall provide for such regulations and  
2 other guidance as necessary to carry out the purposes of this section, including regulations and  
3 other guidance relating to the effect of the rules of this section on partnerships with income taken  
4 into account by an applicable corporation.”.

5 (2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter  
6 1 is amended by inserting after the item relating to section 56 the following new item:

7 “Sec.56A.Adjusted financial statement income.”.

8 (c) Corporate AMT Foreign Tax Credit.—Section 59, as amended by this section, is amended  
9 by adding at the end the following new subsection:

10 “(l) Corporate AMT Foreign Tax Credit.—

11 “(1) IN GENERAL.—For purposes of this part, if an applicable corporation chooses to have  
12 the benefits of subpart A of part III of subchapter N for any taxable year, the corporate  
13 AMT foreign tax credit for the taxable year of the applicable corporation is an amount equal  
14 to sum of—

15 “(A) the lesser of—

16 “(i) the aggregate of the applicable corporation’s pro rata share (as determined  
17 under section 56A(c)(3)) of the amount of income, war profits, and excess profits  
18 taxes (within the meaning of section 901) imposed by any foreign country or  
19 possession of the United States which are—

20 “(I) taken into account on the applicable financial statement of each  
21 controlled foreign corporation with respect to which the applicable  
22 corporation is a United States shareholder, and

23 “(II) paid or accrued (for Federal income tax purposes) by each such  
24 controlled foreign corporation, or

25 “(ii) the product of the amount of the adjustment under section 56A(c)(3) and  
26 the percentage specified in section 55(b)(2)(A)(i), and

27 “(B) in the case of an applicable corporation that is a domestic corporation, the  
28 amount of income, war profits, and excess profits taxes (within the meaning of section  
29 901) imposed by any foreign country or possession of the United States to the extent  
30 such taxes are—

31 “(i) taken into account on the applicable corporation’s applicable financial  
32 statement, and

33 “(ii) paid or accrued (for Federal income tax purposes) by the applicable  
34 corporation.

35 “(2) CARRYOVER OF EXCESS TAX PAID.—For any taxable year for which an applicable  
36 corporation chooses to have the benefits of subpart A of part III of subchapter N, the excess  
37 of the amount described in paragraph (1)(A)(i) over the amount described in paragraph (1)  
38 (A)(ii) shall increase the amount described in paragraph (1)(A)(i) in any of the first 5  
39 succeeding taxable years to the extent not taken into account in a prior taxable year.

40 “(3) REGULATIONS OR OTHER GUIDANCE.—The Secretary shall provide for such

1 regulations or other guidance as is necessary to carry out the purposes of this subsection.”.

2 (d) Treatment of General Business Credit.—Section 38(c)(6)(E) is amended to read as  
3 follows:

4 “(E) CORPORATIONS.—In the case of a corporation—

5 “(i) the first sentence of paragraph (1) shall be applied by substituting ‘25  
6 percent of the taxpayer’s net income tax as exceeds \$25,000’ for ‘the greater of’  
7 and all that follows,

8 “(ii) paragraph (2)(A) shall be applied without regard to clause (ii)(I) thereof,  
9 and

10 “(iii) paragraph (4)(A) shall be applied without regard to clause (ii)(I) thereof.”.

11 (e) Credit for Prior Year Minimum Tax Liability.—

12 (1) IN GENERAL.—Section 53(e) is amended to read as follows:

13 “(e) Application to Applicable Corporations.—In the case of a corporation—

14 “(1) subsection (b)(1) shall be applied by substituting ‘the net minimum tax for all prior  
15 taxable years beginning after 2022’ for ‘the adjusted net minimum tax imposed for all prior  
16 taxable years beginning after 1986’, and

17 “(2) the amount determined under subsection (c)(1) shall be increased by the amount of  
18 tax imposed under section 59A for the taxable year.”.

19 (2) CONFORMING AMENDMENTS.—Section 53(d) is amended—

20 (A) in paragraph (2), by striking “, except that in the case” and all that follows  
21 through “treated as zero”, and

22 (B) by striking paragraph (3).

23 (f) Effective Date.—The amendments made by this section shall apply to taxable years  
24 beginning after December 31, 2022.

25 **PART 2—CLOSING THE CARRIED INTEREST LOOPHOLE**  
26 **2—EXCISE TAX ON REPURCHASE OF CORPORATE**  
27 **STOCK**

28 **SEC. 10201. MODIFICATION OF RULES FOR**  
29 **PARTNERSHIP INTERESTS HELD IN CONNECTION**  
30 **WITH THE PERFORMANCE OF SERVICES. SEC. 10201.**  
31 **EXCISE TAX ON REPURCHASE OF CORPORATE**  
32 **STOCK.**

33 (a) In General.—Section 1061 is amended by striking subsections (a) and (b) and inserting the  
34 following new subsections:**(a) In General.—Subtitle D is amended by inserting after chapter**  
35 **36 the following new chapter:**

1 ~~“(a) In General.—If one or more applicable partnership interests~~  
2 ~~are held by a taxpayer at any time~~ **“CHAPTER 37—**  
3 **REPURCHASE OF CORPORATE STOCK**

4 **“Sec.4501.Repurchase of corporate stock.**

5 **“SEC. 4501. REPURCHASE OF CORPORATE STOCK.**

6 **“(a) General Rule.—There is hereby imposed on each covered corporation a tax equal to**  
7 **1 percent of the fair market value of any stock of the corporation which is repurchased by**  
8 **such corporation** during the taxable year, ~~the taxpayer’s net applicable partnership gain for such~~  
9 ~~taxable year shall be treated as short-term capital gain.~~

10 ~~“(b) Net Applicable Partnership Gain.—For~~ **“(b) Covered Corporation.—For purposes of**  
11 **this section, the term ‘covered corporation’ means any domestic corporation the stock of**  
12 **which is traded on an established securities market (within the meaning of section 7704(b)**  
13 **(1)).**

14 **“(c) Repurchase.—For** purposes of this section—

15 **“(1) IN GENERAL.—The term ‘net applicable partnership gain’ means—**

16 **“(A) the taxpayer’s net long-term capital gain determined by only taking into account**  
17 **gains and losses with respect to one or more applicable partnership interests described in**  
18 **subsection (a), and**

19 **“(B) any other amounts which are—**

20 **“(i) includible in the gross income of the taxpayer with respect to one or more such**  
21 **applicable partnership interests, and**

22 **“(ii) treated as capital gain or subject to tax at the rate applicable to capital gain.**

23 **“(2) Holding period exception.—**

24 **“(A) In general.—Net applicable partnership gain shall be determined without regard to**  
25 **any amount which is realized after the date that is 5 years after the latest of:**

26 **“(i) The date on which the taxpayer acquired substantially all of the applicable**  
27 **partnership interest with respect to which the amount is realized.**

28 **“(ii) The date on which the partnership in which such applicable partnership interest is**  
29 **held acquired substantially all of the assets held by such partnership.**

30 **“(iii) If the partnership described in clause (i) owns ‘repurchase’ means—**

31 **“(A) a redemption within the meaning of section 317(b) with regard to the stock**  
32 **of a covered corporation, and**

33 **“(B) any transaction determined by the Secretary to be economically similar to**  
34 **a transaction described in subparagraph (A).**

35 **“(2) TREATMENT OF PURCHASES BY SPECIFIED AFFILIATES.—**

36 **“(A) IN GENERAL.—The acquisition of stock of a covered corporation by a**

1 specified affiliate of such covered corporation, from a person who is not the  
2 covered corporation or a specified affiliate of such covered corporation, shall be  
3 treated as a repurchase of the stock of the covered corporation by such covered  
4 corporation.

5 **“(B) SPECIFIED AFFILIATE.—**For purposes of this section, the term ‘specified  
6 affiliate’ means, with respect to any corporation—

7 **“(i) any corporation more than 50 percent of the stock of which is owned**  
8 **(by vote or by value),** directly or indirectly, interests in one or more other  
9 partnerships, the dates determined by applying rules similar to the rules in clauses  
10 (i) and (ii) in the case of each such other partnership; **by such corporation, and**

11 **“(B) Shorter holding period in certain circumstances.—**Subparagraph (A) shall  
12 be applied by substituting ‘3 years’ for ‘5 years’ in the case of—**“(ii) any**  
13 **partnership more than 50 percent of the capital interests or profits interests**  
14 **of which is held, directly or indirectly, by such corporation.**

15 **“(i) a taxpayer (other than a trust or estate) with an adjusted gross income (determined**  
16 **without regard to sections 911, 931 and 933) of less than \$400,000, and**

17 **“(ii) any income.”****(3) ADJUSTMENT.—**The amount taken into account under  
18 **subsection (a)** with respect to any applicable partnership interest that is attributable to a real  
19 property trade or business within the meaning of section 469(c)(7)(C).

20 **“(iii) The Secretary is directed to provide guidance regarding determination of the**  
21 **amount described in subsection (a) as applied in paragraph (1) hereof, and any necessary**  
22 **and appropriate reporting by any partnership to carry out the purposes of this section.—**

23 **“(3) Section 83 to not apply.—**This section shall be applied without regard to section 83  
24 and any election in effect under section 83(b).

25 **“(4) Special rule.—**To the extent provided by the Secretary, subsection (a) shall not apply  
26 to income or gain attributable to any asset not held for portfolio investment on behalf of  
27 third party investors.”.

28 **(b) Modifications Related to Definition of Applicable Partnership Interest.—**Section  
29 1061(c) is amended—

30 **(1) in paragraph (1), by striking “to such other entity” and inserting “with respect to a**  
31 **trade or business that is not an applicable trade or business”;**

32 **(2) in paragraph (3), by striking “an interest in a partnership to the extent of the**  
33 **partnership’s proportionate interest in any of the foregoing” and inserting “except as**  
34 **otherwise provided by the Secretary, an interest in a partnership if such partnership has a**  
35 **direct or indirect interest in any of the foregoing”, and**

36 **(3) in paragraph (4)—**

37 **(A) by striking “The term” and inserting “Except as otherwise provided by the Secretary,**  
38 **the term”, and**

39 **(B) in subparagraph (A), by striking “corporation” and inserting “C corporation”;**

40 **(c) Recognition of Gain on Transfers of Applicable Partnership Interests to Unrelated**

1 Parties.—Section 1061(d) is amended to read as follows:

2 “(d) Transfer of Applicable Partnership Interest.—If a taxpayer transfers any applicable  
3 partnership interest, gain shall be recognized notwithstanding any other provision of this  
4 subtitle.”.

5 (d) Regulations.—Section 1061(e) is amended by striking the period at the end and  
6 inserting the following: “, including regulations or other guidance to—

7 “(1) to prevent the avoidance of the purposes of this section, including through the  
8 distribution of property by a partnership and through carry waivers, and

9 “(2) to provide for the application of this section to financial instruments, contracts or  
10 interests in entities other than partnerships to the extent stock repurchased by a covered  
11 corporation shall be reduced by the fair market value of any stock issued by the  
12 covered corporation during the taxable year, including the fair market value of any  
13 stock issued or provided to employees of such covered corporation or employees of a  
14 specified affiliate of such covered corporation during the taxable year, whether or not  
15 such stock is issued or provided in response to the exercise of an option to purchase  
16 such stock.

17 “(d) Special Rules for Acquisition of Stock of Certain Foreign Corporations.—

18 “(1) IN GENERAL.—In the case of an acquisition of stock of an applicable foreign  
19 corporation by a specified affiliate of such corporation (other than a foreign  
20 corporation or a foreign partnership (unless such partnership has a domestic entity as  
21 a direct or indirect partner)) from a person who is not the applicable foreign  
22 corporation or a specified affiliate of such applicable foreign corporation, for purposes  
23 of this section—

24 “(A) such specified affiliate shall be treated as a covered corporation with  
25 respect to such acquisition,

26 “(B) such acquisition shall be treated as a repurchase of stock of a covered  
27 corporation by such covered corporation, and

28 “(C) the adjustment under subsection (c)(3) shall be determined only with  
29 respect to stock issued or provided by such specified affiliate to employees of the  
30 specified affiliate.

31 “(2) SURROGATE FOREIGN CORPORATIONS.—In the case of a repurchase of stock of a  
32 covered surrogate foreign corporation by such covered surrogate foreign corporation,  
33 or an acquisition of stock of a covered surrogate foreign corporation by a specified  
34 affiliate of such corporation, for purposes of this section—

35 “(A) the expatriated entity with respect to such covered surrogate foreign  
36 corporation shall be treated as a covered corporation with respect to such  
37 repurchase or acquisition,

38 “(B) such repurchase or acquisition shall be treated as a repurchase of stock of  
39 a covered corporation by such covered corporation, and

40 “(C) the adjustment under subsection (c)(3) shall be determined only with  
41 respect to stock issued or provided by such expatriated entity to employees of the

1 expatriated entity.

2 **“(3) DEFINITIONS.—For purposes of this subsection—**

3 **“(A) APPLICABLE FOREIGN CORPORATION.—The term ‘applicable foreign**  
4 **corporation’ means any foreign corporation the stock of which is traded on an**  
5 **established securities market (within the meaning of section 7704(b)(1)).**

6 **“(B) COVERED SURROGATE FOREIGN CORPORATION.—The term ‘covered**  
7 **surrogate foreign corporation’ means any surrogate foreign corporation (as**  
8 **determined under section 7874(a)(2)(B) by substituting ‘September 20, 2021’ for**  
9 **‘March 4, 2003’ each place it appears) the stock of which is traded on an**  
10 **established securities market (within the meaning of section 7704(b)(1)), but only**  
11 **with respect to taxable years which include any portion of the applicable period**  
12 **with respect to such corporation under section 7874(d)(1).**

13 **“(C) EXPATRIATED ENTITY.—The term ‘expatriated entity’ has the meaning**  
14 **given such term by section 7874(a)(2)(A).**

15 **“(e) Exceptions.—Subsection (a) shall not apply—**

16 **“(1) to the extent that the repurchase is part of a reorganization (within the meaning**  
17 **of section 368(a)) and no gain or loss is recognized on such repurchase by the**  
18 **shareholder under chapter 1 by reason of such reorganization,**

19 **“(2) in any case in which the stock repurchased is, or an amount of stock equal to**  
20 **the value of the stock repurchased is, contributed to an employer-sponsored**  
21 **retirement plan, employee stock ownership plan, or similar plan,**

22 **“(3) in any case in which the total value of the stock repurchased during the taxable**  
23 **year does not exceed \$1,000,000,**

24 **“(4) under regulations prescribed by the Secretary, in cases in which the repurchase**  
25 **is by a dealer in securities in the ordinary course of business,**

26 **“(5) to repurchases by a regulated investment company (as defined in section 851)**  
27 **or a real estate investment trust, or**

28 **“(6) to the extent that the repurchase is treated as a dividend for purposes of this**  
29 **title.**

30 **“(f) Regulations and Guidance.—The Secretary shall prescribe such regulations and**  
31 **other guidance as are necessary or appropriate to carry out, and to prevent the avoidance of,**  
32 **the purposes of this section.”. section, including regulations and other guidance—**

33 **“(1) to prevent the abuse of the exceptions provided by subsection (e),**

34 **“(2) to address special classes of stock and preferred stock, and**

35 **“(3) for the application of the rules under subsection (d).”.**

36 **(b) Tax Not Deductible.—Paragraph (6) of section 275(a) is amended by inserting “37,”**  
37 **before “41”.**

38 **(c) Clerical Amendment.—The table of chapters for subtitle D is amended by inserting**  
39 **after the item relating to chapter 36 the following new item:**



## 1 “Chapter 37—Repurchase of Corporate Stock”.

2 (d) Effective Date.—The amendments made by this section shall apply to repurchases  
3 (within the meaning of section 4501(c) of the Internal Revenue Code of 1986, as added by  
4 this section) of stock after December 31, 2022.

5  
6 ~~\* 3 (e) Effective Date.—The amendments made by this section  
7 shall apply to taxable years beginning after December 31, 2022.~~

### 8 PART 3—FUNDING THE INTERNAL REVENUE SERVICE 9 AND IMPROVING TAXPAYER COMPLIANCE

#### 10 SEC. 10301. ENHANCEMENT OF INTERNAL REVENUE 11 SERVICE RESOURCES.

12 (a) ~~In General.—The Appropriations.—~~

13 ~~(1) In general.—The~~ following sums are appropriated, out of any money in the Treasury not  
14 otherwise appropriated, for the fiscal year ending September 30, 2022:

15 ~~(A)(1)~~ INTERNAL REVENUE SERVICE.—

16 ~~(A)~~ IN GENERAL.—

17 ~~(i)~~ TAXPAYER SERVICES.—For necessary expenses of the Internal Revenue  
18 Service to provide taxpayer services, including pre-filing assistance and  
19 education, filing and account services, taxpayer advocacy services, and other  
20 services as authorized by 5 U.S.C. 3109, at such rates as may be determined by  
21 the Commissioner, \$3,181,500,000, to remain available until September 30, 2031:  
22 Provided, That these amounts shall be in addition to amounts otherwise available  
23 for such purposes.

24 ~~(ii)~~ ENFORCEMENT.—For necessary expenses for tax enforcement activities  
25 of the Internal Revenue Service to determine and collect owed taxes, to provide  
26 legal and litigation support, to conduct criminal investigations (including  
27 investigative technology), to provide digital asset monitoring and compliance  
28 activities, to enforce criminal statutes related to violations of internal revenue  
29 laws and other financial crimes, to purchase and hire passenger motor vehicles  
30 (31 U.S.C. 1343(b)), and to provide other services as authorized by 5 U.S.C.  
31 3109, at such rates as may be determined by the Commissioner, \$45,637,400,000,  
32 to remain available until September 30, 2031: Provided, That these amounts shall  
33 be in addition to amounts otherwise available for such purposes.

34 ~~(iii)~~ OPERATIONS SUPPORT.—For necessary expenses of the Internal  
35 Revenue Service to support taxpayer services and enforcement programs,  
36 including rent payments; facilities services; printing; postage; physical security;  
37 headquarters and other IRS-wide administration activities; research and statistics

1 of income; telecommunications; information technology development,  
2 enhancement, operations, maintenance, and security; the hire of passenger motor  
3 vehicles (31 U.S.C. 1343(b)); the operations of the Internal Revenue Service  
4 Oversight Board; and other services as authorized by 5 U.S.C. 3109, at such rates  
5 as may be determined by the Commissioner, \$25,326,400,000, to remain available  
6 until September 30, 2031: Provided, That these amounts shall be in addition to  
7 amounts otherwise available for such purposes.

8 ~~(IV)~~(iv) BUSINESS SYSTEMS MODERNIZATION.—For necessary expenses of the  
9 Internal Revenue Service’s business systems modernization program, including  
10 development of callback technology and other technology to provide a more  
11 personalized customer service but not including the operation and maintenance of  
12 legacy systems, \$4,750,700,000, to remain available until September 30, 2031:  
13 Provided, That these amounts shall be in addition to amounts otherwise available  
14 for such purposes.

15 ~~(ii)~~(B) TASK FORCE TO DESIGN AN IRS-RUN FREE “DIRECT EFILE” TAX RETURN  
16 SYSTEM.—For necessary expenses of the Internal Revenue Service to deliver to  
17 Congress, within nine months following the date of the enactment of this Act, a report  
18 on (I) the cost (including options for differential coverage based on taxpayer adjusted  
19 gross income and return complexity) of developing and running a free direct efile tax  
20 return system, including costs to build and administer each release, with a focus on  
21 multi-lingual and mobile-friendly features and safeguards for taxpayer data; (II)  
22 taxpayer opinions, expectations, and level of trust, based on surveys, for such a free  
23 direct efile system; and (III) the opinions of an independent third-party on the overall  
24 feasibility, approach, schedule, cost, organizational design, and Internal Revenue  
25 Service capacity to deliver such a direct efile tax return system, \$15,000,000, to remain  
26 available until September 30, 2023: Provided, That these amounts shall be in addition  
27 to amounts otherwise available for such purposes.

28 ~~(B)~~(2) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—For necessary  
29 expenses of the Treasury Inspector General for Tax Administration in carrying out the  
30 Inspector General Act of 1978, as amended, including purchase and hire of passenger motor  
31 vehicles (31 U.S.C. 1343(b)); and services authorized by 5 U.S.C. 3109, at such rates as  
32 may be determined by the Inspector General for Tax Administration, \$403,000,000, to  
33 remain available until September 30, 2031: Provided, That these amounts shall be in  
34 addition to amounts otherwise available for such purposes.

35 ~~(G)~~(3) OFFICE OF TAX POLICY.—For necessary expenses of the Office of Tax Policy of  
36 the Department of the Treasury to carry out functions related to promulgating regulations  
37 under the Internal Revenue Code of 1986, \$104,533,803, to remain available until  
38 September 30, 2031: Provided, That these amounts shall be in addition to amounts  
39 otherwise available for such purposes.

40 ~~(D)~~(4) UNITED STATES TAX COURT.—For necessary expenses of the United States Tax  
41 Court, including contract reporting and other services as authorized by 5 U.S.C. 3109;  
42 \$153,000,000, to remain available until September 30, 2031: Provided, That these amounts  
43 shall be in addition to amounts otherwise available for such purposes.

44 ~~(E)~~(5) TREASURY DEPARTMENTAL OFFICES.—For necessary expenses of the

1 Departmental Offices of the Department of the Treasury to provide for oversight and  
2 implementation support for actions by the Internal Revenue Service to implement this Act  
3 and the amendments made by this Act, \$50,000,000, to remain available until September  
4 30, 2031: Provided, That these amounts shall be in addition to amounts otherwise available  
5 for such purposes.

6 ~~(2) Multi-year operational plan.—~~

7 ~~(A) In general.—Not later than 6 months after the date of the enactment of this Act, the~~  
8 ~~Commissioner of Internal Revenue shall submit to Congress a plan detailing how the funds~~  
9 ~~appropriated under paragraph (1)(A)(i) will be spent over the ten-year period ending with fiscal~~  
10 ~~year 2031.~~

11 ~~(B) Quarterly updates.—~~

12 ~~(i) In general.—Not later than the last day of each calendar quarter beginning during the~~  
13 ~~applicable period, the Commissioner of Internal Revenue shall submit to Congress a report on~~  
14 ~~the plan established under subparagraph (A), including—~~

15 ~~(I) any updates to the plan;~~

16 ~~(II) progress made in implementing the plan; and~~

17 ~~(III) any changes in circumstances or challenges in implementing the plan.~~

18 ~~(ii) Applicable period.—For purposes of clause (i), the applicable period is the period~~  
19 ~~beginning 1 year after the date the report under subparagraph (A) is due and ending on~~  
20 ~~September 30, 2031.~~

21 ~~(C) Reduction in appropriation.—~~

22 ~~(i) In general.—In the case of any failure to submit a plan required under subparagraph (A) or~~  
23 ~~a report required under subparagraph (B) by the required date, the amounts made available under~~  
24 ~~paragraph (1)(A)(i) shall be reduced by \$100,000 for each day after such required date that report~~  
25 ~~has not been submitted to Congress.~~

26 ~~(ii) Required date.—For purposes of clause (i), the required date is the date that is 60 days~~  
27 ~~after the date the plan or report is required to be submitted under subparagraph (A) or (B), as the~~  
28 ~~case may be.~~

29 ~~(3) No tax increases on certain taxpayers.—Nothing in this subsection~~ **(b) No Tax Increases**  
30 **on Certain Taxpayers.—Nothing in this section** is intended to increase taxes on any taxpayer  
31 **or small business** with a taxable income below \$400,000. **Further, nothing in this section is**  
32 **intended to increase taxes on any taxpayer not in the top 1 percent.** ~~(b) Personnel~~  
33 ~~Flexibilities.—The Secretary of the Treasury (or the Secretary's delegate) may use the funds~~  
34 ~~made available under subsection (a)(1)(A), subject to such policies as the Secretary (or the~~  
35 ~~Secretary's delegate) may establish, to take such personnel actions as the Secretary (or the~~  
36 ~~Secretary's delegate) determines necessary to administer the Internal Revenue Code of 1986,~~  
37 ~~including—~~

38 ~~(1) utilizing direct hire authority to recruit and appoint qualified applicants, without regard to~~  
39 ~~any notice or preference requirements, directly to positions in the competitive service;~~

40 ~~(2) in addition to the authority under section 7812(1) of the Internal Revenue Code of 1986,~~

1 appointing not more than 200 individuals to positions in the Internal Revenue Service under  
2 streamlined critical pay authority, except that—

3 (A) the authority to offer streamlined critical pay under this paragraph shall expire on  
4 September 30, 2031; and

5 (B) the positions for which streamlined critical pay is authorized under this paragraph may  
6 include positions critical to the purposes described in subclauses (I), (II), and (III) of subsection  
7 (a)(1)(A)(i); and

8 (3) appointing not more than 300 individuals to positions in the Internal Revenue Service for  
9 which—

10 (A) the rate of basic pay may be established by the Secretary of the Treasury (or the  
11 Secretary's delegate) at a rate that does not exceed the salary set in accordance with section 104  
12 of title 3, United States Code; and

13 (B) the total annual compensation paid to an employee in such a position, including  
14 allowances, differentials, bonuses, awards, and similar cash payments, may not exceed the  
15 maximum amount of total annual compensation payable at the salary set in accordance with  
16 section 104 of title 3, United States Code.

## 17 Subtitle B—Prescription Drug Pricing Reform

### 18 PART 1—LOWERING PRICES THROUGH DRUG PRICE 19 NEGOTIATION

#### 20 SEC. 11001. PROVIDING FOR LOWER PRICES FOR 21 CERTAIN HIGH-PRICED SINGLE SOURCE DRUGS.

22 (a) Program To Lower Prices for Certain High-Priced Single Source Drugs.—Title XI of the  
23 Social Security Act is amended by adding after section 1184 (42 U.S.C. 1320e-3) the following  
24 new part:

#### 25 “PART E—PRICE NEGOTIATION PROGRAM TO LOWER 26 PRICES FOR CERTAIN HIGH-PRICED SINGLE SOURCE 27 DRUGS

##### 28 “SEC. 1191. ESTABLISHMENT OF PROGRAM.

29 “(a) In General.—The Secretary shall establish a Drug Price Negotiation Program (in this part  
30 referred to as the ‘program’). Under the program, with respect to each price applicability period,  
31 the Secretary shall—

32 “(1) publish a list of selected drugs in accordance with section 1192;

33 “(2) enter into agreements with manufacturers of selected drugs with respect to such  
34 period, in accordance with section 1193;

35 “(3) negotiate and, if applicable, renegotiate maximum fair prices for such selected drugs,

1 in accordance with section 1194;

2 “(4) carry out the publication and administrative duties and compliance monitoring in  
3 accordance with sections 1195 and 1196.

4 “(b) Definitions Relating to Timing.—For purposes of this part:

5 “(1) INITIAL PRICE APPLICABILITY YEAR.—The term ‘initial price applicability year’  
6 means a year (beginning with 2026).

7 “(2) PRICE APPLICABILITY PERIOD.—The term ‘price applicability period’ means, with  
8 respect to a qualifying single source drug, the period beginning with the first initial price  
9 applicability year with respect to which such drug is a selected drug and ending with the last  
10 year during which the drug is a selected drug.

11 “(3) SELECTED DRUG PUBLICATION DATE.—The term ‘selected drug publication date’  
12 means, with respect to each initial price applicability year, February 1 of the year that  
13 begins 2 years prior to such year.

14 “(4) NEGOTIATION PERIOD.—The term ‘negotiation period’ means, with respect to an  
15 initial price applicability year with respect to a selected drug, the period—

16 “(A) beginning on the sooner of—

17 “(i) the date on which the manufacturer of the drug and the Secretary enter into  
18 an agreement under section 1193 with respect to such drug; or

19 “(ii) February 28 following the selected drug publication date with respect to  
20 such selected drug; and

21 “(B) ending on November 1 of the year that begins 2 years prior to the initial price  
22 applicability year.

23 “(c) Other Definitions.—For purposes of this part:

24 “(1) **MANUFACTURER.—The term ‘manufacturer’ has the meaning given that term**  
25 **in section 1847A(c)(6)(A).**

26 “(2) **MAXIMUM FAIR PRICE ELIGIBLE INDIVIDUAL.—The term ‘maximum fair price**  
27 **eligible individual’ means, with respect to a selected drug—**

28 “(A) in the case such drug is dispensed to the individual at a pharmacy, by a mail  
29 order service, or by another dispenser, an individual who is enrolled **under in** a  
30 prescription drug plan under part D of title XVIII or an MA–PD plan under part C of  
31 such title if coverage is provided under such plan for such selected drug; and

32 “(B) in the case such drug is furnished or administered to the individual by a  
33 hospital, physician, or other provider of services or supplier, an individual who is  
34 enrolled under part B of title XVIII, including an individual who is enrolled **under in**  
35 an MA plan under part C of such title, if **payment may be made under part B for**  
36 such selected drug **is covered under such part..**

37 “(2) **(3) MAXIMUM FAIR PRICE.—The term ‘maximum fair price’ means, with respect to**  
38 **a year during a price applicability period and with respect to a selected drug (as defined in**  
39 **section 1192(c)) with respect to such period, the price negotiated pursuant to section 1194,**  
40 **and updated pursuant to section 1195(b), as applicable, for such drug and year.**

1 ~~“(3)“(4)~~ REFERENCE PRODUCT.—The term ‘reference product’ has the meaning given  
2 such term in section 351(i) of the Public Health Service Act.

3 ~~“(4) Unit.—The term ‘unit’ means, with respect to a drug or biological product, the  
4 lowest identifiable amount (such as a capsule or tablet, milligram of molecules, or grams) of  
5 the drug or biological product that is dispensed or furnished. The determination of a unit,  
6 with respect to a drug or biological product, pursuant to this paragraph shall not be subject  
7 to administrative or judicial review.~~

8 “(5) TOTAL EXPENDITURES.—The term ‘total expenditures’ includes, in the case of  
9 expenditures with respect to part D of title XVIII, the total gross covered prescription drug  
10 costs (as defined in section 1860D–15(b)(3)). The term ‘total expenditures’ excludes, in the  
11 case of expenditures with respect to part B of such title, expenditures for a drug or  
12 biological product that are bundled or packaged into the payment for another service.

13 ~~“(6) UNIT.—The term ‘unit’ means, with respect to a drug or biological product, the  
14 lowest identifiable amount (such as a capsule or tablet, milligram of molecules, or  
15 grams) of the drug or biological product that is dispensed or furnished.~~

16 “(d) Timing for Initial Price Applicability Year 2026.—Notwithstanding the provisions of this  
17 part, in the case of initial price applicability year 2026, the following rules shall apply for  
18 purposes of implementing the program:

19 “(1) Subsection (b)(3) shall be applied by substituting ‘September 1, 2023’ for ‘, with  
20 respect to each initial price applicability year, February 1 of the year that begins 2 years  
21 prior to such year’.

22 “(2) Subsection (b)(4) shall be applied—

23 “(A) in subparagraph (A)(ii), by substituting ‘October 1, 2023’ for ‘February 28  
24 following the selected drug publication date with respect to such selected drug’; and

25 “(B) in subparagraph (B), by substituting ‘August 1, 2024’ for ‘November 1 of the  
26 year that begins 2 years prior to the initial price applicability year’.

27 “(3) Section 1192 shall be applied—

28 “(A) in subsection (b)(1)(A), ~~by substituting ‘during the period beginning on June 1,  
29 2022, and ending on May 31, 2023’ for ‘during the most recent period of 12 months  
30 prior to the selected drug publication date (but ending not later than October 31 of the  
31 year prior to the year of such drug publication date), with respect to such year’;~~

32 ~~“(B) in subsection (d)(1)(A), by substituting ‘during the period beginning on June 1,  
33 2022, and ending on May 31, 2023’ for ‘during the most recent period for which data  
34 are available of at least of 12 months prior to the selected drug publication date (but  
35 ending no not later than October 31 of the year prior to the year of such drug  
36 publication date), with respect to such year’; and year, for which data are available’;  
37 and~~

38 ~~“(C)“(B)~~ in subsection ~~(e)(3)(B)(d)(1)(A)~~, by substituting ‘during the period  
39 beginning on June 1, 2022, and ending on May 31, 2023’ for ‘during the most recent  
40 period for which data are available of at least 12 months prior to the selected drug  
41 publication date (but ending no later than October 31 of the year prior to the year of

1 such drug publication date), with respect to such year’.

2 “(4) Section 1193(a) shall be applied by substituting ‘October 1, 2023’ for ‘February 28  
3 following the selected drug publication date with respect to such selected drug’ drug’.

4 “(5) Section 1194(b)(2) shall be applied—

5 “(A) in subparagraph (A), by substituting ‘October 2, 2023’ for ‘March 1 of the year  
6 of the selected drug publication date, with respect to the selected drug’;

7 “(B) in subparagraph (B), by substituting ‘February 1, 2024’ for ‘the June 1  
8 following the selected drug publication date’; and

9 “(C) in subparagraph (E), by substituting ‘August 1, 2024’ for ‘the first day of  
10 November following the selected drug publication date, with respect to the initial price  
11 applicability year’.

12 “(6) Section 1195(a)(1) shall be applied applied—

13 “(A) in paragraph (1), by substituting ‘September 1, 2024’ for ‘November 30 of the year  
14 that is 2 years prior to such initial price applicability year’; and

15 “(B) in paragraph (2), by substituting ‘March 1, 2025’ for ‘March 1 of the year  
16 such initial price applicability year’.

17 “SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE  
18 DRUGS AS SELECTED DRUGS.

19 “(a) In General.—Not later than the selected drug publication date with respect to an initial  
20 price applicability year, in accordance with subsection (b), the Secretary shall select and publish  
21 a list of—

22 “(1) with respect to the initial price applicability year 2026, 10 negotiation-eligible drugs  
23 described in subparagraph (A) of subsection (d)(1), but not subparagraph (B) of such  
24 subsection, with respect to such year (or, all (if such number is less than 10) such  
25 negotiation-eligible drugs with respect to such year);

26 “(2) with respect to the initial price applicability year 2027, 15 negotiation-eligible drugs  
27 described in subparagraph (A) of subsection (d)(1), but not subparagraph (B) of such  
28 subsection, with respect to such year (or, all (if such number is less than 15) such  
29 negotiation-eligible drugs with respect to such year);

30 “(3) with respect to the initial price applicability year 2028, 15 negotiation-eligible drugs  
31 described in subparagraph (A) or (B) of subsection (d)(1) with respect to such year (or, all  
32 (if such number is less than 15) such negotiation-eligible drugs with respect to such year);  
33 and

34 “(4) with respect to the initial price applicability year 2029 or a subsequent year, 20  
35 negotiation-eligible drugs described in subparagraph (A) or (B) of subsection (d)(1), with  
36 respect to such year (or, all (if such number is less than 20) such negotiation-eligible drugs  
37 with respect to such year); and.

38 Subject to subsection (c)(2) and section 1194(f)(5), each drug published on the list pursuant to  
39 the previous sentence shall be subject to the negotiation process under section 1194 for the

1 negotiation period with respect to such initial price applicability year (and the renegotiation  
2 process under such section as applicable for any subsequent year during the applicable price  
3 applicability period).

4 “(b) Selection of Drugs.—

5 “(1) IN GENERAL.—In carrying out subsection (a)(1), subject to paragraph (2), the  
6 Secretary shall, with respect to an initial price applicability year, do the following:

7 “(A) Rank negotiation-eligible drugs described in subsection (d)(1) according to the  
8 total expenditures for such drugs under parts B and D of title XVIII, as determined by  
9 the Secretary, during the most recent period of 12 months prior to the selected drug  
10 publication date (but ending not later than October 31 of the year prior to the year of  
11 such drug publication date), with respect to such year, for which data are available,  
12 with the negotiation-eligible drugs with the highest total expenditures being ranked the  
13 highest.

14 “(B) Select from such ranked drugs with respect to such year the negotiation-eligible  
15 drugs with the highest such rankings.

16 “(2) HIGH SPEND PART D DRUGS FOR 2026 AND 2027.—With respect to the initial price  
17 applicability year 2026 and with respect to the initial price applicability year 2027, the  
18 Secretary shall apply paragraph (1) as if the reference to ‘negotiation-eligible drugs  
19 described in subsection (d)(1)’ were a reference to ‘negotiation-eligible drugs described in  
20 subsection (d)(1)(A)’ and as if the reference to ‘total expenditures for such drugs under  
21 parts B and D of title XVIII’ were a reference to ‘total expenditures for such drugs under  
22 part D of title XVIII’.

23 “(c) Selected Drug.—

24 “(1) IN GENERAL.—For purposes of this part, in accordance with subsection (e)(2) and  
25 subject to paragraph (2), each negotiation-eligible drug included on the list published under  
26 subsection (a) with respect to an initial price applicability year shall be referred to as a  
27 ‘selected drug’ with respect to such year and each subsequent year beginning before the first  
28 year that begins at least 9 months after the date on which the Secretary determines at least  
29 one drug or biological product—

30 “(A) is approved or licensed (as applicable)—

31 “(i) under section 505(j) of the Federal Food, Drug, and Cosmetic Act using  
32 such drug as the listed drug; or

33 “(ii) under section 351(k) of the Public Health Service Act using such drug as  
34 the reference product; and

35 “(B) is marketed pursuant to such approval or licensure.

36 “(2) CLARIFICATION.—A negotiation-eligible drug—

37 “(A) that is included on the list published under subsection (a) with respect to an  
38 initial price applicability year; and

39 “(B) for which the Secretary makes a determination described in paragraph (1)  
40 before or during the negotiation period with respect to such initial price applicability



1 year;

2 shall not be subject to the negotiation process under section 1194 with respect to such  
3 negotiation period and shall continue to be considered a selected drug under this part with  
4 respect to the number of negotiation-eligible drugs published on the list under subsection (a)  
5 with respect to such initial price applicability year.

6 “(d) Negotiation-Eligible Drug.—

7 “(1) IN GENERAL.—For purposes of this part, subject to paragraph (2), the term  
8 ‘negotiation-eligible drug’ means, with respect to the selected drug publication date with  
9 respect to an initial price applicability year, a qualifying single source drug, as defined in  
10 subsection (e), that is described in either of the following subparagraphs (or, with respect to  
11 the initial price applicability year 2026 or 2027, that is described in subparagraph (A)):

12 “(A) PART D HIGH SPEND DRUGS.—The qualifying single source drug is, determined  
13 in accordance with subsection (e)(2), among the 50 qualifying single source drugs with  
14 the highest total expenditures under part D of title XVIII, as determined by the  
15 Secretary in accordance with paragraph (3), during the most recent **12-month** period  
16 for which data are available **of at least 12 months** prior to **the such** selected drug  
17 publication date (but ending no later than October 31 of the year prior to the year of  
18 such drug publication date), **with respect to such year**.

19 “(B) PART B HIGH SPEND DRUGS.—The qualifying single source drug is, determined  
20 in accordance with subsection (e)(2), among the 50 qualifying single source drugs with  
21 the highest total expenditures under part B of title XVIII, as determined by the  
22 Secretary in accordance with paragraph (3), during such most recent **12-month** period,  
23 as described in **clause (i) subparagraph (A)**.

24 “(2) EXCEPTION FOR SMALL BIOTECH DRUGS.—

25 “(A) IN GENERAL.—Subject to subparagraph (C), the term ‘negotiation-eligible  
26 drug’ shall not include, with respect to the initial price applicability years 2026, 2027,  
27 and 2028, a qualifying single source drug that meets either of the following:

28 “(i) PART D DRUGS.—The total expenditures for the qualifying single source  
29 drug under part D of title XVIII, as determined by the Secretary in accordance  
30 with paragraph (3)(B), during 2021—

31 “(I) are equal to or less than 1 percent of the total expenditures under such  
32 part D, as so determined, for all covered part D drugs (as defined in section  
33 1860D–2(e)) during such year; and

34 “(II) are equal to at least 80 percent of the total expenditures under such  
35 part D, as so determined, for all covered part D drugs for which the  
36 manufacturer of the drug has an agreement in effect under section 1860D–  
37 14A during such year.

38 “(ii) PART B DRUGS.—The total expenditures for the qualifying single source  
39 drug under part B of title XVIII, as determined by the Secretary in accordance  
40 with paragraph (3)(B), during 2021—

41 “(I) are equal to or less than 1 percent of the total expenditures under such

1 part B, as so determined, for all qualifying single source drugs **covered for**  
2 **which payment may be made** under such part B during such year; and

3 “(II) are equal to at least 80 percent of the total expenditures under such  
4 part B, as so determined, for all qualifying single source drugs of the  
5 manufacturer ~~that are covered~~ **for which payment may be made** under such  
6 part B during such year.

7 “(B) CLARIFICATIONS RELATING TO MANUFACTURERS.—

8 “(i) AGGREGATION RULE.—All persons treated as a single employer under  
9 subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be  
10 treated as one manufacturer for purposes of this paragraph.

11 “(ii) LIMITATION.—A drug shall not be considered to be a qualifying single  
12 source drug described in clause (i) or (ii) of subparagraph (A) if the manufacturer  
13 of such drug is acquired after 2021 by another manufacturer that does not meet  
14 the definition of a specified manufacturer under section 1860D–14C(g)(4)(B)(ii),  
15 effective at the beginning of the plan year immediately following such acquisition  
16 or, in the case of an acquisition before 2025, effective January 1, 2025.

17 “(C) DRUGS NOT INCLUDED AS SMALL BIOTECH **DRUGS.—A** drugs.—~~The following~~  
18 ~~shall not be considered a qualifying single source drug described in subparagraph (A):~~

19 ~~“(i) A vaccine that is licensed under section 351 of the Public Health Service Act~~  
20 ~~and is marketed pursuant to such section.~~

21 ~~“(ii) A~~ new formulation, such as an extended release formulation, of a qualifying  
22 single source drug **shall not be considered a qualifying single source drug**  
23 **described in subparagraph (A).**

24 “(3) CLARIFICATIONS AND DETERMINATIONS.—

25 “(A) PREVIOUSLY SELECTED DRUGS AND SMALL BIOTECH DRUGS EXCLUDED.—In  
26 applying subparagraphs (A) and (B) of paragraph (1), the Secretary shall not consider  
27 or count—

28 “(i) drugs that are already selected drugs; and

29 “(ii) for initial price applicability years 2026, 2027, and 2028, qualifying single  
30 source drugs described in paragraph (2)(A).

31 “(B) USE OF DATA.—In determining whether a qualifying single source drug  
32 satisfies any of the criteria described in paragraph (1) or (2), the Secretary shall use  
33 data that is aggregated across dosage forms and strengths of the drug, including new  
34 formulations of the drug, such as an extended release formulation, and not based on the  
35 specific formulation or package size or package type of the drug.

36 “(e) Qualifying Single Source Drug.—

37 “(1) IN GENERAL.—For purposes of this part, the term ‘qualifying single source drug’  
38 means, with respect to an initial price applicability year, subject to paragraphs (2) and (3), a  
39 covered part D drug (as defined in section 1860D–2(e)) that is described in any of the  
40 following or a drug or biological product **covered for which payment may be made** under

1 part B of title XVIII that is described in any of the following:

2 “(A) DRUG PRODUCTS.—A drug—

3 “(i) that is approved under section 505(c) of the Federal Food, Drug, and  
4 Cosmetic Act and is marketed pursuant to such approval;

5 “(ii) for which, as of the selected drug publication date with respect to such  
6 initial price applicability year, at least 7 years will have elapsed since the date of  
7 such approval; and

8 “(iii) that is not the listed drug for any drug that is approved and marketed  
9 under section 505(j) of such Act.

10 “(B) BIOLOGICAL PRODUCTS.—A biological product—

11 “(i) that is licensed under section 351(a) of the Public Health Service Act and is  
12 marketed under section 351 of such Act;

13 “(ii) for which, as of the selected drug publication date with respect to such  
14 initial price applicability year, at least 11 years will have elapsed since the date of  
15 such licensure; and

16 “(iii) that is not the reference product for any biological product that is licensed  
17 and marketed under section 351(k) of such Act.

18 “(2) TREATMENT OF AUTHORIZED GENERIC DRUGS.—

19 “(A) IN GENERAL.—In the case of a qualifying single source drug described in  
20 subparagraph (A) or (B) of paragraph (1) that is the listed drug (as such term is used in  
21 section 505(j) of the Federal Food, Drug, and Cosmetic Act) or a product described in  
22 clause (ii) of subparagraph (B), with respect to an authorized generic drug, in applying  
23 the provisions of this part, such authorized generic drug and such listed drug or such  
24 product shall be treated as the same qualifying single source drug.

25 “(B) AUTHORIZED GENERIC DRUG DEFINED.—For purposes of this paragraph, the  
26 term ‘authorized generic drug’ means—

27 “(i) in the case of a drug, an authorized generic drug (as such term is defined in  
28 section 505(t)(3) of the Federal Food, Drug, and Cosmetic Act); and

29 “(ii) in the case of a biological product, a product that—

30 “(I) has been licensed under section 351(a) of such Act; and

31 “(II) is marketed, sold, or distributed directly or indirectly to retail class of  
32 trade under a different labeling, packaging (other than repackaging as the  
33 reference product in blister packs, unit doses, or similar packaging for use in  
34 institutions), product code, labeler code, trade name, or trade mark than the  
35 reference product.

36 “(3) EXCLUSIONS.—In this part, the term ‘qualifying single source drug’ does not include  
37 any of the following:

38 “(A) CERTAIN ORPHAN DRUGS.—A drug that is designated as a drug for only one  
39 rare disease or condition under section 526 of the Federal Food, Drug, and Cosmetic

1 Act and for which the only approved indication (or indications) is for such disease or  
2 condition.

3 “(B) LOW SPEND MEDICARE DRUGS.—A drug or biological product with respect to  
4 which the total expenditures under parts B and D of title XVIII, as determined by the  
5 Secretary, ~~during the most recent period for which data are available of at least 12-~~  
6 ~~months prior to the selected drug publication date (but ending no later than October 31-~~  
7 ~~of the year prior to the year of such drug publication date), with respect to such year, is~~  
8 ~~less than—~~

9 “(i) with respect to 2021, \$200,000,000; or in accordance with subsection (d)(3)  
10 (B)—

11 “(i) with respect to initial price applicability year 2026, is less than, during  
12 the period beginning on June 1, 2022, and ending on May 31, 2023,  
13 \$200,000,000;

14 “(ii) with respect to a subsequent initial price applicability year 2027, is less  
15 than, during the most recent 12-month period applicable under  
16 subparagraphs (A) and (B) of subsection (d)(1) for such year, the dollar  
17 amount specified in this subparagraph for the previous year clause (i) increased  
18 by the annual percentage increase in the consumer price index for all urban  
19 consumers (all items; United States city average) for the period beginning on  
20 June 1, 2023, and ending on September 30, 2024; or

21 “(iii) with respect to a subsequent initial price applicability year, is less  
22 than, during the most recent 12-month period applicable under  
23 subparagraphs (A) and (B) of subsection (d)(1) for such year, the dollar  
24 amount specified in this subparagraph for the previous initial price  
25 applicability year increased by the annual percentage increase in such  
26 consumer price index for the 12-month period ending with September of such  
27 previous on September 30 of the year prior to the year of the selected drug  
28 publication date with respect to such subsequent initial price applicability  
29 year.

30 “(C) PLASMA-DERIVED PRODUCTS.—A biological product that is derived from  
31 human whole blood or plasma.

32 ~~“(f) No Administrative or Judicial Review.—The determination~~  
33 ~~of negotiation-eligible drugs under subsection (d), the~~  
34 ~~determination of qualifying single source drugs under subsection~~  
35 ~~(e), and the selection of drugs under this section are not subject~~  
36 ~~to administrative or judicial review.~~

37 “SEC. 1193. MANUFACTURER AGREEMENTS.

38 “(a) In General.—For purposes of section 1191(a)(2), the Secretary shall enter into agreements  
39 with manufacturers of selected drugs with respect to a price applicability period, by not later than  
40 February 28 following the selected drug publication date with respect to such selected drug,

1 under which—

2 “(1) during the negotiation period for the initial price applicability year for the selected  
3 drug, the Secretary and the manufacturer, in accordance with section 1194, negotiate to  
4 determine (and, by not later than the last date of such period, agree to) a maximum fair price  
5 for such selected drug of the manufacturer in order for the manufacturer to provide access to  
6 such price—

7 “(A) to maximum fair price eligible individuals who with respect to such drug are  
8 described in subparagraph (A) of section ~~1191(c)(1)~~ 1191(c)(2) and are dispensed such  
9 drug (and to pharmacies, mail order services, and other dispensers, with respect to such  
10 maximum fair price eligible individuals who are dispensed such drugs) during, subject  
11 to paragraph (2), the price applicability period; and

12 “(B) to hospitals, physicians, and other providers of services and suppliers with  
13 respect to maximum fair price eligible individuals who with respect to such drug are  
14 described in subparagraph (B) of such section and are furnished or administered such  
15 drug during, subject to paragraph (2), the price applicability period;

16 “(2) the Secretary and the manufacturer shall, in accordance with section 1194,  
17 renegotiate (and, by not later than the last date of ~~such~~ the period of renegotiation, agree  
18 to) the maximum fair price for such drug, in order for the manufacturer to provide access to  
19 such maximum fair price (as so renegotiated)—

20 “(A) to maximum fair price eligible individuals who with respect to such drug are  
21 described in subparagraph (A) of section ~~1191(c)(1)~~ 1191(c)(2) and are dispensed such  
22 drug (and to pharmacies, mail order services, and other dispensers, with respect to such  
23 maximum fair price eligible individuals who are dispensed such drugs) during any year  
24 during the price applicability period (beginning after such renegotiation) with respect  
25 to such selected drug; and

26 “(B) to hospitals, physicians, and other providers of services and suppliers with  
27 respect to maximum fair price eligible individuals who with respect to such drug are  
28 described in subparagraph (B) of such section and are furnished or administered such  
29 drug during any year described in subparagraph (A);

30 “(3) subject to subsection (d), access to the maximum fair price (including as renegotiated  
31 pursuant to paragraph (2)), with respect to such a selected drug, shall be provided by the  
32 manufacturer to—

33 “(A) maximum fair price eligible individuals, who with respect to such drug are  
34 described in subparagraph (A) of section ~~1191(c)(1)~~ 1191(c)(2), at the pharmacy, mail  
35 order service, or other dispenser at the point-of-sale of such drug (and shall be  
36 provided by the manufacturer to the pharmacy, mail order service, or other dispenser,  
37 with respect to such maximum fair price eligible individuals who are dispensed such  
38 drugs), as described in paragraph (1)(A) or (2)(A), as applicable; and

39 “(B) hospitals, physicians, and other providers of services and suppliers with respect  
40 to maximum fair price eligible individuals who with respect to such drug are described  
41 in subparagraph (B) of such section and are furnished or administered such drug, as  
42 described in paragraph (1)(B) or (2)(B), as applicable;

1 “(4) the manufacturer submits to the Secretary, in a form and manner specified by the  
2 Secretary, for the negotiation period for the price applicability period (and, if applicable,  
3 before any period of renegotiation pursuant to section 1194(f)) with respect to such drug—

4 “(A) information on the non-Federal average manufacturer price (as defined in  
5 section 8126(h)(5) of title 38, United States Code) for the drug for the applicable year  
6 or period; and

7 “(B) information that the Secretary requires to carry out the negotiation (or  
8 renegotiation process) under this part; and

9 “(5) the manufacturer complies with requirements determined by the Secretary to be  
10 necessary for purposes of administering the program and monitoring compliance with the  
11 program.

12 “(b) Agreement in Effect Until Drug Is No Longer a Selected Drug.—An agreement entered  
13 into under this section shall be effective, with respect to a selected drug, until such drug is no  
14 longer considered a selected drug under section 1192(c).

15 “(c) Confidentiality of Information.—Information submitted to the Secretary under this part by  
16 a manufacturer of a selected drug that is proprietary information of such manufacturer (as  
17 determined by the Secretary) shall be used only by the Secretary or disclosed to and used by the  
18 Comptroller General of the United States for purposes of carrying out this part.

19 “(d) Nonduplication With 340B Ceiling Price.—Under an agreement entered into under this  
20 section, the manufacturer of a selected ~~drug drug—~~

21 **“(1) shall not be required to provide access to the maximum fair price under subsection**  
22 **(a)(3), with respect to such selected drug and maximum fair price eligible individuals who**  
23 **are eligible to be furnished, administered, or dispensed such selected drug at a covered**  
24 **entity described in section 340B(a)(4) of the Public Health Service Act, to such covered**  
25 **entity if such selected drug is subject to an agreement described in section 340B(a)(1) of**  
26 **such Act and the ceiling price (defined in section 340B(a)(1) of such Act) is lower than the**  
27 **maximum fair price for such selected drug, except that the manufacturer shall provide for;**  
28 **and**

29 **“(2) shall be required to provide access to** the maximum fair price to such covered  
30 entity with respect to maximum fair price eligible individuals who are eligible to be  
31 furnished, administered, or dispensed such selected drug at such entity at such ceiling price  
32 in a nonduplicated amount to the ceiling price if **the such** maximum fair price is below the  
33 ceiling price for such selected drug.

## 34 “SEC. 1194. NEGOTIATION AND RENEGOTIATION 35 PROCESS.

36 “(a) In General.—For purposes of this part, under an agreement under section 1193 between  
37 the Secretary and a manufacturer of a selected drug (or selected drugs), with respect to the period  
38 for which such agreement is in effect and in accordance with subsections (b), (c), and (d), the  
39 Secretary and the manufacturer—

40 “(1) shall during the negotiation period with respect to such drug, in accordance with this  
41 section, negotiate a maximum fair price for such drug for the purpose described in section

1 1193(a)(1); and

2 “(2) renegotiate, in accordance with the process specified pursuant to subsection (f), such  
3 maximum fair price for such drug for the purpose described in section 1193(a)(2) if such  
4 drug is a renegotiation-eligible drug under such subsection.

5 “(b) Negotiation Process Requirements.—

6 “(1) METHODOLOGY AND PROCESS.—The Secretary shall develop and use a consistent  
7 methodology and process, in accordance with paragraph (2), for negotiations under  
8 subsection (a) that aims to achieve the lowest maximum fair price for each selected drug.

9 “(2) SPECIFIC ELEMENTS OF NEGOTIATION PROCESS.—As part of the negotiation process  
10 under this section, with respect to a selected drug and the negotiation period with respect to  
11 the initial price applicability year with respect to such drug, the following shall apply:

12 “(A) SUBMISSION OF INFORMATION.—Not later than March 1 of the year of the  
13 selected drug publication date, with respect to the selected drug, the manufacturer of  
14 the drug shall submit to the Secretary, in accordance with section 1193(a)(4), the  
15 information described in such section.

16 “(B) INITIAL OFFER BY SECRETARY.—Not later than the June 1 following the  
17 selected drug publication date, the Secretary shall provide the manufacturer of a the  
18 selected drug with a written initial offer that contains the Secretary’s proposal for the  
19 maximum fair price of the drug and a list of concise justification based on the factors  
20 described in section 1194(e) that were used in developing such offer.

21 “(C) RESPONSE TO INITIAL OFFER.—

22 “(i) IN GENERAL.—Not later than 30 days after the date of receipt of an initial  
23 offer under subparagraph (B), the manufacturer shall either accept such offer or  
24 propose a counteroffer to such offer.

25 “(ii) COUNTEROFFER REQUIREMENTS.—If a manufacturer proposes a  
26 counteroffer, such counteroffer—

27 “(I) shall be in writing; and

28 “(II) shall be justified based on the factors described in subsection (e).

29 “(D) RESPONSE TO COUNTEROFFER.—After receiving a counteroffer under  
30 subparagraph (C), the Secretary shall respond in writing to such counteroffer.

31 “(E) DEADLINE.—All negotiations between the Secretary and the manufacturer of  
32 the selected drug shall end prior to the first day of November following the selected  
33 drug publication date, with respect to the initial price applicability year.

34 “(F) LIMITATIONS ON OFFER AMOUNT.—In negotiating the maximum fair price of a  
35 selected drug, with respect to an the initial price applicability year for the selected  
36 drug, and, as applicable, in renegotiating the maximum fair price for such drug, with  
37 respect to a subsequent year during the price applicability period for such drug, the  
38 Secretary shall not offer (or agree to a counteroffer for) a maximum fair price for the  
39 selected drug that—

40 “(i) exceeds the ceiling determined under subsection (c) for the selected drug

1 and year; or

2 “(ii) as applicable, is less than the floor determined under subsection (d) for the  
3 selected drug and year.

4 ~~“(G) Treatment of determination.—The determination of a maximum fair price under this  
5 section is not subject to administrative or judicial review.~~

6 “(c) Ceiling for Maximum Fair Price.—

7 “(1) GENERAL CEILING.—

8 “(A) IN GENERAL.—The maximum fair price negotiated under this section for a  
9 selected drug, with respect to the first **initial price applicability** year of the price  
10 applicability period with respect to such drug, shall not exceed the lower of the amount  
11 under subparagraph (B) or the amount under subparagraph (C).

12 “(B) SUBPARAGRAPH (B) AMOUNT.—An amount equal to the following:

13 “(i) COVERED PART D DRUG.—In the case of a covered part D drug (as defined  
14 in section 1860D–2(e)), the sum of the plan specific enrollment weighted amounts  
15 for each prescription drug plan or MA–PD plan (as determined under paragraph  
16 (2)).

17 “(ii) PART B DRUG OR BIOLOGICAL.—In the case of a drug or biological product  
18 **covered for which payment may be made** under part B of title XVIII, the  
19 payment amount under section 1847A(b)(4) for the drug or biological product for  
20 the year prior to the year of the selected drug publication date with respect to the  
21 initial price applicability year for the drug or biological product.

22 “(C) SUBPARAGRAPH (C) AMOUNT.—An amount equal to the applicable percent  
23 described in paragraph (3), with respect to such drug, of the following:

24 “(i) INITIAL PRICE APPLICABILITY YEAR 2026.—In the case of a selected drug  
25 with respect to which such initial price applicability year is 2026, the average  
26 non-Federal average manufacturer price for such drug for 2021 (or, in the case  
27 that there is not an average non-Federal average manufacturer price available for  
28 such drug for 2021, for the first full year following the market entry for such  
29 drug), increased by the percentage increase in the consumer price index for all  
30 urban consumers (all items; United States city average) from September 2021 (or  
31 December of such first full year following the market entry), as applicable, to  
32 September of the year prior to the year of the selected drug publication date with  
33 respect to such initial price applicability year.

34 “(ii) INITIAL PRICE APPLICABILITY YEAR 2027 AND SUBSEQUENT YEARS.—In  
35 the case of a selected drug with respect to which such initial price applicability  
36 year is 2027 or a subsequent year, the lower of—

37 “(I) the average non-Federal average manufacturer price for such drug for  
38 2021 (or, in the case that there is not an average non-Federal average  
39 manufacturer price available for such drug for 2021, for the first full year  
40 following the market entry for such drug), increased by the percentage  
41 increase in the consumer price index for all urban consumers (all items;



1 United States city average) from September 2021 (or December of such first  
2 full year following the market entry), as applicable, to September of the year  
3 prior to the year of the selected drug publication date with respect to such  
4 initial price applicability year; or

5 “(II) the average non-Federal average manufacturer price for such drug for  
6 the year prior to the selected drug publication date with respect to such initial  
7 price applicability year.

8 “(2) PLAN SPECIFIC ENROLLMENT WEIGHTED AMOUNT.—For purposes of paragraph (1)  
9 (B)(i), the plan specific enrollment weighted amount for a prescription drug plan or an MA–  
10 PD plan with respect to a covered Part D drug is an amount equal to the product of—

11 “(A) the negotiated price of the drug under such plan under part D of title XVIII, net  
12 of all price concessions received by such plan or pharmacy benefit managers on behalf  
13 of such plan, for the most recent year for which data is available; and

14 “(B) a fraction—

15 “(i) the numerator of which is the total number of individuals enrolled in such  
16 plan in such year; and

17 “(ii) the denominator of which is the total number of individuals enrolled in a  
18 prescription drug plan or an MA–PD plan in such year.

19 “(3) APPLICABLE PERCENT DESCRIBED.—For purposes of this subsection, the applicable  
20 percent described in this paragraph is the following:

21 “(A) SHORT-MONOPOLY DRUGS AND VACCINES.—With respect to a selected drug  
22 (other than an extended-monopoly drug and a long-monopoly drug), 75 percent.

23 “(B) EXTENDED-MONOPOLY DRUGS.—With respect to an extended-monopoly drug,  
24 65 percent.

25 “(C) LONG-MONOPOLY DRUGS.—With respect to a long-monopoly drug, 40 percent.

26 “(4) EXTENDED-MONOPOLY DRUG DEFINED.—

27 “(A) IN GENERAL.—In this part, subject to subparagraph (B), the term ‘extended-  
28 monopoly drug’ means, with respect to an initial price applicability year, a selected  
29 drug for which at least 12 years, but fewer than 16 years, have elapsed since the date of  
30 approval of such drug under section 505(c) of the Federal Food, Drug, and Cosmetic  
31 Act or since the date of licensure of such drug under section 351(a) of the Public  
32 Health Service Act, as applicable.

33 “(B) EXCLUSIONS.—The term ‘extended-monopoly drug’ shall not include any of  
34 the following:

35 “(i) A vaccine that is licensed under section 351 of the Public Health Service  
36 Act and marketed pursuant to such section.

37 “(ii) A selected drug for which a manufacturer had an agreement under this part  
38 with the Secretary with respect to an initial price applicability year that is before  
39 2030.

40 “(C) CLARIFICATION.—Nothing in subparagraph (B)(ii) shall limit the transition of a

1 selected drug described in paragraph (3)(A) to a long-monopoly drug if the selected  
2 drug meets the definition of a long-monopoly drug.

3 “(5) LONG-MONOPOLY DRUG DEFINED.—

4 “(A) IN GENERAL.—In this part, subject to subparagraph (B), the term ‘long-  
5 monopoly drug’ means, with respect to an initial price applicability year, a selected  
6 drug for which at least 16 years have elapsed since the date of approval of such drug  
7 under section 505(c) of the Federal Food, Drug, and Cosmetic Act or since the date of  
8 licensure of such drug under section 351(a) of the Public Health Service Act, as  
9 applicable.

10 “(B) EXCLUSION.—The term ‘long-monopoly drug’ shall not include a vaccine that  
11 is licensed under section 351 of the Public Health Service Act and marketed pursuant  
12 to such section.

13 “(6) AVERAGE NON-FEDERAL AVERAGE MANUFACTURER PRICE.—In this part, the term  
14 ‘average non-Federal average manufacturer price’ means the average of the non-Federal  
15 average manufacturer price (as defined in section 8126(h)(5) of title 38, United States Code)  
16 for the 4 calendar quarters of the year involved.

17 “(d) Temporary Floor for Small Biotech Drugs.—In the case of a selected drug that is a  
18 qualifying single source drug described in section 1192(d)(2) and with respect to which the first  
19 initial price applicability year of the price applicability period with respect to such drug is 2029  
20 or 2030, the maximum fair price negotiated under this section for such drug for such initial price  
21 applicability year may not be less than 66 percent of the average non-Federal average  
22 manufacturer price for such drug (as defined in subsection (c)(6)) for 2021 (or, in the case that  
23 there is not an average non-Federal average manufacturer price available for such drug for 2021,  
24 for the first full year following the market entry for such drug), increased by the percentage  
25 increase in the consumer price index for all urban consumers (all items; United States city  
26 average) from September 2021 (or December of such first full year following the market entry),  
27 as applicable, to September of the year prior to the selected drug publication date with respect to  
28 the initial price applicability year.

29 “(e) Factors.—For purposes of negotiating the maximum fair price of a selected drug under  
30 this part with the manufacturer of the drug, the Secretary shall consider the following  
31 factors ~~(and, with respect to extended-monopoly drugs and long-monopoly drugs, shall not,~~  
32 ~~except in making a determination of a material change under subsection (f)(2)(D), consider~~  
33 ~~factors other than those described in subparagraphs (B) and (C) of paragraph (1))~~; **as applicable**  
34 **to the drug, as the basis for determining the offers and counteroffers under subsection (b)**  
35 **for the drug:**

36 “(1) MANUFACTURER-SPECIFIC ~~INFORMATION.~~ **THE DATA.**—**The** following ~~information~~  
37 **data**, with respect to such selected drug, ~~including~~ as submitted by the manufacturer:

38 “(A) Research and development costs of the manufacturer for the drug and the  
39 extent to which the manufacturer has recouped research and development costs.

40 “(B) **Current unit** ~~Market data for the drug.~~

41 “~~(C)~~ **Unit** costs of production and distribution of the drug.

42 “~~(D)~~ “(C) Prior Federal financial support for novel therapeutic discovery and

1 development with respect to the drug.

2 “(E) Data on patents and on existing and pending exclusivity for the drug.”(D) **Data**  
3 **on pending and approved patent applications, exclusivities recognized by the**  
4 **Food and Drug Administration, and applications and approvals under section**  
5 **505(c) of the Federal Food, Drug, and Cosmetic Act or section 351(a) of the Public**  
6 **Health Service Act for the drug.**

7 “(F) National sales data for the drug.”(E) **Market data and revenue and sales**  
8 **volume data for the drug in the United States.**

9 “(G) Information on clinical trials for the drug.”

10 “(2) Information on“(2) **EVIDENCE ABOUT** ALTERNATIVE TREATMENTS.—The following  
11 **information evidence, as available**, with respect to such selected drug and therapeutic  
12 alternatives to such drug:

13 “(A) The extent to which such drug represents a therapeutic advance as compared to  
14 existing therapeutic alternatives and, ~~to the extent such information is available,~~ the  
15 costs of such existing therapeutic alternatives.

16 “(B) ~~Approval~~ **Prescribing information approved** by the Food and Drug  
17 Administration ~~of for~~ such drug and therapeutic alternatives ~~of to~~ such drug.

18 “(C) Comparative effectiveness of such drug and therapeutic alternatives to such  
19 drug, taking into consideration the effects of such drug and therapeutic alternatives ~~of~~  
20 **to** such drug on specific populations, such as individuals with disabilities, the elderly,  
21 the terminally ill, children, and other patient populations.

22 “(D) The extent to which such drug and therapeutic alternatives to such drug address  
23 unmet medical needs for a condition for which treatment or diagnosis is not addressed  
24 adequately by available therapy.

25 In ~~considering information~~ **using evidence** described in subparagraph (C), the Secretary  
26 shall not use evidence ~~or findings~~ from comparative clinical effectiveness research in a  
27 manner that treats extending the life of an elderly, disabled, or terminally ill individual as of  
28 lower value than extending the life of an individual who is younger, nondisabled, or not  
29 terminally ill.

30 “(f) Renegotiation Process.—

31 “(1) IN GENERAL.—In the case of a renegotiation-eligible drug (as defined in paragraph  
32 (2)) that is selected under paragraph (3), the Secretary shall provide for a process of  
33 renegotiation (for years (beginning with 2028) during the price applicability period, with  
34 respect to such drug) of the maximum fair price for such drug consistent with paragraph (4).

35 “(2) RENEGOTIATION-ELIGIBLE DRUG DEFINED.—In this section, the term ‘renegotiation-  
36 eligible drug’ means a selected drug that is any of the following:

37 “(A) ADDITION OF NEW INDICATION.—A selected drug for which a new indication is  
38 added to the drug.

39 “(B) CHANGE OF STATUS TO AN EXTENDED-MONOPOLY DRUG.—A selected drug that  
40 —

1 “(i) is not an extended-monopoly or a long-monopoly drug; and  
2 “(ii) for which there is a change in status to that of an extended-monopoly drug.

3 “(C) CHANGE OF STATUS TO A LONG-MONOPOLY DRUG.—A selected drug that—

4 “(i) is not a long-monopoly drug; and

5 “(ii) for which there is a change in status to that of a long-monopoly drug.

6 “(D) MATERIAL CHANGES.—A selected drug for which the Secretary determines  
7 there has been a material change of any of the factors described in paragraph (1) or (2)  
8 of subsection (e).

9 “(3) SELECTION OF DRUGS FOR ~~RENEGOTIATION.—EACH YEAR RENEGOTIATION.—For~~  
10 **each year (beginning with 2028)**, the Secretary shall select among renegotiation-eligible  
11 drugs for renegotiation as follows:

12 “(A) ALL EXTENDED-MONOPOLY NEGOTIATION-ELIGIBLE DRUGS.—The Secretary  
13 shall select all renegotiation-eligible drugs described in paragraph (2)(B).

14 “(B) ALL LONG-MONOPOLY NEGOTIATION-ELIGIBLE DRUGS.—The Secretary shall  
15 select all renegotiation-eligible drugs described in paragraph (2)(C).

16 “(C) REMAINING DRUGS.—Among the remaining renegotiation-eligible drugs  
17 described in subparagraphs (A) and (D) of paragraph (2), the Secretary shall select  
18 renegotiation-eligible drugs for which the Secretary expects renegotiation is likely to  
19 result in a significant change in the maximum fair price otherwise negotiated.

20 “(4) RENEGOTIATION ~~PROCESS.—THE SECRETARY SHALL SPECIFY THE PROCESS FOR~~  
21 ~~RENEGOTIATION OF MAXIMUM FAIR PRICES WITH THE MANUFACTURER OF A~~  
22 ~~RENEGOTIATION-ELIGIBLE DRUG SELECTED FOR RENEGOTIATION UNDER THIS SUBSECTION.~~  
23 **SUCH PROCESS PROCESS.—**

24 “(A) **IN GENERAL.—The Secretary shall specify the process for renegotiation of**  
25 **maximum fair prices with the manufacturer of a renegotiation-eligible drug**  
26 **selected for renegotiation under this subsection.**

27 “(B) **CONSISTENT WITH NEGOTIATION PROCESS.—The process specified under**  
28 **subparagraph (A)** shall, to the extent practicable, be consistent with the methodology  
29 and process established under subsection (b) and in accordance with subsections (c)  
30 **and**, (d), **and (e)**, and for purposes of applying subsections (c)(1)(A) and (d), the  
31 reference to the first initial price applicability year of the price applicability period  
32 with respect to such drug shall be treated as the first initial price applicability year of  
33 such period for which the maximum fair price established pursuant to such  
34 renegotiation applies, including for applying subsection (c)(3)(B) in the case of  
35 renegotiation-eligible drugs described in paragraph (3)(A) of this subsection and  
36 subsection (c)(3)(C) in the case of renegotiation-eligible drugs described in paragraph  
37 (3)(B) of this subsection.

38 “(5) CLARIFICATION.—A renegotiation-eligible drug for which the Secretary makes a  
39 determination described in section 1192(c)(1) before or during the period of renegotiation  
40 shall not be subject to the renegotiation process under this section.

1 “(6) No administrative or judicial review.—The determination of renegotiation-eligible drugs  
2 under paragraph (2) and the selection of renegotiation-eligible drugs under paragraph (3) are not  
3 subject to administrative or judicial review.

4 “(g) Limitation.—

5 “(1) In general.—In no case shall the maximum fair price negotiated under this section for a  
6 selected drug that is a qualifying single source drug described in section 1192(e)(1) apply before  
7 —

8 “(A) in the case the selected drug is a qualifying single source drug described in subparagraph  
9 (A) of section 1192(e)(1), the date that is 9 years after the day on which the drug was approved  
10 under section 505(c) of the Federal Food, Drug, and Cosmetic Act; and

11 “(B) in the case the selected drug is a qualifying single source drug described in subparagraph  
12 (B) of section 1192(e)(1), the date that is 13 years after the day on which the drug was licensed  
13 under section 351(a) of the Public Health Service Act.

14 “(2)“(g) Clarification.—The maximum fair price for a selected drug described in subparagraph  
15 (A) or (B) of paragraph (1) shall take effect no later than the first day of the first calendar quarter  
16 that begins after the date described in subparagraph (A) or (B), as applicable.

## 17 “SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.

18 “(a) In General.—With respect to an initial price applicability year and a selected drug with  
19 respect to such year—

20 “(1) not later than November 30 of the year that is 2 years prior to such initial price  
21 applicability year, the Secretary shall publish the maximum fair price for such drug  
22 negotiated with the manufacturer of such drug under this part; and

23 “(2) not later than March 1 of the year prior to such initial price applicability year, the  
24 Secretary shall publish, subject to section 1193(c), the explanation for the maximum fair  
25 price with respect to the factors as applied under section 1194(e) for such drug described in  
26 paragraph (1).

27 “(b) Updates.—

28 “(1) SUBSEQUENT YEAR MAXIMUM FAIR PRICES.—For a selected drug, for each year  
29 subsequent to the first initial price applicability year of the price applicability period with  
30 respect to such drug, with respect to which an agreement for such drug is in effect under  
31 section 1193, not later than November 30 of the year that is 2 years prior to such subsequent  
32 year, the Secretary shall publish the maximum fair price applicable to such drug and year,  
33 which shall be—

34 “(A) subject to subparagraph (B), the amount equal to the maximum fair price  
35 published for such drug for the previous year, increased by the annual percentage  
36 increase in the consumer price index for all urban consumers (all items; United States  
37 city average) for the 12-month period ending with ~~September of such previous year~~ **the**  
38 **July immediately preceding such November 30**; or

39 “(B) in the case the maximum fair price for such drug was renegotiated, for the first  
40 year for which such price as so renegotiated applies, such renegotiated maximum fair

1 price.

2 “(2) PRICES NEGOTIATED AFTER DEADLINE.—In the case of a selected drug with respect  
3 to an initial price applicability year for which the maximum fair price is determined under  
4 this part after the date of publication under this section, the Secretary shall publish such  
5 maximum fair price by not later than 30 days after the date such maximum price is so  
6 determined.

## 7 “SEC. 1196. ADMINISTRATIVE DUTIES AND 8 COMPLIANCE MONITORING.

9 “(a) Administrative Duties.—For purposes of section 1191(a)(4), the administrative duties  
10 described in this section are the following:

11 “(1) The establishment of procedures to ensure that the maximum fair price for a selected  
12 drug is applied before—

13 “(A) any coverage or financial assistance under other health benefit plans or  
14 programs that provide coverage or financial assistance for the purchase or provision of  
15 prescription drug coverage on behalf of maximum fair price eligible individuals; and

16 “(B) any other discounts.

17 “(2) The establishment of procedures to compute and apply the maximum fair price  
18 across different strengths and dosage forms of a selected drug and not based on the specific  
19 formulation or package size or package type of such drug.

20 “(3) The establishment of procedures to carry out the provisions of this part, as  
21 applicable, with respect to—

22 “(A) maximum fair price eligible individuals who are enrolled **under in** a  
23 prescription drug plan under part D of title XVIII or an MA–PD plan under part C of  
24 such title; and

25 “(B) maximum fair price eligible individuals who are enrolled under part B of such  
26 title, including who are enrolled **under in** an MA plan under part C of such title.

27 “(4) The establishment of a negotiation process and renegotiation process in accordance  
28 with section 1194.

29 “(5) The establishment of a process for manufacturers to submit information described in  
30 section 1194(b)(2)(A).

31 “(6) The sharing with the Secretary of the Treasury of such information as is necessary to  
32 determine the tax imposed by section **4192 5000D** of the Internal Revenue Code of  
33 1986(~~relating to enforcement of this part~~), **including the application of such tax to a**  
34 **manufacturer, producer, or importer or the determination of any date described in**  
35 **section 5000D(c)(1) of such Code. For purposes of the preceding sentence, such**  
36 **information shall include—**

37 **“(A) the date on which the Secretary receives notification of any termination of**  
38 **an agreement under the Medicare coverage gap discount program under section**  
39 **1860D-14A and the date on which any subsequent agreement under such**

1 **program is entered into;**

2 **“(B) the date on which the Secretary receives notification of any termination of**  
3 **an agreement under the manufacturer discount program under section 1860D-**  
4 **14C and the date on which any subsequent agreement under such program is**  
5 **entered into; and**

6 **“(C) the date on which the Secretary receives notification of any termination of**  
7 **a rebate agreement described in section 1927(b) and the date on which any**  
8 **subsequent rebate agreement described in such section is entered into.**

9 “(7) The establishment of procedures for purposes of applying section 1192(d)(2)(B).

10 “(b) Compliance Monitoring.—The Secretary shall monitor compliance by a manufacturer  
11 with the terms of an agreement under section 1193 and establish a mechanism through which  
12 violations of such terms shall be reported.

### 13 “SEC. 1197. CIVIL MONETARY PENALTIES.

14 “(a) Violations Relating to Offering of Maximum Fair Price.—Any manufacturer of a selected  
15 drug that has entered into an agreement under section 1193, with respect to a year during the  
16 price applicability period with respect to such drug, that does not provide access to a price that is  
17 **not more equal to or less** than the maximum fair price ~~(or a lesser price)~~ for such drug for such  
18 year—

19 “(1) to a maximum fair price eligible individual who with respect to such drug is  
20 described in subparagraph (A) of section ~~1191(e)(1)~~ **1191(c)(2)** and who is dispensed such  
21 drug during such year (and to pharmacies, mail order services, and other dispensers, with  
22 respect to such maximum fair price eligible individuals who are dispensed such drugs); or

23 “(2) to a hospital, physician, or other provider of services or supplier with respect to  
24 maximum fair price eligible individuals who with respect to such drug is described in  
25 subparagraph (B) of such section and is furnished or administered such drug by such  
26 hospital, physician, or provider or supplier during such year;

27 shall be subject to a civil monetary penalty equal to ten times the amount equal to the product of  
28 the number of units of such drug so furnished, dispensed, or administered during such year and  
29 the difference between the price for such drug made available for such year by such  
30 manufacturer with respect to such individual or hospital, physician, provider of services, or  
31 supplier and the maximum fair price for such drug for such year.

32 “(b) Violations of Certain Terms of Agreement.—Any manufacturer of a selected drug that  
33 has entered into an agreement under section 1193, with respect to a year during the price  
34 applicability period with respect to such drug, that is in violation of a requirement imposed  
35 pursuant to section 1193(a)(5), including the requirement to submit information pursuant to  
36 section 1193(a)(4), shall be subject to a civil monetary penalty equal to \$1,000,000 for each day  
37 of such violation.

38 “(c) False Information.—Any manufacturer that knowingly provides false information  
39 pursuant to section 1196(a)(7) shall be subject to a civil monetary penalty equal to \$100,000,000  
40 for each item of such false information.

41 “(d) Application.—The provisions of section 1128A (other than subsections (a) and (b)) shall

1 apply to a civil monetary penalty under this section in the same manner as such provisions apply  
2 to a penalty or proceeding under section ~~1128A(a).~~”.

3 **1128A(a).**

## 4 **“SEC. 1198. LIMITATION ON ADMINISTRATIVE AND** 5 **JUDICIAL REVIEW.**

6 **“There shall be no administrative or judicial review of any of the following:**

7 **“(1) The determination of a unit, with respect to a drug or biological product,**  
8 **pursuant to section 1191(c)(6).**

9 **“(2) The selection of drugs under section 1192(b), the determination of negotiation-**  
10 **eligible drugs under section 1192(d), and the determination of qualifying single source**  
11 **drugs under section 1192(e).**

12 **“(3) The determination of a maximum fair price under subsection (b) or (f) of**  
13 **section 1194.**

14 **“(4) The determination of renegotiation-eligible drugs under section 1194(f)(2) and**  
15 **the selection of renegotiation-eligible drugs under section 1194(f)(3).”.**

16 (b) Application of Maximum Fair Prices and Conforming Amendments.—

17 (1) UNDER MEDICARE.—

18 (A) APPLICATION TO PAYMENTS UNDER PART B.—Section 1847A(b)(1)(B) of the  
19 Social Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is amended by inserting “or in the  
20 case of such a drug or biological product that is a selected drug (as referred to in  
21 section 1192(c)), with respect to a price applicability period (as defined in section  
22 1191(b)(2)), 106 percent of the maximum fair price (as defined in section ~~1191(c)(2))~~  
23 **1191(c)(3))** applicable for such drug and a year during such period” after “paragraph  
24 (4)”.

25 (B) APPLICATION UNDER MA OF COST-SHARING FOR PART B DRUGS BASED OFF OF  
26 NEGOTIATED PRICE.—Section 1852(a)(1)(B)(iv) of the Social Security Act (42 U.S.C.  
27 1395w–22(a)(1)(B)(iv)) is amended—

28 (i) by redesignating subclause (VII) as subclause (VIII); and

29 (ii) by inserting after subclause (VI) the following subclause:

30 “(VII) A drug or biological product that is a selected drug (as referred to in  
31 section 1192(c)).”.

32 (C) EXCEPTION TO PART D NON-INTERFERENCE.—Section 1860D–11(i) of the Social  
33 Security Act (42 U.S.C. 1395w–111(i)) is amended—

34 (i) in paragraph (1), by striking “and” at the end;

35 (ii) in paragraph (2), by striking ~~the period at the end~~ **“or institute a price**  
36 **structure for the reimbursement of covered part D drugs.”** and inserting “,  
37 except as provided under section 1860D–4(b)(3)(l); and”; and

38 (iii) by adding at the end the following new paragraph:



1 “(3) may not institute a price structure for the reimbursement of covered part D drugs,  
2 except as provided under part E of title XI.”.

3 (D) APPLICATION AS NEGOTIATED PRICE UNDER PART D.—Section 1860D–2(d)(1) of  
4 the Social Security Act (42 U.S.C. 1395w–102(d)(1)) is amended—

5 (i) in subparagraph (B), by inserting “, subject to subparagraph (D),” after  
6 “negotiated prices”; and

7 (ii) by adding at the end the following new subparagraph:

8 “(D) APPLICATION OF MAXIMUM FAIR PRICE FOR SELECTED DRUGS.—In applying  
9 this section, in the case of a covered part D drug that is a selected drug (as referred to  
10 in section 1192(c)), with respect to a price applicability period (as defined in section  
11 1191(b)(2)), the negotiated prices used for payment (as described in this subsection)  
12 shall be no greater than the maximum fair price (as defined in section ~~1191(c)(2))~~  
13 **1191(c)(3)**) for such drug and for each year during such period plus any dispensing  
14 fees for such drug.”.

15 (E) COVERAGE OF SELECTED DRUGS.—Section 1860D–4(b)(3) of the Social Security  
16 Act (42 U.S.C. 1395w–104(b)(3)) is amended by adding at the end the following new  
17 subparagraph:

18 “(I) REQUIRED INCLUSION OF SELECTED DRUGS.—

19 “(i) IN GENERAL.—For 2026 and each subsequent year, the PDP sponsor  
20 offering a prescription drug plan shall include each covered part D drug that is a  
21 selected drug under section 1192 for which ~~an agreement for such drug a~~  
22 **maximum fair price (as defined in section 1191(c)(3))** is in effect ~~under section~~  
23 **1193** with respect to the year.

24 “(ii) CLARIFICATION.—Nothing in clause (i) shall be construed as prohibiting a  
25 PDP sponsor from removing such a selected drug from a formulary if such  
26 removal would be permitted under section 423.120(b)(5)(iv) of title 42, Code of  
27 Federal Regulations (or any successor regulation).”.

28 (F) INFORMATION FROM PRESCRIPTION DRUG PLANS AND MA–PD PLANS REQUIRED.  
29 —

30 (i) PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security  
31 Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following  
32 new paragraph:

33 “(8) PROVISION OF INFORMATION RELATED TO MAXIMUM FAIR PRICES.—Each contract  
34 entered into with a PDP sponsor under this part with respect to a prescription drug plan  
35 offered by such sponsor shall require the sponsor to provide information to the Secretary as  
36 requested by the Secretary ~~in accordance with~~ **for purposes of carrying out** section  
37 ~~1194(g).”~~ **1194.”**.

38 (ii) MA–PD PLANS.—Section 1857(f)(3) of the Social Security Act (42 U.S.C.  
39 1395w–27(f)(3)) is amended by adding at the end the following new  
40 subparagraph:

41 “(E) PROVISION OF INFORMATION RELATED TO MAXIMUM FAIR PRICES.—Section

1 1860D–12(b)(8).”.

2 **(G) CONDITIONS FOR COVERAGE.—**

3 **(i) MEDICARE PART D.—Section 1860D–43(c) of the Social Security Act (42**  
4 **U.S.C. 1395w–153(c)) is amended—**

5 **(I) by redesignating paragraphs (1) and (2) as subparagraphs (A) and**  
6 **(B), respectively;**

7 **(II) by striking “Agreements.—Subsection” and inserting the**  
8 **following: “Agreements.—**

9 **“(1) IN GENERAL.—Subject to paragraph (2), subsection”; and**

10 **(III) by adding at the end the following new paragraph:**

11 **“(2) EXCEPTION.—Paragraph (1)(A) shall not apply to a covered part D drug of a**  
12 **manufacturer for any period described in section 5000D(c)(1) of the Internal Revenue**  
13 **Code of 1986 with respect to the manufacturer.”.**

14 **(ii) MEDICAID AND MEDICARE PART B.—Section 1927(a)(3) of the Social**  
15 **Security Act (42 U.S.C. 1396r–8(a)(3)) is amended by adding at the end the**  
16 **following new sentence: “The preceding sentence shall not apply to a single**  
17 **source drug or innovator multiple source drug of a manufacturer for any**  
18 **period described in section 5000D(c)(1) of the Internal Revenue Code of 1986**  
19 **with respect to the manufacturer.”.**

20 **(H) DISCLOSURE OF INFORMATION UNDER MEDICARE PART D.—**

21 **(i) CONTRACT REQUIREMENTS.—Section 1860D–12(b)(3)(D)(i) of the Social**  
22 **Security Act (42 U.S.C. 1395w–112(b)(3)(D)(i)) is amended by inserting “, or**  
23 **carrying out part E of title XI” after “appropriate”.**

24 **(ii) SUBSIDIES.—Section 1860D–15(f)(2)(A)(i) of the Social Security Act (42**  
25 **U.S.C. 1395w–115(f)(2)(A)(i)) is amended by inserting “or part E of title XI”**  
26 **after “this section”.**

27 **(2) DRUG PRICE NEGOTIATION PROGRAM PRICES INCLUDED IN BEST PRICE.—Section**  
28 **1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)) is amended—**

29 **(A) in clause (i)(VI), by striking “any prices charged” and inserting “subject to**  
30 **clause (ii)(V), any prices charged”; and**

31 **(B) in clause (ii)—**

32 **(i) in subclause (III), by striking “; and” at the end;**

33 **(ii) in subclause (IV), by striking the period at the end and inserting “; and”;**  
34 **and**

35 **(iii) by adding at the end the following new subclause:**

36 **“(V) in the case of a rebate period and a covered outpatient drug that is a**  
37 **selected drug (as referred to in section 1192(c)) during such rebate period,**  
38 **shall be inclusive of the maximum fair price (as defined in section ~~1191(e)~~**  
39 **~~(2)) 1191(c)(3) for such drug with respect to such period.”.~~**

1 (3) MAXIMUM FAIR PRICES EXCLUDED FROM AVERAGE MANUFACTURER PRICE.—Section  
2 1927(k)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)(i)) is amended—

3 (A) in subclause (IV) by striking “; and” at the end;

4 (B) in subclause (V) by striking the period at the end and inserting “; and”; and

5 (C) by adding at the end the following new subclause:

6 “(VI) any reduction in price paid during the rebate period to the  
7 manufacturer for a drug by reason of application of part E of title XI.”.

8 (c) Implementation for 2026 Through 2028.—The Secretary of Health and Human Services  
9 shall implement this section, including the amendments made by this section, for 2026, 2027,  
10 and 2028 by program instruction or other forms of program guidance.

## 11 SEC. 11002. SPECIAL RULE TO DELAY SELECTION AND 12 NEGOTIATION OF BIOLOGICS FOR BIOSIMILAR 13 MARKET ENTRY.

14 (a) In General.—Part E of title XI of the Social Security Act, as added by section 11001, is  
15 amended—

16 (1) in section 1192—

17 (A) in subsection (a), in the flush matter following paragraph ~~(2)~~(4), by inserting  
18 “and subsection (b)(3)” after “the previous sentence”;

19 (B) in subsection (b)—

20 (i) in paragraph (1), by adding at the end the following new subparagraph:

21 “(C) In the case of a biological product for which the inclusion of the biological  
22 product as a selected drug on a list published under subsection (a) has been delayed  
23 under subsection (f)(2), remove such biological product from the rankings under  
24 subparagraph (A) before making the selections under subparagraph (B).”; and

25 (ii) by adding at the end the following new paragraph:

26 “(3) INCLUSION OF DELAYED BIOLOGICAL PRODUCTS.—Pursuant to subparagraphs (B)(ii)  
27 (I) and (C)(i) of subsection (f)(2), the Secretary shall select and include on the list published  
28 under subsection (a) the biological products described in such subparagraphs. Such  
29 biological products shall count towards the required number of drugs to be selected under  
30 subsection (a)(1).”; ~~and (C) by redesignating subsection (f) as subsection (g);~~

31 ~~(D) by inserting after subsection (e)(C) by adding at the end~~ the following new  
32 subsection:

33 “(f) Special Rule To Delay Selection and Negotiation of Biologics for Biosimilar Market  
34 Entry.—

35 “(1) APPLICATION.—

36 “(A) IN GENERAL.—Subject to subparagraph (B), in the case of a biological product  
37 that would (but for this subsection) be an extended-monopoly drug (as defined in

1 section 1194(c)(4)) included as a selected drug on the list published under subsection  
2 (a) with respect to an initial price applicability year, the rules described in paragraph  
3 (2) shall apply if the Secretary determines that there is a high likelihood (as described  
4 in paragraph (3)) that a biosimilar biological product (for which such biological  
5 product will be the reference product) will be licensed and marketed under section  
6 351(k) of the Public Health Service Act before the date that is 2 years after the selected  
7 drug publication date with respect to such initial price applicability year.

8 “(B) REQUEST REQUIRED.—

9 “(i) IN GENERAL.—The Secretary shall not provide for a delay under—

10 “(I) paragraph (2)(A) unless a request is made for such a delay by a  
11 manufacturer of a biosimilar biological product prior to the selected drug  
12 publication date for the list published under subsection (a) with respect to the  
13 initial price applicability year for which the biological product **would may**  
14 have been included as a selected drug on such list but for subparagraph (2)  
15 (A); or

16 “(II) paragraph (2)(B)(iii) unless a request is made for such a delay by  
17 such a manufacturer prior to the selected drug publication date for the list  
18 published under subsection (a) with respect to the initial price applicability  
19 year that is 1 year after the initial price applicability year for which the  
20 biological product described in subsection (a) would have been included as a  
21 selected drug on such list but for paragraph (2)(A).

22 “(ii) INFORMATION AND DOCUMENTS.—

23 “(I) IN GENERAL.—A request made under clause (i) shall be submitted to  
24 the Secretary by such manufacturer at a time and in a form and manner  
25 specified by the Secretary, and contain—

26 “(aa) information and documents necessary for the Secretary to make  
27 determinations under this subsection, as specified by the Secretary ; **and**  
28 **including, to the extent available, items described in subclause (III);**  
29 and

30 “(bb) all agreements related to the biosimilar biological product filed  
31 with the Federal Trade Commission or the Assistant Attorney General  
32 pursuant to subsections (a) and (c) of section 1112 of the Medicare  
33 Prescription Drug, Improvement, and Modernization Act of 2003.

34 “(II) ADDITIONAL INFORMATION AND DOCUMENTS.—After the Secretary  
35 has reviewed the request and materials submitted under subclause (I), the  
36 manufacturer shall submit any additional information and documents  
37 requested by the Secretary necessary to make determinations under this  
38 subsection.

39 **“(III) ITEMS DESCRIBED.—The items described in this clause are the**  
40 **following:**

41 **\*\* 1 “(i)“(aa)** The manufacturing schedule for such biosimilar  
42 biological product submitted to the Food and Drug Administration

1 during its review of the application under such section 351(k).

2 **\*\* 2 “(ii)“(bb)** Disclosures (in filings by the manufacturer of such  
3 biosimilar biological product with the Securities and Exchange  
4 Commission required under section 12(b), 12(g), 13(a), or 15(d) of the  
5 Securities Exchange Act of 1934 about capital investment, revenue  
6 expectations, and actions taken by the manufacturer that are typical of  
7 the normal course of business in the year (or the 2 years, as applicable)  
8 before marketing of a biosimilar biological product) that pertain to the  
9 marketing of such biosimilar biological product, or comparable  
10 documentation that is distributed to the shareholders of privately held  
11 companies.

12 “(C) AGGREGATION RULE.—

13 “(i) IN GENERAL.—All persons treated as a single employer under subsection  
14 (a) or (b) of section 52 of the Internal Revenue Code of 1986, or in a partnership,  
15 shall be treated as one manufacturer for purposes of paragraph (2)(D)(iv).

16 “(ii) PARTNERSHIP DEFINED.—In clause (i), the term ‘partnership’ means a  
17 syndicate, group, pool, joint venture, or other organization through or by means of  
18 which any business, financial operation, or venture is carried on by the  
19 manufacturer of the biological product and the manufacturer of the biosimilar  
20 biological product.

21 “(2) RULES DESCRIBED.—The rules described in this paragraph are the following:

22 “(A) DELAYED SELECTION AND NEGOTIATION FOR 1 YEAR.—If a determination of  
23 high likelihood is made under paragraph (3), the Secretary shall delay the inclusion of  
24 the biological product as a selected drug on the list published under subsection (a) until  
25 such list is published with respect to the initial price applicability year that is 1 year  
26 after the initial price applicability year for which the biological product would have  
27 been included as a selected drug on such list.

28 “(B) IF NOT LICENSED AND MARKETED DURING THE INITIAL DELAY.—

29 “(i) IN GENERAL.—If, during the time period between the selected drug  
30 publication date on which the biological product would have been included on the  
31 list as a selected drug pursuant to subsection (a) but for subparagraph (A) and the  
32 selected drug publication date with respect to the initial price applicability year  
33 that is 1 year after the initial price applicability year for which such biological  
34 product would have been included as a selected drug on such list, the Secretary  
35 determines that the biosimilar biological product for which the manufacturer  
36 submitted the request under paragraph (1)(B)(i)(II) (and for which the Secretary  
37 previously made a high likelihood determination under paragraph (3)) has not  
38 been licensed and marketed under **such** section 351(k) **of the Public Health**  
39 **Service Act**, the Secretary shall, at the request of such manufacturer—

40 “(I) reevaluate whether there is a high likelihood (as described in  
41 paragraph (3)) that such biosimilar biological product will be licensed and  
42 marketed under such section 351(k) before the **selected drug publication** date  
43 that is 2 years after the selected drug publication date for which such

1 biological product would have been included as a selected drug on such list  
2 published but for subparagraph (A); and

3 “(II) evaluate whether, on the basis of clear and convincing evidence, the  
4 manufacturer of such biosimilar biological product has made a significant  
5 amount of progress (as determined by the Secretary) towards both such  
6 licensure and the marketing of such biosimilar biological product (based on  
7 the information from items described in subclauses (I)(bb) and (II) of  
8 paragraph ~~(3)(B)~~(1)(B)(ii) since the receipt by the Secretary of the request  
9 made by such manufacturer under paragraph (1)(B)(i)(I).

10 “(ii) SELECTION AND NEGOTIATION.—If the Secretary determines that there is  
11 not a high likelihood that such biosimilar biological product will be licensed and  
12 marketed as described in clause (i)(I) or there has not been a significant amount of  
13 progress as described in clause (i)(II)—

14 “(I) the Secretary shall include the biological product as a selected drug on  
15 the list published under subsection (a) with respect to the initial price  
16 applicability year that is 1 year after the initial price applicability year for  
17 which such biological product would have been included as a selected drug  
18 on such list but for subparagraph (A); and

19 “(II) the manufacturer of such biological product shall pay a rebate under  
20 paragraph (4) with respect to the year for which such manufacturer would  
21 have provided access to a maximum fair price for such biological product but  
22 for subparagraph (A).

23 “(iii) SECOND 1-YEAR DELAY.—If the Secretary determines that there is a high  
24 likelihood that such biosimilar biological product will be licensed and marketed  
25 (as described in clause (i)(I)) and a significant amount of progress has been made  
26 by the manufacturer of such biosimilar biological product towards such licensure  
27 and marketing (as described in clause (i)(II)), the Secretary shall delay the  
28 inclusion of the biological product as a selected drug on the list published under  
29 subsection (a) until the selected drug publication date of such list with respect to  
30 the initial price applicability year that is 2 years after the initial price applicability  
31 year for which such biological product would have been included as a selected  
32 drug on such list but for this subsection.

33 “(C) IF NOT LICENSED AND MARKETED DURING THE YEAR TWO DELAY.—If, during  
34 the time period between the selected drug publication date of the list for which the  
35 biological product would have been included as a selected drug but for subparagraph  
36 (B)(iii) and the selected drug publication date with respect to the initial price  
37 applicability year that is 2 years after the initial price applicability year for which such  
38 biological product would have been included as a selected drug on such list but for this  
39 subsection, the Secretary determines that such biosimilar biological product has not  
40 been licensed and marketed—

41 “(i) the Secretary shall include such biological product as a selected drug on  
42 such list with respect to the initial price applicability year that is 2 years after the  
43 initial price applicability year for which such biological product would have been

1 included as a selected drug on such list; and

2 “(ii) the manufacturer of such biological product shall pay a rebate under  
3 paragraph (4) with respect to the years for which such manufacturer would have  
4 provided access to a maximum fair price for such biological product but for this  
5 subsection.

6 “(D) LIMITATIONS ON DELAYS.—

7 “(i) LIMITED TO 2 YEARS.—In no case shall the Secretary delay the inclusion of  
8 a biological product on the list published under subsection (a) for more than 2  
9 years.

10 “(ii) EXCLUSION OF BIOLOGICAL PRODUCTS THAT TRANSITIONED TO A LONG-  
11 MONOPOLY DRUG DURING THE DELAY.—In the case of a biological product for  
12 which the inclusion on the list published pursuant to subsection (a) was delayed  
13 by 1 year under subparagraph (A) and for which there would have been a change  
14 in status to a long-monopoly drug (as defined in section 1194(c)(5)) if such  
15 biological product had been a selected drug, in no case may the Secretary provide  
16 for a second 1-year delay under subparagraph (B)(iii).

17 “(iii) EXCLUSION OF BIOLOGICAL PRODUCTS IF MORE THAN 1 YEAR SINCE  
18 LICENSURE.—In no case shall the Secretary delay the inclusion of a biological  
19 product on the list published under subsection (a) if more than 1 year has elapsed  
20 since the biosimilar biological product has been licensed under section 351(k) of  
21 the Public Health Service Act and marketing has not commenced for such  
22 biosimilar biological product.

23 “(iv) CERTAIN MANUFACTURERS OF BIOSIMILAR BIOLOGICAL PRODUCTS  
24 EXCLUDED.—In no case shall the Secretary delay the inclusion of a biological  
25 product as a selected drug on the list published under subsection (a) if Secretary  
26 determined that the manufacturer of the biosimilar biological product described  
27 in paragraph (1)(A)—

28 “(I) is the same as the manufacturer of the reference product described in  
29 such paragraph or is treated as being the same pursuant to paragraph (1)(C);  
30 or“(II) has—

31 “(aa) in the past 5 years, been subject to exclusion under section 1128(b)  
32 (7) or to the imposition of civil monetary penalties under section 1128A; or

33 “(bb) an integrity agreement in effect with the Inspector General of the  
34 Department of Health and Human Services that was entered into in lieu of  
35 exclusion under section 1128(b)(7);

36 “(III) is currently subject to a cease and desist order or an injunction in a  
37 proceeding or civil action brought by the Federal Trade Commission except  
38 for proceedings or actions related solely to a merger or acquisition; or

39 “(IV) has“(II) has, based on information from items described in  
40 paragraph (1)(B)(ii)(I)(bb), entered into any agreement described in such  
41 paragraph (1)(B)(ii)(I)(bb) with the manufacturer of the reference product  
42 described in paragraph (1)(A) that that—

1 **“(aa)** requires or incentivizes the manufacturer of the biosimilar  
2 biological product to submit a request described in paragraph (1)(B);  
3 **or:**

4 **“(E) Public notification.**—If the Secretary delays the inclusion of a  
5 biological product as a selected drug on the list published under this  
6 section pursuant to subparagraph (A) or (B)(iii), the Secretary shall,  
7 within 30 days of making the determination with respect to such delay,  
8 provide notification to the public of such delay in a form and manner  
9 determined by the Secretary.**“(bb) restricts the quantity (either**  
10 **directly or indirectly) of the biosimilar biological product that may**  
11 **be sold in the United States over a specified period of time.**

12 **“(3) High likelihood.**—

13 **“(A) In general.**—For**“(3) HIGH LIKELIHOOD.**—For purposes of this subsection, there is  
14 a high likelihood described in paragraph (1) or paragraph (2), as applicable, if the Secretary  
15 finds that—

16 **“(i)“(A)** an application for licensure under **such** section 351(k) **of the Public Health**  
17 **Service Act** for the biosimilar biological product has been accepted for review or  
18 approved by the Food and Drug Administration; and

19 **“(ii)“(B)** information from **documents items** described in **sub clauses (I)(bb) and**  
20 **(III) of** paragraph (1)(B)(ii) submitted **to the Secretary** by the manufacturer  
21 requesting a delay under **such** paragraph (1)(B) **to the Secretary** provides clear and  
22 convincing evidence that such biosimilar biological product will, within the time  
23 period specified under paragraph (1)(A) or (2)(B)(i)(I), be marketed.

24 **“(B) Items described.**—The items described in this subparagraph are the following:

25  
26 **\* 1 “(i) The manufacturing schedule for such biosimilar biological product submitted to**  
27 **the Food and Drug Administration during its review of the application under such section-**  
28 **351(k).**

29  
30 **\* 2 “(ii) Disclosures (in filings by the manufacturer of such biosimilar biological product**  
31 **with the Securities and Exchange Commission required under section 12(b), 12(g), 13(a), or**  
32 **15(d) of the Securities Exchange Act of 1934 about capital investment, revenue-**  
33 **expectations, and actions taken by the manufacturer that are typical of the normal course of**  
34 **business in the year (or the 2 years, as applicable) before marketing of a biosimilar**  
35 **biological product) that pertain to the marketing of such biosimilar biological product, or**  
36 **comparable documentation that is distributed to the shareholders of privately held**  
37 **companies.**

38 **“(iii) Agreements filed with the Federal Trade Commission or the Assistant Attorney-**  
39 **General pursuant to subsections (a) and (c) of section 1112 of the Medicare Prescription**  
40 **Drug, Improvement, and Modernization Act of 2003.**

41 **“(4) REBATE.**—



1 “(A) IN GENERAL.—For purposes of subparagraphs (B)(ii)(II) and (C)(ii) of  
2 paragraph (2), in the case of a biological product for which the inclusion on the list  
3 under subsection (a) was delayed under this subsection and for which the Secretary has  
4 negotiated and entered into an agreement under section 1193 with respect to such  
5 biological product, the manufacturer shall be required to pay a rebate to the Secretary  
6 at such time and in such manner as determined by the Secretary.

7 “(B) AMOUNT.—Subject to subparagraph (C), the amount of the rebate under  
8 subparagraph (A) with respect to a biological product shall be equal to the estimated  
9 amount—

10 “(i) in the case of a biological product that is a covered part D drug (as defined  
11 in section 1860D–2(e)), that is the sum of the products of—

12 “(I) 75 percent of the amount by which—

13 “(aa) the average manufacturer price, as reported by the manufacturer  
14 of such covered part D drug under section 1927 (or, if not reported by  
15 such manufacturer under section 1927, as reported by such  
16 manufacturer to the Secretary pursuant to the agreement under section  
17 1193(a)) for such biological product, with respect to each of the  
18 calendar quarters of the price applicability period that would have  
19 applied but for this subsection; exceeds

20 “(bb) in the initial price applicability year that would have applied  
21 but for a delay under—

22 “(AA) paragraph (2)(A), the maximum fair price negotiated under  
23 section 1194 for such biological product under such agreement; or

24 “(BB) paragraph (2)(B)(iii), such maximum fair price, increased by  
25 the annual percentage increase in the consumer price index for all  
26 urban consumers (all items; United States city average) for the 12-  
27 month period ending with September of such previous year as  
28 described in section 1195(b)(1)(A); and

29 “(II) the number of units dispensed under part D of title XVIII for such  
30 covered part D drug during each such calendar quarter of such price  
31 applicability period; and

32 “(ii) in the case of a biological product covered for which payment may be  
33 made under part B of title XVIII, that is the sum of the products of—

34 “(I) 80 percent of the amount by which—

35 “(aa) the payment amount for such biological product under section  
36 1847A(b), with respect to each of the calendar quarters of the price  
37 applicability period that would have applied but for this subsection;  
38 exceeds

39 “(bb) in the initial price applicability year that would have applied  
40 but for a delay under—

41 “(AA) paragraph (2)(A), the maximum fair price negotiated under

1 section 1194 for such biological product under such agreement; or

2 “(BB) paragraph (2)(B)(iii), such maximum fair price, increased by  
3 the annual percentage increase in the consumer price index for all  
4 urban consumers (all items; United States city average) for the 12-  
5 month period ending with September of such previous year as  
6 described in section 1195(b)(1)(A); and

7 “(II) the number of units (excluding units that are packaged into the  
8 payment amount for an item or service and are not separately payable under  
9 such part B) of the billing and payment code of such biological product  
10 administered or furnished under such part B during each such calendar  
11 quarter of such price applicability period.

12 “(C) SPECIAL RULE FOR DELAYED BIOLOGICAL PRODUCTS THAT ARE LONG-  
13 MONOPOLY DRUGS.—

14 “(i) IN GENERAL.—In the case of a biological product with respect to which a  
15 rebate is required to be paid under this paragraph, if such biological product  
16 qualifies as a long-monopoly drug (as defined in section 1194(c)(5)) at the time of  
17 its inclusion on the list published under subsection (a), in determining the amount  
18 of the rebate for such biological product under subparagraph (B), the amount  
19 described in clause (ii) shall be substituted for the maximum fair price described  
20 in clause (i)(I) or (ii)(I) of such subparagraph (B), as applicable.

21 “(ii) AMOUNT DESCRIBED.—The amount described in this clause is an amount  
22 equal to 65 percent of the average non-Federal average manufacturer price for the  
23 biological product for 2021 (or, in the case that there is not an average non-  
24 Federal average manufacturer price available for such biological product for  
25 2021, for the first full year following the market entry for such biological  
26 product), increased by the percentage increase in the consumer price index for all  
27 urban consumers (all items; United States city average) from September 2021 (or  
28 December of such first full year following the market entry), as applicable, to  
29 September of the year prior to the selected drug publication date with respect to  
30 the initial price applicability year that would have applied but for this subsection.

31 “(D) REBATE DEPOSITS.—Amounts paid as rebates under this paragraph shall be  
32 deposited into—

33 “(i) in the case payment is made for such biological product under part B of  
34 title XVIII, the Federal Supplementary Medical Insurance Trust Fund established  
35 under section 1841; and

36 “(ii) in the case such biological product is a covered part D drug (as defined in  
37 section 1860D–2(e)), the Medicare Prescription Drug Account under section  
38 1860D–16 in such Trust Fund.

39 “(5) Determinations.—The determinations of high likelihood and significant amount of  
40 progress under this subsection and the determinations required under paragraph (2)(D)(iv)  
41 shall be based on information available to the Secretary, including information required by  
42 the Secretary from the manufacturer of the biosimilar biological product making a request  
43 for a delay under this subsection.

1 ~~“(6) DEFINITIONS OF BIOSIMILAR BIOLOGICAL PRODUCT.—~~In this subsection, the term  
2 ‘biosimilar biological product’ has the ~~meanings~~ **meaning** given such term in section  
3 1847A(c)(6).”; ~~and~~

4 ~~(E) in subsection (g), as redesignated by subparagraph (C), by inserting “the application~~  
5 ~~of subsection (f),” after “subsection (e),”;~~

6 (2) in section 1193(a)(4)—

7 (A) in the matter preceding subparagraph (A), by inserting ~~“and“,~~ **and** for section  
8 ~~1192(f)”~~ **1192(f),”** after “section ~~1194(f)”~~ **1194(f)”**;

9 (B) in subparagraph (A), by striking “and” at the end;

10 (C) by adding at the end the following new subparagraph:

11 “(C) information that the Secretary requires to carry out section 1192(f), including  
12 rebates under paragraph (4) of such section; and”;

13 (3) in section 1196(a)(7), by ~~striking “section 1192(d)(2)(B)”~~ **and inserting**  
14 ~~“subsections (d)(2)(B) and inserting “, 1192(f)(1)(C),” after “sections 1192(d)(2)(B);”~~ **and**  
15 ~~“(f)(1)(C) of section 1192”;~~

16 (4) in section 1197—

17 (A) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e),  
18 respectively; and

19 (B) by inserting after subsection (a) the following new subsection:

20 “(b) Violations Relating to Providing Rebates.—Any manufacturer that fails to comply with  
21 the rebate requirements under section 1192(f)(4) shall be subject to a civil monetary penalty  
22 equal to 10 times the amount of the rebate the manufacturer failed to pay under such section.”;  
23 **and**

24 ~~(5) in section 1198(b)(2), by inserting “the application of section 1192(f),” after~~  
25 ~~“section 1192(e).”;~~

26  
27 (b) Conforming Amendments for Disclosure of Certain Information.—Section 1927(b)(3)(D)  
28 ~~(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)) is amended by striking “or to~~  
29 ~~carry out section 1847B”~~ **and inserting “or to carry out section 1847B or section 1192(f),**  
30 ~~including rebates under paragraph (4) of such section.”.) is amended—~~

31 (1) in clause (vi), by striking “and” at the end;

32  
33 ~~\* 10 (2) in clause (vii), by striking the period at the end and inserting “; and”;~~ **and**

34 (3) by inserting after clause (vii) the following new clause:

35 ~~“(viii) as the Secretary determines necessary to carry out section 1192(f), including rebates~~  
36 ~~under paragraph (4) of such section.”;~~

37 (c) Implementation for 2026 Through 2028.—The Secretary of Health and Human Services

1 shall implement this section, including the amendments made by this section, for 2026, 2027,  
2 and 2028 by program instruction or other forms of program guidance.

3 SEC. 11003. ~~SELECTED DRUG MANUFACTURER~~ EXCISE  
4 TAX IMPOSED ~~ON DRUG MANUFACTURERS~~ DURING  
5 NONCOMPLIANCE PERIODS.

6 (a) In General.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the  
7 end the following new chapter:

8 “CHAPTER ~~50A—SELECTED DRUGS~~ 50A—  
9 ~~DESIGNATED DRUGS~~

10 ~~“Sec. 5000D. Selected”~~ “Sec. 5000D. Designated” drugs during noncompliance periods.

11 “SEC. 5000D. ~~SELECTED~~ ~~DESIGNATED~~ DRUGS DURING  
12 NONCOMPLIANCE PERIODS.

13 “(a) In General.—There is hereby imposed on the sale by the manufacturer, producer, or  
14 importer of any ~~selected~~ ~~designated~~ drug during a day described in subsection (b) a tax in an  
15 amount such that the applicable percentage is equal to the ratio of—

16 “(1) such tax, divided by

17 “(2) the sum of such tax and the price for which so sold.

18 “(b) Noncompliance Periods.—A day is described in this subsection with respect to a ~~selected~~  
19 ~~designated~~ drug if it is a day during one of the following periods:

20 “(1) The period beginning on the March 1st (or, in the case of initial price applicability  
21 year 2026, the October 2nd) immediately following the ~~selected drug publication date and~~  
22 ~~ending on the first date during which the manufacturer of the drug has in place an~~  
23 ~~agreement described in subsection (a) of section 1193~~ ~~date on which such drug is~~  
24 ~~included on the list published under section 1192(a)~~ of the Social Security Act ~~and~~  
25 ~~ending on the earlier of—~~

26 “(A) the first date on which the manufacturer of such designated drug has in  
27 place an agreement described in section 1193(a) of such Act with respect to such  
28 drug, or

29 “(B) the date that the Secretary of Health and Human Services has made a  
30 determination described in section 1192(c)(1) of such Act with respect to such  
31 designated drug.

32 “(2) The period beginning on the November 2nd immediately following the March 1st  
33 described in paragraph (1) (or, in the case of initial price applicability year 2026, the August  
34 2nd immediately following the October 2nd described in such paragraph) and ending on the  
35 ~~earlier of—~~

36 “(A) the first date ~~during~~ ~~on~~ which the manufacturer of ~~the~~ ~~such designated~~ drug  
37 and the Secretary of Health and Human Services have agreed to a maximum fair price

1 under such agreement, **an agreement described in section 1193(a) of the Social**  
2 **Security Act, or**

3 ~~“(3) In the case of a selected drug with respect to which“(B) the date that the~~  
4 ~~Secretary of Health and Human Services has specified a renegotiation period under~~  
5 ~~such agreement made a determination described in section 1192(c)(1) of such Act~~  
6 ~~with respect to such designated drug.~~

7 **“(3) In the case of any designated drug which is a selected drug (as defined in**  
8 **section 1192(c) of the Social Security Act) that the Secretary of Health and Human**  
9 **Services has selected for renegotiation under section 1194(f) of such Act, the period**  
10 **beginning on the first date after the last date of such renegotiation period and ending on the**  
11 **first date during November 2nd of the year that begins 2 years prior to the first initial**  
12 **price applicability year of the price applicability period for which the maximum fair**  
13 **price established pursuant to such renegotiation applies and ending on the earlier of—**

14 **“(A) the first date on** which the manufacturer of **the such designated** drug has  
15 agreed to a renegotiated maximum fair price under such agreement, **or**

16 **“(B) the date that the Secretary of Health and Human Services has made a**  
17 **determination described in section 1192(c)(1) of such Act with respect to such**  
18 **designated drug.**

19 ~~“(4) With respect to information that is required to be submitted to the Secretary of~~  
20 ~~Health and Human Services under such agreement **an agreement described in section**~~  
21 ~~**1193(a) of the Social Security Act,** the period beginning on the date on which such~~  
22 ~~Secretary certifies that such information is overdue and ending on the date that such~~  
23 ~~information is so submitted.~~

24 **“(c) Suspension of Tax.—**

25 **“(1) IN GENERAL.—A day shall not be taken into account as a day during a period**  
26 **described in subsection (b) if such day is also a day during the period—**

27 **“(A) beginning on the first date on which—**

28 **“(i) the notice of terminations of all applicable agreements of the**  
29 **manufacturer have been received by the Secretary of Health and Human**  
30 **Services, and**

31 **“(ii) none of the drugs of the manufacturer of the designated drug are**  
32 **covered by an agreement under section 1860D-14A or 1860D-14C of the**  
33 **Social Security Act, and**

34 **“(B) ending on the last day of February following the earlier of—**

35 **“(i) the first day after the date described in subparagraph (A) on which the**  
36 **manufacturer enters into any subsequent applicable agreement, or**

37 **“(ii) the first date any drug of the manufacturer of the designated drug is**  
38 **covered by an agreement under section 1860D-14A or 1860D-14C of the**  
39 **Social Security Act.**

40 **“(2) APPLICABLE AGREEMENT.—For purposes of this subsection, the term**

1 **'applicable agreement' means the following:**

2 **"(A) An agreement under—**

3 **"(i) the Medicare coverage gap discount program under section 1860D-**  
4 **14A of the Social Security Act, or**

5 **"(ii) the manufacturer discount program under section 1860D-14C of such**  
6 **Act.**

7 **"(B) A rebate agreement described in section 1927(b) of such Act.**

8 **"(d) Applicable Percentage.**—For purposes of this section, the term 'applicable percentage'  
9 means—

10 "(1) in the case of sales of a **selected designated** drug during the first 90 days described  
11 in subsection (b) with respect to such drug, 65 percent,

12 "(2) in the case of sales of such drug during the 91st day through the 180th day described  
13 in subsection (b) with respect to such drug, 75 percent,

14 "(3) in the case of sales of such drug during the 181st day through the 270th day  
15 described in subsection (b) with respect to such drug, 85 percent, and

16 "(4) in the case of sales of such drug during any subsequent day, 95 percent.

17 **"(d) Selected Drug.**—For **"(e) Definitions.**—For purposes of this section—

18 **"(1) IN GENERAL.—THE DESIGNATED DRUG.—The** term 'selected **'designated drug'**  
19 means any selected drug (within the meaning of section 1192(e) **negotiation-eligible drug**  
20 **(as defined in section 1192(d))** of the Social Security Act) **included on the list published**  
21 **under section 1192(a) of such Act** which is manufactured or produced in the United States  
22 or entered into the United States for consumption, use, or warehousing.

23 **"(2) UNITED STATES.—The** term 'United States' has the meaning given such term by  
24 section 4612(a)(4).

25 **"(3) OTHER TERMS.—The** terms 'initial price applicability year', 'price applicability  
26 **period', and 'maximum fair price' have the meaning given such terms in section 1191**  
27 **of the Social Security Act.**

28 **"(f) Special Rules.—**

29 **"(1) COORDINATION WITH RULES FOR POSSESSIONS OF THE UNITED STATES.—Rules**  
30 similar to the rules of paragraphs (2) and (4) of section 4132(c) shall apply for purposes of  
31 this section.

32 **"(e) Other Definitions.—For** purposes of this section, the terms 'initial price applicability  
33 **year', 'selected drug publication date', and 'maximum fair price' have the meaning given**  
34 **such terms in section 1191 of the Social Security Act.**

35 **"(f) Special Rules.—**

36 **"(1)"(2) ANTI-ABUSE RULE.—In** the case of a sale which was timed for the purpose of  
37 avoiding the tax imposed by this section, the Secretary may treat such sale as occurring  
38 during a day described in subsection (b).

1 ~~“(2) Prohibition on administrative appeals.—Any tax controversy with respect to the tax-~~  
2 ~~imposed by this section shall not be referred to, or considered by, the Internal Revenue Service-~~  
3 ~~Independent Office of Appeals.~~

4 “(g) Exports.—Rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)  
5 (ii)(II)) shall apply for purposes of this chapter.

6 “(h) Regulations.—The Secretary shall prescribe such regulations and other guidance as may  
7 be necessary ~~or appropriate~~ to carry out this section.”.

8 (b) No Deduction for Excise Tax Payments.—Section 275(a)(6) of the Internal Revenue Code  
9 of 1986 is amended by inserting “50A,” after “46,”.

10 (c) ~~Civil Actions for Refund.—Section 7422 of the Internal Revenue Code of 1986 is amended~~  
11 ~~by inserting after subsection (g) the following new subsection:~~

12 ~~“(h) Special Rules for Excise Tax Imposed by Chapter 50A.—No suit or proceeding shall be~~  
13 ~~maintained in any court for the recovery of any tax imposed under section 5000D until payment~~  
14 ~~has been made by the taxpayer in an amount equal to the full amount of the tax imposed under~~  
15 ~~such section (including any interest or penalties in connection with such tax) with respect to any~~  
16 ~~sales of a selected drug (as defined in section 5000D(d)(1)) during the period for which a return~~  
17 ~~is required to be made with respect to such tax (as determined under regulations prescribed by~~  
18 ~~the Secretary).”.~~

19 ~~(d)~~ Clerical Amendment.—The table of chapters for subtitle D of the Internal Revenue Code  
20 of 1986 is amended by adding at the end the following new item:

21 “Chapter ~~50A—Selected~~ **50A—Designated** Drugs”.

22 ~~(e)~~**(d)** Effective Date.—The amendments made by this section shall apply to sales after the  
23 date of the enactment of this Act.

## 24 SEC. 11004. FUNDING.

25 In addition to amounts otherwise available, there is appropriated to the Centers for Medicare  
26 & Medicaid Services, out of any money in the Treasury not otherwise appropriated,  
27 \$3,000,000,000 for fiscal year 2022, to remain available until expended, to carry out the  
28 provisions of, including the amendments made by, this part.

## 29 PART 2—PRESCRIPTION DRUG INFLATION REBATES

### 30 SEC. 11101. MEDICARE PART B REBATE BY 31 MANUFACTURERS.

32 (a) In General.—Section 1847A of the Social Security Act (42 U.S.C. 1395w–3a) is **amended**  
33 **amended—**

34 ~~(1)~~ by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the  
35 following subsection:

36 “(i) Rebate by Manufacturers for Single Source Drugs and Biologicals With Prices Increasing  
37 Faster Than Inflation.—

1 “(1) REQUIREMENTS.—

2 “(A) SECRETARIAL PROVISION OF INFORMATION.—Not later than 6 months after the  
3 end of each calendar quarter beginning on or after January 1, 2023, the Secretary shall,  
4 for each part B rebatable drug, report to each manufacturer of such part B rebatable  
5 drug the following for such calendar quarter:

6 “(i) Information on the total number of **billing** units of the billing and payment  
7 code described in subparagraph (A)(i) of paragraph (3) with respect to such drug  
8 and calendar quarter.

9 “(ii) Information on the amount (if any) of the excess average sales price  
10 increase described in subparagraph (A)(ii) of such paragraph for such drug and  
11 calendar quarter.

12 “(iii) The rebate amount specified under such paragraph for such part B  
13 rebatable drug and calendar quarter.

14 “(B) MANUFACTURER REQUIREMENT.—For each calendar quarter beginning on or  
15 after January 1, 2023, the manufacturer of a part B rebatable drug shall, for such drug,  
16 not later than 30 days after the date of receipt from the Secretary of the information  
17 described in subparagraph (A) for such calendar quarter, provide to the Secretary a  
18 rebate that is equal to the amount specified in paragraph (3) for such drug for such  
19 calendar quarter.

20 “(C) TRANSITION RULE FOR REPORTING.—The Secretary may, for each part B  
21 rebatable drug, delay the timeframe for reporting the information described in  
22 subparagraph (A) for calendar quarters beginning in 2023 and 2024 until not later than  
23 September 30, 2025.

24 “(2) PART B REBATABLE DRUG DEFINED.—

25 “(A) IN GENERAL.—In this subsection, the term ‘part B rebatable drug’ means a  
26 single source drug or biological (as defined in subparagraph (D) of subsection (c)(6)),  
27 including a biosimilar biological product (as defined in subparagraph (H) of such  
28 subsection) but excluding a qualifying biosimilar biological product (as defined in  
29 subsection (b)(8)(B)(iii)), **that would be payable under this part if such drug were**  
30 **furnished to an individual enrolled for which payment is made** under this part, except  
31 such term shall not include such a drug or biological—

32 “(i) if, as determined by the Secretary, the average total allowed charges for  
33 such drug or biological under this part for a year per individual that uses such a  
34 drug or biological are less than, subject to subparagraph (B), \$100; or

35 “(ii) that is a vaccine described in subparagraph (A) or (B) of section 1861(s)  
36 (10).

37 “(B) INCREASE.—The dollar amount applied under subparagraph (A)(i)—

38 “(i) for 2024, shall be the dollar amount specified under such subparagraph for  
39 2023, increased by the percentage increase in the consumer price index for all  
40 urban consumers (United States city average) for the 12-month period ending  
41 with June of the previous year; and



1 “(ii) for a subsequent year, shall be the dollar amount specified in this clause  
2 (or clause (i)) for the previous year (without application of subparagraph (C)),  
3 increased by the percentage increase in the consumer price index for all urban  
4 consumers (United States city average) for the 12-month period ending with June  
5 of the previous year.

6 “(C) ROUNDING.—Any dollar amount determined under subparagraph (B) that is not  
7 a multiple of \$10 shall be rounded to the nearest multiple of \$10.

8 “(3) REBATE AMOUNT.—

9 “(A) IN GENERAL.—For purposes of paragraph (1), the amount specified in this  
10 paragraph for a part B rebatable drug assigned to a billing and payment code for a  
11 calendar quarter is, subject to subparagraphs (B) and (G) and paragraph (4), the  
12 estimated amount equal to the product of—

13 “(i) the total number of **billing** units determined under subparagraph (B) for the  
14 billing and payment code of such drug; and

15 “(ii) the amount (if any) by which—

16 “(I) the amount equal to—

17 “(aa) in the case of a part B rebatable drug described in paragraph (1)  
18 (B) of **section 1847A(b) subsection (b)**, 106 percent of the amount  
19 determined under paragraph (4) of such section for such drug during the  
20 calendar quarter; or

21 “(bb) in the case of a part B rebatable drug described in paragraph (1)  
22 (C) of such **section subsection**, the payment amount under such  
23 paragraph for such drug during the calendar quarter; exceeds

24 “(II) the inflation-adjusted payment amount determined under  
25 subparagraph (C) for such part B rebatable drug during the calendar quarter.

26 “(B) TOTAL NUMBER OF **BILLING** UNITS.—For purposes of subparagraph (A)(i), the  
27 total number of **units for the billing units and payment code** with respect to a part B  
28 rebatable drug **is determined as follows: furnished during a calendar quarter**  
29 **described in subparagraph (A) is equal to—**

30 “(i) **Determine the total number of units equal to—“(i) the number of units**  
31 **for the billing and payment code of such drug furnished during such**  
32 **calendar quarter, minus**

33 “(I) **the total number of units, as reported under subsection (c)(1)(B) for each**  
34 **National Drug Code of such drug during the calendar quarter that is two calendar**  
35 **quarters prior to the calendar quarter as described in subparagraph (A), minus**

36 “(II) **the total number of units with respect to each National Drug Code of such**  
37 **drug for which payment was made under a State plan under title XIX (or waiver**  
38 **of such plan), as reported by States under section 1927(b)(2)(A) for the rebate**  
39 **period that is the same calendar quarter as described in subclause (I).**

40 “(ii) **Convert the units determined under clause (i) to billing units for the“(ii)**

1 **the number of units for such** billing and payment code of such drug, ~~using a~~  
2 ~~methodology similar to the methodology used under this section, by dividing the~~  
3 ~~units determined under clause (i) for each National Drug Code of such drug by the~~  
4 ~~billing unit for the billing and payment code of such drug.~~

5 ~~“(iii) Compute the sum of the billing units for each National Drug Code of such~~  
6 ~~drug in clause (ii).~~ **furnished during such calendar quarter—**

7 **“(I) with respect to which the manufacturer provides a discount**  
8 **under the program under section 340B of the Public Health Service Act**  
9 **or a rebate under section 1927; or**

10 **“(II) that are packaged into the payment amount for an item or**  
11 **service and are not separately payable.**

12 **“(C) DETERMINATION OF INFLATION-ADJUSTED PAYMENT AMOUNT.—**The inflation-  
13 adjusted payment amount determined under this subparagraph for a part B rebatable  
14 drug for a calendar quarter is—

15 **“(i)** the payment amount for the billing and payment code for such drug in the  
16 payment amount benchmark quarter (as defined in subparagraph (D)); increased  
17 by

18 **“(ii)** the percentage by which the rebate period CPI-U (as defined in  
19 subparagraph (F)) for the calendar quarter exceeds the benchmark period CPI-U  
20 (as defined in subparagraph (E)).

21 **“(D) PAYMENT AMOUNT BENCHMARK QUARTER.—**The term ‘payment amount  
22 benchmark quarter’ means the calendar quarter beginning July 1, 2021.

23 **“(E) BENCHMARK PERIOD CPI-U.—**The term ‘benchmark period CPI-U’ means the  
24 consumer price index for all urban consumers (United States city average) for January  
25 2021.

26 **“(F) REBATE PERIOD CPI-U.—**The term ‘rebate period CPI-U’ means, with respect  
27 to a calendar quarter described in subparagraph (C), the greater of the benchmark  
28 period CPI-U and the consumer price index for all urban consumers (United States  
29 city average) for the first month of the calendar quarter that is two calendar quarters  
30 prior to such described calendar quarter.

31 **“(G) REDUCTION OR WAIVER FOR SHORTAGES AND SEVERE SUPPLY CHAIN**  
32 **DISRUPTIONS.—**The Secretary shall reduce or waive the amount under subparagraph  
33 (A) with respect to a part B rebatable drug and a calendar quarter—

34 **“(i)** in the case of a part B rebatable drug that is described as currently in  
35 shortage on the shortage list in effect under section 506E of the Federal Food,  
36 Drug, and Cosmetic Act at any point during the calendar quarter; or

37 **“(ii)** in the case of a biosimilar biological product, when the Secretary  
38 determines there is a severe supply chain disruption during the calendar quarter,  
39 such as that caused by a natural disaster or other unique or unexpected event.

40 **“(4) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXEMPTION.—**

1 “(A) SUBSEQUENTLY APPROVED DRUGS.—In the case of a part B rebatable drug first  
2 approved or licensed by the Food and Drug Administration after December 1, 2020,  
3 clause (i) of paragraph (3)(C) shall be applied as if the term ‘payment amount  
4 benchmark quarter’ were defined under paragraph (3)(D) as the third full calendar  
5 quarter after the day on which the drug was first marketed and clause (ii) of paragraph  
6 (3)(C) shall be applied as if the term ‘benchmark period CPI–U’ were defined under  
7 paragraph (3)(E) as if the reference to ‘January 2021’ under such paragraph were a  
8 reference to ‘the first month of the first full calendar quarter after the day on which the  
9 drug was first marketed’.

10 “(B) TIMELINE FOR PROVISION OF REBATES FOR SUBSEQUENTLY APPROVED DRUGS.  
11 —In the case of a part B rebatable drug first approved or licensed by the Food and  
12 Drug Administration after December 1, 2020, paragraph (1)(B) shall be applied as if  
13 the reference to ‘January 1, 2023’ under such paragraph were a reference to ‘the later  
14 of the 6th full calendar quarter after the day on which the drug was first marketed or  
15 January 1, 2023’.

16 “(C) SELECTED DRUGS.—In the case of a part B rebatable drug that is a selected  
17 drug (as defined in section 1192(c)) with respect to a price applicability period (as  
18 defined in section 1191(b)(2)), in the case such drug is no longer considered to be a  
19 selected drug under section 1192(c), for each applicable period (as defined under  
20 subsection (g)(7)) beginning after the price applicability period with respect to such  
21 drug, clause (i) of paragraph (3)(C) shall be applied as if the term ‘payment amount  
22 benchmark quarter’ were defined under paragraph (3)(D) as the calendar quarter  
23 beginning January 1 of the last year during such price applicability period with respect  
24 to such selected drug and clause (ii) of paragraph (3)(C) shall be applied as if the term  
25 ‘benchmark period CPI–U’ were defined under paragraph (3)(E) as if the reference to  
26 ‘January 2021’ under such paragraph were a reference to ‘the July of the year  
27 preceding such last year’.

28 “(5) APPLICATION TO BENEFICIARY COINSURANCE.—In the case of a part B rebatable  
29 drug furnished on or after April 1, 2023, if the payment amount described in paragraph (3)  
30 (A)(ii)(I) (or, in the case of a part B rebatable drug that is a selected drug (as defined in  
31 section 1192(c)), the payment amount described in subsection (b)(1)(B) for such drug) for a  
32 calendar quarter exceeds the inflation adjusted payment for such quarter—

33 “(A) in computing the amount of any coinsurance applicable under this part to an  
34 individual to whom such drug is furnished, the computation of such coinsurance shall  
35 be equal to 20 percent of the inflation-adjusted payment amount determined under  
36 paragraph (3)(C) for such part B rebatable drug; and

37 “(B) the amount of such coinsurance for such calendar quarter, as computed under  
38 subparagraph (A), shall be applied as a percent, as determined by the Secretary, to the  
39 payment amount that would otherwise apply under subparagraphs (B) or (C) of  
40 subsection (b)(1).

41 “(6) REBATE DEPOSITS.—Amounts paid as rebates under paragraph (1)(B) shall be  
42 deposited into the Federal Supplementary Medical Insurance Trust Fund established under  
43 section 1841.

1 “(7) CIVIL MONEY PENALTY.—If a manufacturer of a part B rebatable drug has failed to  
2 comply with the requirements under paragraph (1)(B) for such drug for a calendar quarter,  
3 the manufacturer shall be subject to, in accordance with a process established by the  
4 Secretary pursuant to regulations, a civil money penalty in an amount equal to at least 125  
5 percent of the amount specified in paragraph (3) for such drug for such calendar quarter.  
6 The provisions of section 1128A (other than subsections (a) (with respect to amounts of  
7 penalties or additional assessments) and (b)) shall apply to a civil money penalty under this  
8 paragraph in the same manner as such provisions apply to a penalty or proceeding under  
9 section ~~1128A(a).~~; and **1128A(a).**

10 ~~(2) in subsection (j), as redesignated by paragraph (1)—~~“(8) **LIMITATION ON**  
11 **ADMINISTRATIVE OR JUDICIAL REVIEW.—There shall be no administrative or judicial**  
12 **review of any of the following:**

13 (A) in paragraph (4), by striking at the end “and”;

14 (B) in paragraph (5), by striking at the end the period and inserting a semicolon; and

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

16 ~~“(6) the~~“(A) **The** determination of units under **this** subsection ~~(i);.~~

17 ~~“(7) the~~“(B) **The** determination of whether a drug is a part B rebatable drug under  
18 **this** subsection ~~(i);.~~

19 ~~“(8) the~~“(C) **The** calculation of the rebate amount under **this** subsection ~~(i); and.~~

20 ~~“(9) the~~“(D) **The** computation of coinsurance under **paragraph (5) of this**  
21 subsection ~~(i)(5); and.~~

22 ~~“(10) the~~“(E) **The** computation of amounts paid under section 1833(a)(1)(EE).”.

23 (b) Amounts Payable; Cost-Sharing.—Section 1833 of the Social Security Act (42 U.S.C.  
24 1395l) is amended—

25 (1) in subsection (a)(1)—

26 (A) in subparagraph (G), by inserting “, subject to subsection (i)(9),” after “the  
27 amounts paid”;

28 (B) in subparagraph (S), by striking “with respect to” and inserting “subject to  
29 subparagraph (EE), with respect to”;

30 (C) by striking “and (DD)” and inserting “(DD)”; and

31 (D) by inserting before the semicolon at the end the following: “, and (EE) with  
32 respect to a part B rebatable drug (as defined in paragraph (2) of section 1847A(i))  
33 furnished on or after April 1, 2023, for which the payment amount for a calendar  
34 quarter under paragraph (3)(A)(ii)(I) of such section (or, in the case of a part B  
35 rebatable drug that is a selected drug (as defined in section 1192(c) for which, the  
36 payment amount described in section 1847A(b)(1)(B)) for such drug for such quarter  
37 exceeds the inflation-adjusted payment under paragraph (3)(A)(ii)(II) of such section  
38 for such quarter, the amounts paid shall be equal to the percent of the payment amount  
39 under paragraph (3)(A)(ii)(I) of such section or section 1847A(b)(1)(B), as applicable,  
40 that equals the difference between (i) 100 percent, and (ii) the percent applied under

1 section 1847A(i)(5)(B)”;

2 (2) in subsection (i), by adding at the end the following new paragraph:

3 “(9) In the case of a part B rebatable drug (as defined in paragraph (2) of section 1847A(i)) for  
4 which payment under this subsection is not packaged into a payment for a service furnished on  
5 or after April 1, 2023, under the revised payment system under this subsection, in lieu of  
6 calculation of coinsurance and the amount of payment otherwise applicable under this  
7 subsection, the provisions of section 1847A(i)(5) and paragraph (1)(EE) of subsection (a), shall,  
8 as determined appropriate by the Secretary, apply under this subsection in the same manner as  
9 such provisions of section 1847A(i)(5) and subsection (a) apply under such section and  
10 subsection.”; and

11 (3) in subsection (t)(8), by adding at the end the following new subparagraph:

12 “(F) PART B REBATABLE DRUGS.—In the case of a part B rebatable drug (as defined  
13 in paragraph (2) of section 1847A(i), except if such drug does not have a copayment  
14 amount as a result of application of subparagraph (E)) for which payment under this  
15 part is not packaged into a payment for a covered OPD service (or group of services)  
16 furnished on or after April 1, 2023, and the payment for such drug under this  
17 subsection is the same as the amount for a calendar quarter under paragraph (3)(A)(ii)  
18 (I) of section 1847A(i), under the system under this subsection, in lieu of calculation of  
19 the copayment amount and the amount of payment otherwise applicable under this  
20 subsection (other than the application of the limitation described in subparagraph (C)),  
21 the provisions of section 1847A(i)(5) and paragraph (1)(EE) of subsection (a), shall, as  
22 determined appropriate by the Secretary, apply under this subsection in the same  
23 manner as such provisions of section 1847A(i)(5) and subsection (a) apply under such  
24 section and subsection.”.

25 (c) Conforming Amendments.—

26 (1) TO PART B ASP CALCULATION.—Section 1847A(c)(3) of the Social Security Act (42  
27 U.S.C. 1395w–3a(c)(3)) is amended by inserting “subsection (i) or” before “section 1927”.

28 (2) EXCLUDING PART B DRUG INFLATION REBATE FROM BEST PRICE.—Section 1927(c)(1)  
29 (C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)(I)) is amended by  
30 inserting “or section 1847A(i)” after “this section”.

31 (3) COORDINATION WITH MEDICAID REBATE INFORMATION DISCLOSURE.—Section  
32 1927(b)(3)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)) is amended by  
33 inserting “and the rebate” after “the payment amount”.

34 (4) EXCLUDING PART B DRUG INFLATION REBATES FROM AVERAGE MANUFACTURER  
35 PRICE.—Section 1927(k)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)  
36 (i)), as amended by section 11001(b)(3), is amended—

37 (A) in subclause (V), by striking “and” at the end;

38 (B) in subclause (VI), by striking the period at the end and inserting a semicolon;  
39 and

40 (C) by adding at the end the following new subclause:

41 “(VII) rebates paid by manufacturers under section 1847A(i); and”.

1 (d) Funding.—In addition to amounts otherwise available, there are appropriated to the  
2 Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise  
3 appropriated, \$80,000,000 for fiscal year 2022, including \$12,500,000 to carry out the provisions  
4 of, including the amendments made by, this section in fiscal year 2022, and \$7,500,000 to carry  
5 out the provisions of, including the amendments made by, this section in each of fiscal years  
6 2023 through 2031, to remain available until expended.

## 7 SEC. 11102. MEDICARE PART D REBATE BY 8 MANUFACTURERS.

9 (a) In General.—Part D of title XVIII of the Social Security Act is amended by inserting after  
10 section 1860D–14A (42 U.S.C. 1395w–114a) the following new section:

### 11 “SEC. 1860D–14B. MANUFACTURER REBATE FOR 12 CERTAIN DRUGS WITH PRICES INCREASING FASTER 13 THAN INFLATION.

14 “(a) Requirements.—

15 “(1) SECRETARIAL PROVISION OF INFORMATION.—Not later than 9 months after the end  
16 of each applicable period (as defined in subsection (g)(7)), subject to paragraph (3), the  
17 Secretary shall, for each part D rebatable drug, report to each manufacturer of such part D  
18 rebatable drug the following for such period:

19 “(A) The amount (if any) of the excess annual manufacturer price increase described  
20 in subsection (b)(1)(A)(ii) for each dosage form and strength with respect to such drug  
21 and period.

22 “(B) The rebate amount specified under subsection (b) for each dosage form and  
23 strength with respect to such drug and period.

24 “(2) MANUFACTURER REQUIREMENTS.—For each applicable period, the manufacturer of  
25 a part D rebatable drug, for each dosage form and strength with respect to such drug, not  
26 later than 30 days after the date of receipt from the Secretary of the information described in  
27 paragraph (1) for such period, shall provide to the Secretary a rebate that is equal to the  
28 amount specified in subsection (b) for such dosage form and strength with respect to such  
29 drug for such period.

30 “(3) TRANSITION RULE FOR REPORTING.—The Secretary may, for each rebatable covered  
31 part D drug, delay the timeframe for reporting the information and rebate amount described  
32 in subparagraphs (A) and (B) of such paragraph for the applicable periods beginning  
33 October 1, 2022, and October 1, 2023, until not later than December 31, 2025.

34 “(b) Rebate Amount.—

35 “(1) IN GENERAL.—

36 “(A) CALCULATION.—For purposes of this section, the amount specified in this  
37 subsection for a dosage form and strength with respect to a part D rebatable drug and  
38 applicable period is, subject to subparagraph (C), paragraph (5)(B), and paragraph (6),  
39 the estimated amount equal to the product of—

1 “(i) subject to subparagraph (B) of this paragraph, the total number of units that  
2 are used to calculate the average manufacturer price of such dosage form and  
3 strength with respect to such part D rebatable drug, as reported by the  
4 manufacturer of such drug under section 1927 for each month, with respect to  
5 such **for each rebatable covered part D drug dispensed under this part**  
6 **during the applicable** period; and

7 “(ii) the amount (if any) by which—

8 “(I) the annual manufacturer price (as determined in paragraph (2)) paid  
9 for such dosage form and strength with respect to such part D rebatable drug  
10 for the period; exceeds

11 “(II) the inflation-adjusted payment amount determined under paragraph  
12 (3) for such dosage form and strength with respect to such part D rebatable  
13 drug for the period.

14 “(B) EXCLUDED UNITS.—For purposes of subparagraph (A)(i), **beginning with plan**  
15 **year 2026**, the Secretary shall exclude from the total number of units for a dosage form  
16 and strength with respect to a part D rebatable drug, with respect to an applicable  
17 period, **units the following:**

18 “(i) **Units** of each dosage form and strength of such part D rebatable drug for which  
19 **the manufacturer provides a discount under the program under section 340B of**  
20 **the Public Health Service Act.** ~~payment was made under a State plan under title XIX~~  
21 ~~(or waiver of such plan), as reported by States under section 1927(b)(2)(A).~~

22 “(ii) **Units of each dosage form and strength of such part D rebatable drug for which**  
23 **a rebate is paid under section 1847A(i).**

24 “(C) REDUCTION OR WAIVER FOR SHORTAGES AND SEVERE SUPPLY CHAIN  
25 DISRUPTIONS.—The Secretary shall reduce or waive the amount under subparagraph  
26 (A) with respect to a part D rebatable drug and an applicable period—

27 “(i) in the case of a part D rebatable drug that is described as currently in  
28 shortage on the shortage list in effect under section 506E of the Federal Food,  
29 Drug, and Cosmetic Act at any point during the applicable period;

30 “(ii) in the case of a generic part D rebatable drug (described in subsection (g)  
31 (1)(C)(ii)) or a biosimilar (defined as a biological product licensed under section  
32 351(k) of the Public Health Service Act), when the Secretary determines there is a  
33 severe supply chain disruption during the applicable period, such as that caused  
34 by a natural disaster or other unique or unexpected event; and

35 “(iii) in the case of a generic Part D rebatable drug (as so described), if the  
36 Secretary determines that without such reduction or waiver, the drug is likely to  
37 be described as in shortage on such shortage list during a subsequent applicable  
38 period.

39 “(2) DETERMINATION OF ANNUAL MANUFACTURER PRICE.—The annual manufacturer  
40 price determined under this paragraph for a dosage form and strength, with respect to a part  
41 D rebatable drug and an applicable period, is the sum of the products of—

1 “(A) the average manufacturer price (as defined in subsection (g)(6)) of such dosage  
2 form and strength, as calculated for a unit of such drug, with respect to each of the  
3 calendar quarters of such period; and

4 “(B) the ratio of—

5 “(i) the total number of units of such dosage form and strength reported under  
6 section 1927 with respect to each such calendar quarter of such period; to

7 “(ii) the total number of units of such dosage form and strength reported under  
8 section 1927 with respect to such period, as determined by the Secretary.

9 “(3) DETERMINATION OF INFLATION-ADJUSTED PAYMENT AMOUNT.—The inflation-  
10 adjusted payment amount determined under this paragraph for a dosage form and strength  
11 with respect to a part D rebatable drug for an applicable period, subject to paragraph (5), is  
12 —

13 “(A) the benchmark period manufacturer price determined under paragraph (4) for  
14 such dosage form and strength with respect to such drug and period; increased by

15 “(B) the percentage by which the applicable period CPI-U (as defined in subsection  
16 (g)(5)) for the period exceeds the benchmark period CPI-U (as defined in subsection  
17 (g)(4)).

18 “(4) DETERMINATION OF BENCHMARK PERIOD MANUFACTURER PRICE.—The benchmark  
19 period manufacturer price determined under this paragraph for a dosage form and strength,  
20 with respect to a part D rebatable drug and an applicable period, is the sum of the products  
21 of—

22 “(A) the average manufacturer price (as defined in subsection (g)(6)) of such dosage  
23 form and strength, as calculated for a unit of such drug, with respect to each of the  
24 calendar quarters of the payment amount benchmark period (as defined in subsection  
25 (g)(3)); and

26 “(B) the ratio of—

27 “(i) the total number of units reported under section 1927 of such dosage form  
28 and strength with respect to each such calendar quarter of such payment amount  
29 benchmark period; to

30 “(ii) the total number of units reported under section 1927 of such dosage form  
31 and strength with respect to such payment amount benchmark period.

32 “(5) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXEMPTION.—

33 “(A) SUBSEQUENTLY APPROVED DRUGS.—In the case of a part D rebatable drug first  
34 approved or licensed by the Food and Drug Administration after October 1, 2021,  
35 subparagraphs (A) and (B) of paragraph (4) shall be applied as if the term ‘payment  
36 amount benchmark period’ were defined under subsection (g)(3) as the first calendar  
37 year beginning after the day on which the drug was first marketed and subparagraph  
38 (B) of paragraph (3) shall be applied as if the term ‘benchmark period CPI-U’ were  
39 defined under subsection (g)(4) as if the reference to ‘January 2021’ under such  
40 subsection were a reference to ‘January of the first year beginning after the date on  
41 which the drug was first marketed’.



1 “(B) TREATMENT OF NEW FORMULATIONS.—

2 “(i) IN GENERAL.—In the case of a part D rebatable drug that is a line extension  
3 of a part D rebatable drug that is an oral solid dosage form, the Secretary shall  
4 establish a formula for determining the rebate amount under paragraph (1) and the  
5 inflation adjusted payment amount under paragraph (3) with respect to such part  
6 D rebatable drug and an applicable period, consistent with the formula applied  
7 under subsection (c)(2)(C) of section 1927 for determining a rebate obligation for  
8 a rebate period under such section.

9 “(ii) LINE EXTENSION DEFINED.—In this subparagraph, the term ‘line extension’  
10 means, with respect to a part D rebatable drug, a new formulation of the drug,  
11 such as an extended release formulation, but does not include an abuse-deterrent  
12 formulation of the drug (as determined by the Secretary), regardless of whether  
13 such abuse-deterrent formulation is an extended release formulation.

14 “(C) SELECTED DRUGS.—In the case of a part D rebatable drug that is a selected  
15 drug (as defined in section 1192(c)) with respect to a price applicability period (as  
16 defined in section 1191(b)(2)), in the case such drug is no longer considered to be a  
17 selected drug under section 1192(c), for each applicable period (as defined under  
18 subsection (g)(7)) beginning after the price applicability period with respect to such  
19 drug, subparagraphs (A) and (B) of paragraph (4) shall be applied as if the term  
20 ‘payment amount benchmark period’ were defined under subsection (g)(3) as the last  
21 year beginning during such price applicability period with respect to such selected drug  
22 and subparagraph (B) of paragraph (3) shall be applied as if the term ‘benchmark  
23 period CPI-U’ were defined under subsection (g)(4) as if the reference to ‘January  
24 2021’ under such subsection were a reference to ‘January of the last year beginning  
25 during such price applicability period with respect to such drug’.

26 “(6) RECONCILIATION IN CASE OF REVISED AMP REPORTS.—~~THE INFORMATION.—The~~  
27 Secretary shall provide for a method and process under which, in the case ~~of a manufacturer~~  
28 ~~of a part D rebatable drug that~~ **where a PDP sponsor of a prescription drug plan or an**  
29 **MA organization offering an MA-PD plan** submits revisions to ~~information submitted~~  
30 ~~under section 1927 by the manufacturer with respect to such drug~~ **the number of units of a**  
31 **rebatable covered part D drug dispensed**, the Secretary determines, pursuant to such  
32 revisions, adjustments, if any, to the calculation of the amount specified in this subsection  
33 for a dosage form and strength with respect to such part D rebatable drug and an applicable  
34 period and reconciles any overpayments or underpayments in amounts paid as rebates under  
35 this subsection. Any identified underpayment shall be rectified by the manufacturer not later  
36 than 30 days after the date of receipt from the Secretary of information on such  
37 underpayment.

38 “(c) Rebate Deposits.—Amounts paid as rebates under subsection (b) shall be deposited into  
39 the Medicare Prescription Drug Account in the Federal Supplementary Medical Insurance Trust  
40 Fund established under section 1841.

41 “(d) Information.—For purposes of carrying out this section, the Secretary shall use  
42 information submitted ~~by~~ **by—**

43 **“(1) manufacturers under section 1927(b)(3) and information submitted by;**

1 **“(2) States under section 1927(b)(2)(A); and**

2 **“(3) PDP sponsors of prescription drug plans and MA organization offering MA–**  
3 **PD plans under this part.**

4 “(e) Civil Money Penalty.—If a manufacturer of a part D rebatable drug has failed to comply  
5 with the requirement under subsection (a)(2) with respect to such drug for an applicable period,  
6 the manufacturer shall be subject to, ~~in accordance with a process established by the Secretary~~  
7 ~~pursuant to regulations,~~ a civil money penalty in an amount equal to 125 percent of the amount  
8 specified in subsection (b) for such drug for such period. The provisions of section 1128A (other  
9 than subsections (a) (with respect to amounts of penalties or additional assessments) and (b))  
10 shall apply to a civil money penalty under this subsection in the same manner as such provisions  
11 apply to a penalty or proceeding under section 1128A(a).

12 “(f) ~~No~~ **Limitation on** Administrative or Judicial Review.—There shall be no administrative  
13 or judicial review of **any of** the following:

14 “(1) The determination of units under this section.

15 “(2) The determination of whether a drug is a part D rebatable drug under this section.

16 “(3) The calculation of the rebate amount under this section.

17 “(g) Definitions.—In this section:

18 “(1) PART D REBATABLE DRUG.—

19 “(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘part D  
20 rebatable drug’ means, with respect to an applicable period, a drug or biological  
21 described in subparagraph (C) that ~~would (without application of this section) be~~ **is** a  
22 covered part D drug (as such term is defined under section 1860D–2(e)).

23 “(B) EXCLUSION.—

24 “(i) IN GENERAL.—Such term shall, with respect to an applicable period, not  
25 include a drug or biological if the average annual total cost under this part for  
26 such period per individual who uses such a drug or biological, as determined by  
27 the Secretary, is less than, subject to clause (ii), \$100, as determined by the  
28 Secretary using the most recent data available or, if data is not available, as  
29 estimated by the Secretary.

30 “(ii) INCREASE.—The dollar amount applied under clause (i)—

31 “(I) for the applicable period beginning October 1, 2023, shall be the  
32 dollar amount specified under such clause for the applicable period  
33 beginning October 1, 2022, increased by the percentage increase in the  
34 consumer price index for all urban consumers (United States city average)  
35 for the 12-month period beginning with October of 2023; and

36 “(II) for a subsequent applicable period, shall be the dollar amount  
37 specified in this clause for the previous applicable period, increased by the  
38 percentage increase in the consumer price index for all urban consumers  
39 (United States city average) for the 12-month period beginning with October  
40 of the previous period.

1 Any dollar amount specified under this clause that is not a multiple of \$10 shall  
2 be rounded to the nearest multiple of \$10.

3 “(C) DRUG OR BIOLOGICAL DESCRIBED.—A drug or biological described in this  
4 subparagraph is a drug or biological that, as of the first day of the applicable period  
5 involved, is—

6 “(i) a drug approved under a new drug application under section 505(c) of the  
7 Federal Food, Drug, and Cosmetic Act;

8 “(ii) a drug approved under an abbreviated new drug application under section  
9 505(j) of the Federal Food, Drug, and Cosmetic Act, in the case where—

10 “(I) the reference listed drug approved under section 505(c) of the Federal  
11 Food, Drug, and Cosmetic Act, including any ‘authorized generic drug’ (as  
12 that term is defined in section 505(t)(3) of the Federal Food, Drug, and  
13 Cosmetic Act), is not being marketed, as identified in the Food and Drug  
14 Administration’s National Drug Code Directory;

15 “(II) there is no other drug approved under section 505(j) of the Federal  
16 Food, Drug, and Cosmetic Act that is rated as therapeutically equivalent  
17 (under the Food and Drug Administration’s most recent publication of  
18 ‘Approved Drug Products with Therapeutic Equivalence Evaluations’) and  
19 that is being marketed, as identified in the Food and Drug Administration’s  
20 National Drug Code Directory;

21 “(III) the manufacturer is not a ‘first applicant’ during the ‘180-day  
22 exclusivity period’, as those terms are defined in section 505(j)(5)(B)(iv) of  
23 the Federal Food, Drug, and Cosmetic Act; and

24 “(IV) the manufacturer is not a ‘first approved applicant’ for a competitive  
25 generic therapy, as that term is defined in section 505(j)(5)(B)(v) of the  
26 Federal Food, Drug, and Cosmetic Act; or

27 “(iii) a biological licensed under section 351 of the Public Health Service Act.

28 “(2) UNIT.—The term ‘unit’ means, with respect to a part D rebatable drug, the lowest  
29 dispensable amount (such as a capsule or tablet, milligram of molecules, or grams) of the  
30 part D rebatable drug, as reported under section 1927.

31 “(3) PAYMENT AMOUNT BENCHMARK PERIOD.—The term ‘payment amount benchmark  
32 period’ means the period beginning January 1, 2021, and ending in the month immediately  
33 prior to October 1, 2021.

34 “(4) BENCHMARK PERIOD CPI–U.—The term ‘benchmark period CPI–U’ means the  
35 consumer price index for all urban consumers (United States city average) for January 2021.

36 “(5) APPLICABLE PERIOD CPI–U.—The term ‘applicable period CPI–U’ means, with  
37 respect to an applicable period, the consumer price index for all urban consumers (United  
38 States city average) for the first month of such applicable period.

39 “(6) AVERAGE MANUFACTURER PRICE.—The term ‘average manufacturer price’ has the  
40 meaning, with respect to a part D rebatable drug of a manufacturer, given such term in  
41 section 1927(k)(1), with respect to a covered outpatient drug of a manufacturer for a rebate

1 period under section 1927.

2 “(7) APPLICABLE PERIOD.—The term ‘applicable period’ means a 12-month period  
3 beginning with October 1 of a year (beginning with October 1, 2022).

4 “(h) Implementation for 2022, 2023, and 2024.—The Secretary shall implement this section  
5 for 2022, 2023, and 2024 by program instruction or other forms of program guidance.”.

6 (b) Conforming Amendments.—

7 (1) TO PART B ASP CALCULATION.—Section 1847A(c)(3) of the Social Security Act (42  
8 U.S.C. 1395w–3a(c)(3)), as amended by section 11101(c)(1), is amended by striking  
9 “subsection (i) or section 1927” and inserting “subsection (i), section 1927, or section  
10 1860D–14B”.

11 (2) EXCLUDING PART D DRUG INFLATION REBATE FROM BEST PRICE.—Section 1927(c)(1)  
12 (C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)(I)), as amended by  
13 section 11101(c)(2), is amended by striking “or section 1847A(i)” and inserting “, section  
14 1847A(i), or section 1860D–14B”.

15 (3) COORDINATION WITH MEDICAID REBATE INFORMATION DISCLOSURE.—Section  
16 1927(b)(3)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)), as amended by  
17 **section sections 11002(b) and 11101(c)(3)**, is amended by striking “or ~~to carry out section~~  
18 ~~1847B~~” and inserting “**or to carry out section 1847B section 1192(f), including rebates**  
19 **under paragraph (4) of such section**” and inserting “, **section 1192(f), including rebates**  
20 **under paragraph (4) of such section**, or section 1860D–14B”.

21 (4) EXCLUDING PART D DRUG INFLATION REBATES FROM AVERAGE MANUFACTURER  
22 PRICE.—Section 1927(k)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)  
23 (i)), as amended by section 11001(b)(3) and section 11101(c)(4), is amended by adding at  
24 the end the following new subclause:

25 (A) in subclause (VI), by striking “and” at the end;

26 (B) in subclause (VII), by striking the period at the end and inserting a semicolon;  
27 and

28 (C) by adding at the end the following new subclause:

29 “(VIII) rebates paid by manufacturers under section 1860D–14B.”.

30 (c) Funding.—In addition to amounts otherwise available, there are appropriated to the  
31 Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise  
32 appropriated, \$80,000,000 for fiscal year 2022, including \$12,500,000 to carry out the provisions  
33 of, including the amendments made by, this section in fiscal year 2022, and \$7,500,000 to carry  
34 out the provisions of, including the amendments made by, this section in each of fiscal years  
35 2023 through 2031, to remain available until expended.

36 **PART 3—PART D IMPROVEMENTS AND MAXIMUM**  
37 **OUT-OF-POCKET CAP FOR MEDICARE BENEFICIARIES**  
38 **SEC. 11201. MEDICARE PART D BENEFIT REDESIGN.**

1 (a) Benefit Structure Redesign.—Section 1860D–2(b) of the Social Security Act (42 U.S.C.  
2 1395w–102(b)) is amended—

3 (1) in paragraph (2)—

4 (A) in subparagraph (A), in the matter preceding clause (i), by inserting “for a year  
5 preceding 2025 and for costs above the annual deductible specified in paragraph (1)  
6 and up to the annual out-of-pocket threshold specified in paragraph (4)(B) for 2025  
7 and each subsequent year” after “paragraph (3)”;

8 (B) in subparagraph (C)—

9 (i) in clause (i), in the matter preceding subclause (I), by inserting “for a year  
10 preceding 2025,” after “paragraph (4),”; and

11 (ii) in clause (ii)(III), by striking “and each subsequent year” and inserting  
12 “through 2024”; and

13 (C) in subparagraph (D)—

14 (i) in clause (i)—

15 (I) in the matter preceding subclause (I), by inserting “for a year preceding  
16 2025,” after “paragraph (4),”; and

17 (II) in subclause (I)(bb), by striking “a year after 2018” and inserting  
18 “each of years 2019 through 2024”; and

19 (ii) in clause (ii)(V), by striking “2019 and each subsequent year” and inserting  
20 “each of years 2019 through 2024”;

21 (2) in paragraph (3)(A)—

22 (A) in the matter preceding clause (i), by inserting “for a year preceding 2025,” after  
23 “and (4),”; and

24 (B) in clause (ii), by striking “for a subsequent year” and inserting “for each of years  
25 2007 through 2024”; and

26 (3) in paragraph (4)—

27 (A) in subparagraph (A)—

28 (i) in clause (i)—

29 (I) by redesignating subclauses (I) and (II) as items (aa) and (bb),  
30 respectively, and moving the margin of each such redesignated item 2 ems to  
31 the right;

32 (II) in the matter preceding item (aa), as redesignated by subclause (I), by  
33 striking “is equal to the greater of—” and inserting “is equal to—

34 “(I) for a year preceding 2024, the greater of—”;

35 (III) by striking the period at the end of item (bb), as redesignated by  
36 subclause (I), and inserting “; and”; and

37 (IV) by adding at the end the following:

1 “(II) for 2024 and each succeeding year, \$0.”; and

2 (ii) in clause (ii)—

3 (I) by striking “clause (i)(I)” and inserting “clause (i)(I)(aa)”; and

4 (II) by adding at the end the following new sentence: “The Secretary shall  
5 continue to calculate the dollar amounts specified in clause (i)(I)(aa),  
6 including with the adjustment under this clause, after 2023 for purposes of  
7 section 1860D–14(a)(1)(D)(iii).”;

8 (B) in subparagraph (B)—

9 (i) in clause (i)—

10 (I) in subclause (V), by striking “or” at the end;

11 (II) in subclause (VI)—

12 (aa) by striking “for a subsequent year” and inserting “for each of  
13 years 2021 through 2024”; and

14 (bb) by striking the period at the end and inserting a semicolon; and

15 (III) by adding at the end the following new subclauses:

16 “(VII) for 2025, is equal to \$2,000; or

17 “(VIII) for a subsequent year, is equal to the amount specified in this  
18 subparagraph for the previous year, increased by the annual percentage  
19 increase described in paragraph (6) for the year involved.”; and

20 (ii) in clause (ii), by striking “clause (i)(II)” and inserting “clause (i)”;

21 (C) in subparagraph (C)—

22 (i) in clause (i), by striking “and for amounts” and inserting “and, for a year  
23 preceding 2025, for amounts”; and

24 (ii) in clause (iii)—

25 (I) by redesignating subclauses (I) through (IV) as items (aa) through (dd)  
26 and indenting appropriately;

27 (II) by striking “if such costs are borne or paid” and inserting “if such  
28 costs—

29 “(I) are borne or paid—”; and

30 (III) in item (dd), by striking the period at the end and inserting “; or”; and

31 (IV) by adding at the end the following new subclause:

32 “(II) for 2025 and subsequent years, are reimbursed through insurance, a  
33 group health plan, or certain other third party payment arrangements, but not  
34 including the coverage provided by a prescription drug plan or an MA–PD  
35 plan that is basic prescription drug coverage (as defined in subsection (a)(3))  
36 or any payments by a manufacturer under the manufacturer discount program  
37 under section 1860D–14C.”; and

1 (D) in subparagraph (E), by striking “In applying” and inserting “For each of years  
2 2011 through 2024, in applying”.

3 (b) Reinsurance Payment Amount.—Section 1860D–15(b) of the Social Security Act (42  
4 U.S.C. 1395w–115(b)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “equal to 80 percent” and inserting “equal to—

7 “(A) for a year preceding 2025, 80 percent”;

8 (B) in subparagraph (A), as added by subparagraph (A), by striking the period at the  
9 end and inserting “; and”;

10 (C) by adding at the end the following new subparagraph:

11 “(B) for 2025 and each subsequent year, the sum of—

12 “(i) with respect to applicable drugs (as defined in section 1860D–14C(g)(2)),  
13 an amount equal to 20 percent of such allowable reinsurance costs attributable to  
14 that portion of gross covered prescription drug costs as specified in paragraph (3)  
15 incurred in the coverage year after such individual has incurred costs that exceed  
16 the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B); and

17 “(ii) with respect to covered part D drugs that are not applicable drugs (as so  
18 defined), an amount equal to 40 percent of such allowable reinsurance costs  
19 attributable to that portion of gross covered prescription drug costs as specified in  
20 paragraph (3) incurred in the coverage year after such individual has incurred  
21 costs that exceed the annual out-of-pocket threshold specified in section 1860D–  
22 2(b)(4)(B).”;

23 (2) in paragraph (2)—

24 (A) by striking “COSTS.—For purposes” and inserting “COSTS.—

25 “(A) IN GENERAL.—Subject to subparagraph (B), for purposes”; and

26 (B) by adding at the end the following new subparagraph:

27 “(B) INCLUSION OF MANUFACTURER DISCOUNTS ON APPLICABLE DRUGS.—For  
28 purposes of applying subparagraph (A), the term ‘allowable reinsurance costs’ shall  
29 include the portion of the negotiated price (as defined in section 1860D–14C(g)(6)) of  
30 an applicable drug (as defined in section 1860D–14C(g)(2)) that was paid by a  
31 manufacturer under the manufacturer discount program under section 1860D–14C.”;  
32 and

33 (3) in paragraph (3)—

34 (A) in the first sentence, by striking “For purposes” and inserting “Subject to  
35 paragraph (2)(B), for purposes”; and

36 (B) in the second sentence, by inserting “(or, with respect to 2025 and subsequent  
37 years, in the case of an applicable drug, as defined in section 1860D–14C(g)(2), by a  
38 manufacturer)” after “by the individual or under the plan”.

39 (c) Manufacturer Discount Program.—

1 (1) IN GENERAL.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101  
2 through 42 U.S.C. 1395w–153), as amended by section 11102, is amended by inserting after  
3 section 1860D–14B the following new sections:

4 “SEC. 1860D–14C. MANUFACTURER DISCOUNT  
5 PROGRAM.

6 “(a) Establishment.—The Secretary shall establish a manufacturer discount program (in this  
7 section referred to as the ‘program’). Under the program, the Secretary shall enter into  
8 agreements described in subsection (b) with manufacturers and provide for the performance of  
9 the duties described in subsection (c).

10 “(b) Terms of Agreement.—

11 “(1) IN GENERAL.—

12 “(A) AGREEMENT.—An agreement under this section shall require the manufacturer  
13 to provide, in accordance with this section, discounted prices for applicable drugs of  
14 the manufacturer that are dispensed to applicable beneficiaries on or after January 1,  
15 2025.

16 “(B) CLARIFICATION.—Nothing in this section shall be construed as affecting—

17 “(i) the application of a coinsurance of 25 percent of the negotiated price, as  
18 applied under paragraph (2)(A) of section 1860D–2(b), for costs described in such  
19 paragraph; or

20 “(ii) the application of the copayment amount described in paragraph (4)(A) of  
21 such section, with respect to costs described in such paragraph.

22 “(C) TIMING OF AGREEMENT.—

23 “(i) SPECIAL RULE FOR 2025.—In order for an agreement with a manufacturer  
24 to be in effect under this section with respect to the period beginning on January  
25 1, 2025, and ending on December 31, 2025, the manufacturer shall enter into such  
26 agreement not later than March 1, 2024.

27 “(ii) 2026 AND SUBSEQUENT YEARS.—In order for an agreement with a  
28 manufacturer to be in effect under this section with respect to plan year 2026 or a  
29 subsequent plan year, the manufacturer shall enter into such agreement not later  
30 than a calendar quarter or semi-annual deadline established by the Secretary.

31 “(2) PROVISION OF APPROPRIATE DATA.—Each manufacturer with an agreement in effect  
32 under this section shall collect and have available appropriate data, as determined by the  
33 Secretary, to ensure that it can demonstrate to the Secretary compliance with the  
34 requirements under the program.

35 “(3) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each  
36 manufacturer with an agreement in effect under this section shall comply with requirements  
37 imposed by the Secretary, as applicable, for purposes of administering the program,  
38 including any determination under subparagraph (A) of subsection (c)(1) or procedures  
39 established under such subsection (c)(1).



1 “(4) LENGTH OF AGREEMENT.—

2 “(A) IN GENERAL.—An agreement under this section shall be effective for an initial  
3 period of not less than 12 months and shall be automatically renewed for a period of  
4 not less than 1 year unless terminated under subparagraph (B).

5 “(B) TERMINATION.—

6 “(i) BY THE SECRETARY.—The Secretary shall provide for termination of an  
7 agreement under this section for a knowing and willful violation of the  
8 requirements of the agreement or other good cause shown. Such termination shall  
9 not be effective earlier than 30 days after the date of notice to the manufacturer of  
10 such termination. The Secretary shall provide, upon request, a manufacturer with  
11 a hearing concerning such a termination, and such hearing shall take place prior to  
12 the effective date of the termination with sufficient time for such effective date to  
13 be repealed if the Secretary determines appropriate.

14 “(ii) BY A MANUFACTURER.—A manufacturer may terminate an agreement  
15 under this section for any reason. Any such termination shall be effective, with  
16 respect to a plan year—

17 “(I) if the termination occurs before January 31 of a plan year, as of the  
18 day after the end of the plan year; and

19 “(II) if the termination occurs on or after January 31 of a plan year, as of  
20 the day after the end of the succeeding plan year.

21 “(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this  
22 subparagraph shall not affect discounts for applicable drugs of the manufacturer  
23 that are due under the agreement before the effective date of its termination.

24 “(5) EFFECTIVE DATE OF AGREEMENT.—An agreement under this section shall take effect  
25 at the start of a calendar quarter or another date specified by the Secretary.

26 “(c) Duties Described.—The duties described in this subsection are the following:

27 “(1) ADMINISTRATION OF PROGRAM.—Administering the program, including—

28 “(A) the determination of the amount of the discounted price of an applicable drug  
29 of a manufacturer;

30 “(B) the establishment of procedures to ensure that, not later than the applicable  
31 number of calendar days after the dispensing of an applicable drug by a pharmacy or  
32 mail order service, the pharmacy or mail order service is reimbursed for an amount  
33 equal to the difference between—

34 “(i) the negotiated price of the applicable drug; and

35 “(ii) the discounted price of the applicable drug;

36 “(C) the establishment of procedures to ensure that the discounted price for an  
37 applicable drug under this section is applied before any coverage or financial  
38 assistance under other health benefit plans or programs that provide coverage or  
39 financial assistance for the purchase or provision of prescription drug coverage on  
40 behalf of applicable beneficiaries as specified by the Secretary; and

1 “(D) providing a reasonable dispute resolution mechanism to resolve disagreements  
2 between manufacturers, prescription drug plans and MA–PD plans, and the Secretary.

3 “(2) MONITORING COMPLIANCE.—The Secretary shall monitor compliance by a  
4 manufacturer with the terms of an agreement under this section.

5 “(3) COLLECTION OF DATA FROM PRESCRIPTION DRUG PLANS AND MA–PD PLANS.—The  
6 Secretary may collect appropriate data from prescription drug plans and MA–PD plans in a  
7 timeframe that allows for discounted prices to be provided for applicable drugs under this  
8 section.

9 “(d) Administration.—

10 “(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the  
11 implementation of this section, including the performance of the duties described in  
12 subsection (c).

13 “(2) LIMITATION.—In providing for the implementation of this section, the Secretary  
14 shall not receive or distribute any funds of a manufacturer under the program.

15 “(e) ~~Enforcement.~~ **Civil Money Penalty.**—

16 ~~“(1) Audits.—Each manufacturer with an agreement in effect under this section shall be~~  
17 ~~subject to periodic audit by the Secretary.~~

18 ~~“(2) Civil money penalty.—~~

19 ~~“(A)“(1) IN GENERAL.—A manufacturer that fails to provide discounted prices for~~  
20 ~~applicable drugs of the manufacturer dispensed to applicable beneficiaries in accordance~~  
21 ~~with such an agreement in effect under this section shall be subject to a civil money~~  
22 ~~penalty for each such failure in an amount the Secretary determines is equal to the sum of—~~

23 ~~“(i)“(A) the amount that the manufacturer would have paid with respect to such~~  
24 ~~discounts under the agreement, which will then be used to pay the discounts which the~~  
25 ~~manufacturer had failed to provide; and~~

26 ~~“(ii)“(B) 25 percent of such amount.~~

27 ~~“(B)“(2) APPLICATION.—The provisions of section 1128A (other than subsections (a) and~~  
28 ~~(b)) shall apply to a civil money penalty under this paragraph subsection in the same~~  
29 ~~manner as such provisions apply to a penalty or proceeding under section 1128A(a).~~

30 “(f) Clarification Regarding Availability of Other Covered Part D Drugs.—Nothing in this  
31 section shall prevent an applicable beneficiary from purchasing a covered part D drug that is not  
32 an applicable drug (including a generic drug or a drug that is not on the formulary of the  
33 prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in).

34 “(g) Definitions.—In this section:

35 “(1) APPLICABLE BENEFICIARY.—The term ‘applicable beneficiary’ means an individual  
36 who, on the date of dispensing a covered part D drug—

37 “(A) is enrolled in a prescription drug plan or an MA–PD plan;

38 “(B) is not enrolled in a qualified retiree prescription drug plan; and

39 “(C) has incurred costs, as determined in accordance with section 1860D–2(b)(4)

1 (C), for covered part D drugs in the year that exceed the annual deductible specified in  
2 section 1860D–2(b)(1).

3 “(2) APPLICABLE DRUG.—The term ‘applicable drug’, with respect to an applicable  
4 beneficiary—

5 “(A) means a covered part D drug—

6 “(i) approved under a new drug application under section 505(c) of the Federal  
7 Food, Drug, and Cosmetic Act or, in the case of a biologic product, licensed under  
8 section 351 of the Public Health Service Act; and

9 “(ii)(I) if the PDP sponsor of the prescription drug plan or the MA organization  
10 offering the MA–PD plan uses a formulary, which is on the formulary of the  
11 prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled  
12 in;

13 “(II) if the PDP sponsor of the prescription drug plan or the MA organization  
14 offering the MA–PD plan does not use a formulary, for which benefits are  
15 available under the prescription drug plan or MA–PD plan that the applicable  
16 beneficiary is enrolled in; or

17 “(III) is provided through an exception or appeal; and

18 “(B) does not include a selected drug (as referred to under section 1192(c)) during a  
19 price applicability period (as defined in section 1191(b)(2)) with respect to such drug.

20 “(3) APPLICABLE NUMBER OF CALENDAR DAYS.—The term ‘applicable number of  
21 calendar days’ means—

22 “(A) with respect to claims for reimbursement submitted electronically, 14 days; and

23 “(B) with respect to claims for reimbursement submitted otherwise, 30 days.

24 “(4) DISCOUNTED PRICE.—

25 “(A) IN GENERAL.—The term ‘discounted price’ means, subject to subparagraphs  
26 (B) and (C), with respect to an applicable drug of a manufacturer dispensed during a  
27 year to an applicable beneficiary—

28 “(i) who has not incurred costs, as determined in accordance with section  
29 1860D–2(b)(4)(C), for covered part D drugs in the year that are equal to or exceed  
30 the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for  
31 the year, 90 percent of the negotiated price of such drug; and

32 “(ii) who has incurred such costs, as so determined, in the year that are equal to  
33 or exceed such threshold for the year, 80 percent of the negotiated price of such  
34 drug.

35 “(B) PHASE-IN FOR CERTAIN DRUGS DISPENSED TO LIS BENEFICIARIES.—

36 “(i) IN GENERAL.—In the case of an applicable drug of a specified manufacturer  
37 (as defined in clause (ii)) that is marketed as of the date of enactment of this  
38 subparagraph and dispensed for an applicable beneficiary who is a subsidy  
39 eligible individual (as defined in section 1860D–14(a)(3)), the term ‘discounted  
40 price’ means the specified LIS percent (as defined in clause (iii)) of the negotiated

1 price of the applicable drug of the manufacturer.

2 “(ii) SPECIFIED MANUFACTURER.—

3 “(I) IN GENERAL.—In this subparagraph, subject to subclause (II), the term  
4 ‘specified manufacturer’ means a manufacturer of an applicable drug for  
5 which, in 2021—

6 “(aa) the manufacturer had a coverage gap discount agreement under  
7 section 1860D–14A;

8 “(bb) the total expenditures for all of the specified drugs of the  
9 manufacturer covered by such agreement or agreements for such year  
10 and covered under this part during such year represented less than 1.0  
11 percent of the total expenditures under this part for all covered Part D  
12 drugs during such year; and

13 “(cc) the total expenditures for all of the specified drugs of the  
14 manufacturer that are single source drugs and biological products  
15 covered for which payment may be made under part B during such  
16 year represented less than 1.0 percent of the total expenditures under  
17 part B for all drugs or biological products covered for which payment  
18 may be made under such part during such year.

19 “(II) SPECIFIED DRUGS.—

20 “(aa) IN GENERAL.—For purposes of this clause, the term ‘specified  
21 drug’ means, with respect to a specified manufacturer, for 2021, an  
22 applicable drug that is produced, prepared, propagated, compounded,  
23 converted, or processed by the manufacturer.

24 “(bb) AGGREGATION RULE.—All persons treated as a single employer  
25 under subsection (a) or (b) of section 52 of the Internal Revenue Code  
26 of 1986 shall be treated as one manufacturer for purposes of this  
27 subparagraph. For purposes of making a determination pursuant to the  
28 previous sentence, an agreement under this section shall require that a  
29 manufacturer provide and attest to such information as specified by the  
30 Secretary as necessary.

31 “(III) LIMITATION.—The term ‘specified manufacturer’ shall not include a  
32 manufacturer described in subclause (I) if such manufacturer is acquired  
33 after 2021 by another manufacturer that is not a specified manufacturer,  
34 effective at the beginning of the plan year immediately following such  
35 acquisition or, in the case of an acquisition before 2025, effective January 1,  
36 2025.

37 “(iii) SPECIFIED LIS PERCENT.—In this subparagraph, the ‘specified LIS  
38 percent’ means, with respect to a year—

39 “(I) for an applicable drug dispensed for an applicable beneficiary  
40 described in clause (i) who has not incurred costs, as determined in  
41 accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the  
42 year that are equal to or exceed the annual out-of-pocket threshold specified

1 in section 1860D–2(b)(4)(B)(i) for the year—

2 “(aa) for 2025, 99 percent;

3 “(bb) for 2026, 98 percent;

4 “(cc) for 2027, 95 percent;

5 “(dd) for 2028, 92 percent; and

6 “(ee) for 2029 and each subsequent year, 90 percent; and

7 “(II) for an applicable drug dispensed for an applicable beneficiary  
8 described in clause (i) who has incurred costs, as determined in accordance  
9 with section 1860D–2(b)(4)(C), for covered part D drugs in the year that are  
10 equal to or exceed the annual out-of-pocket threshold specified in section  
11 1860D–2(b)(4)(B)(i) for the year—

12 “(aa) for 2025, 99 percent;

13 “(bb) for 2026, 98 percent;

14 “(cc) for 2027, 95 percent;

15 “(dd) for 2028, 92 percent;

16 “(ee) for 2029, 90 percent;

17 “(ff) for 2030, 85 percent; and

18 “(gg) for 2031 and each subsequent year, 80 percent.

19 “(C) PHASE-IN FOR SPECIFIED SMALL MANUFACTURERS.—

20 “(i) IN GENERAL.—In the case of an applicable drug of a specified small  
21 manufacturer (as defined in clause (ii)) that is marketed as of the date of  
22 enactment of this subparagraph and dispensed for an applicable beneficiary, the  
23 term ‘discounted price’ means the specified small manufacturer percent (as  
24 defined in clause (iii)) of the negotiated price of the applicable drug of the  
25 manufacturer.

26 “(ii) SPECIFIED SMALL MANUFACTURER.—

27 “(I) IN GENERAL.—In this subparagraph, subject to subclause (III), the  
28 term ‘specified small manufacturer’ means a manufacturer of an applicable  
29 drug for which, in 2021—

30 “(aa) the manufacturer is a specified manufacturer (as defined in  
31 subparagraph (B)(ii)); and

32 “(bb) the total expenditures under part D for any one of the specified  
33 small manufacturer drugs of the manufacturer that are covered by the  
34 agreement or agreements under section 1860D–14A of such  
35 manufacturer for such year and covered under this part during such year  
36 are equal to or more than 80 percent of the total expenditures under this  
37 part for all specified small manufacturer drugs of the manufacturer that  
38 are covered by such agreement or agreements for such year and covered

1 under this part during such year.

2 “(II) SPECIFIED SMALL MANUFACTURER DRUGS.—

3 “(aa) IN GENERAL.—For purposes of this clause, the term ‘specified  
4 small manufacturer drugs’ means, with respect to a specified small  
5 manufacturer, for 2021, an applicable drug that is produced, prepared,  
6 propagated, compounded, converted, or processed by the manufacturer.

7 “(bb) AGGREGATION RULE.—All persons treated as a single employer  
8 under subsection (a) or (b) of section 52 of the Internal Revenue Code  
9 of 1986 shall be treated as one manufacturer for purposes of this  
10 subparagraph. For purposes of making a determination pursuant to the  
11 previous sentence, an agreement under this section shall require that a  
12 manufacturer provide and attest to such information as specified by the  
13 Secretary as necessary.

14 “(III) LIMITATION.—The term ‘specified small manufacturer’ shall not  
15 include a manufacturer described in subclause (I) if such manufacturer is  
16 acquired after 2021 by another manufacturer that is not a specified small  
17 manufacturer, effective at the beginning of the plan year immediately  
18 following such acquisition or, in the case of an acquisition before 2025,  
19 effective January 1, 2025.

20 “(iii) SPECIFIED SMALL MANUFACTURER PERCENT.—In this subparagraph, the  
21 term ‘specified small manufacturer percent’ means, with respect to a year—

22 “(I) for an applicable drug dispensed for an applicable beneficiary who has  
23 not incurred costs, as determined in accordance with section 1860D–2(b)(4)  
24 (C), for covered part D drugs in the year that are equal to or exceed the  
25 annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for  
26 the year—

27 “(aa) for 2025, 99 percent;

28 “(bb) for 2026, 98 percent;

29 “(cc) for 2027, 95 percent;

30 “(dd) for 2028, 92 percent; and

31 “(ee) for 2029 and each subsequent year, 90 percent; and

32 “(II) for an applicable drug dispensed for an applicable beneficiary who  
33 has incurred costs, as determined in accordance with section 1860D–2(b)(4)  
34 (C), for covered part D drugs in the year that are equal to or exceed the  
35 annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for  
36 the year—

37 “(aa) for 2025, 99 percent;

38 “(bb) for 2026, 98 percent;

39 “(cc) for 2027, 95 percent;

40 “(dd) for 2028, 92 percent;

1 “(ee) for 2029, 90 percent;  
2 “(ff) for 2030, 85 percent; and  
3 “(gg) for 2031 and each subsequent year, 80 percent.

4 “(D) TOTAL EXPENDITURES.—For purposes of this paragraph, the term ‘total  
5 expenditures’ includes, in the case of expenditures with respect to part D, the total  
6 gross covered prescription drug costs as defined in section 1860D–15(b)(3). The term  
7 ‘total expenditures’ excludes, in the case of expenditures with respect to part B,  
8 expenditures for a drug or biological that are bundled or packaged into the payment for  
9 another service.

10 “(E) SPECIAL CASE FOR CERTAIN CLAIMS.—

11 “(i) CLAIMS SPANNING DEDUCTIBLE.—In the case where the entire amount of  
12 the negotiated price of an individual claim for an applicable drug with respect to  
13 an applicable beneficiary does not fall above the annual deductible specified in  
14 section 1860D–2(b)(1) for the year, the manufacturer of the applicable drug shall  
15 provide the discounted price under this section on only the portion of the  
16 negotiated price of the applicable drug that falls above such annual deductible.

17 “(ii) CLAIMS SPANNING OUT-OF-POCKET THRESHOLD.—In the case where the  
18 entire amount of the negotiated price of an individual claim for an applicable drug  
19 with respect to an applicable beneficiary does not fall entirely below or entirely  
20 above the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i)  
21 for the year, the manufacturer of the applicable drug shall provide the discounted  
22 price—

23 “(I) in accordance with subparagraph (A)(i) on the portion of the  
24 negotiated price of the applicable drug that falls below such threshold; and

25 “(II) in accordance with subparagraph (A)(ii) on the portion of such price  
26 of such drug that falls at or above such threshold.

27 “(5) MANUFACTURER.—The term ‘manufacturer’ means any entity which is engaged in  
28 the production, preparation, propagation, compounding, conversion, or processing of  
29 prescription drug products, either directly or indirectly by extraction from substances of  
30 natural origin, or independently by means of chemical synthesis, or by a combination of  
31 extraction and chemical synthesis. Such term does not include a wholesale distributor of  
32 drugs or a retail pharmacy licensed under State law.

33 “(6) NEGOTIATED PRICE.—The term ‘negotiated price’ has the meaning given such term  
34 for purposes of section 1860D–2(d)(1)(B), and, with respect to an applicable drug, such  
35 negotiated price shall include any dispensing fee and, if applicable, any vaccine  
36 administration fee for the applicable drug.

37 “(7) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term ‘qualified retiree  
38 prescription drug plan’ has the meaning given such term in section 1860D–22(a)(2).

39 “SEC. 1860D–14D. SELECTED DRUG SUBSIDY  
40 PROGRAM.

1 “With respect to covered part D drugs that would be applicable drugs (as defined in section  
2 1860D–14C(g)(2)) but for the application of subparagraph (B) of such section, the Secretary  
3 shall provide a process whereby, in the case of an applicable beneficiary (as defined in section  
4 1860D–14C(g)(1)) who, with respect to a year, is enrolled in a prescription drug plan or is  
5 enrolled in an MA–PD plan, has not incurred costs that are equal to or exceed the annual out-of-  
6 pocket threshold specified in section 1860D–2(b)(4)(B)(i), and is dispensed such a drug, the  
7 Secretary (periodically and on a timely basis) provides the PDP sponsor or the MA organization  
8 offering the plan, a subsidy with respect to such drug that is equal to 10 percent of the negotiated  
9 price (as defined in section 1860D–14C(g)(6)) of such drug.”.

10 (2) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 1860D–14A of  
11 the Social Security Act (42 U.S.C. 1395w–114a) is amended—

12 (A) in subsection (a), in the first sentence, by striking “The Secretary” and inserting  
13 “Subject to subsection (h), the Secretary”; and

14 (B) by adding at the end the following new subsection:

15 “(h) Sunset of Program.—

16 “(1) IN GENERAL.—The program shall not apply with respect to applicable drugs  
17 dispensed on or after January 1, 2025, and, subject to paragraph (2), agreements under this  
18 section shall be terminated as of such date.

19 “(2) CONTINUED APPLICATION FOR APPLICABLE DRUGS DISPENSED PRIOR TO SUNSET.—  
20 The provisions of this section (including all responsibilities and duties) shall continue to  
21 apply on and after January 1, 2025, with respect to applicable drugs dispensed prior to such  
22 date.”.

23 (3) SELECTED DRUG SUBSIDY PAYMENTS FROM MEDICARE PRESCRIPTION DRUG ACCOUNT.  
24 —Section 1860D–16(b)(1) of the Social Security Act (42 U.S.C. 1395w–116(b)(1)) is  
25 amended—

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

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

28 (C) by adding at the end the following new subparagraph:

29 “(E) payments under section 1860D–14D (relating to selected drug subsidy  
30 payments).”.

31 (d) Medicare Part D Premium Stabilization.—

32 (1) 2024 THROUGH 2029.—Section 1860D–13 of the Social Security Act (42 U.S.C.  
33 1395w–113) is amended—

34 (A) in subsection (a)—

35 (i) in paragraph (1)(A), by inserting “or (8) (as applicable)” after “paragraph  
36 (2)”;

37 (ii) in paragraph (2), in the matter preceding subparagraph (A), by striking “The  
38 base” and inserting “Subject to paragraph (8), the base”;

39 (iii) in paragraph (7)—



1 (I) in subparagraph (B)(ii), by inserting “or (8) (as applicable)” after  
2 “paragraph (2)”; and

3 (II) in subparagraph (E)(i), by inserting “or (8) (as applicable)” after  
4 “paragraph (2)”; and

5 (iv) by adding at the end the following new paragraph:

6 “(8) PREMIUM STABILIZATION.—

7 “(A) IN GENERAL.—The base beneficiary premium under this paragraph for a  
8 prescription drug plan for a month in 2024 through 2029 shall be computed as follows:

9 “(i) 2024.—The base beneficiary premium for a month in 2024 shall be equal  
10 to the lesser of—

11 “(I) the base beneficiary premium computed under paragraph (2) for a  
12 month in 2023 increased by 6 percent; or

13 “(II) the base beneficiary premium computed under paragraph (2) for a  
14 month in 2024 that would have applied if this paragraph had not been  
15 enacted.

16 “(ii) 2025.—The base beneficiary premium for a month in 2025 shall be equal  
17 to the lesser of—

18 “(I) the base beneficiary premium computed under clause (i) for a month  
19 in 2024 increased by 6 percent; or

20 “(II) the base beneficiary premium computed under paragraph (2) for a  
21 month in 2025 that would have applied if this paragraph had not been  
22 enacted.

23 “(iii) 2026.—The base beneficiary premium for a month in 2026 shall be equal  
24 to the lesser of—

25 “(I) the base beneficiary premium computed under clause (ii) for a month  
26 in 2025 increased by 6 percent; or

27 “(II) the base beneficiary premium computed under paragraph (2) for a  
28 month in 2026 that would have applied if this paragraph had not been  
29 enacted.

30 “(iv) 2027.—The base beneficiary premium for a month in 2027 shall be equal  
31 to the lesser of—

32 “(I) the base beneficiary premium computed under clause (iii) for a month  
33 in 2026 increased by 6 percent; or

34 “(II) the base beneficiary premium computed under paragraph (2) for a  
35 month in 2027 that would have applied if this paragraph had not been  
36 enacted.

37 “(v) 2028.—The base beneficiary premium for a month in 2028 shall be equal  
38 to the lesser of—

39 “(I) the base beneficiary premium computed under clause (iv) for a month

1 in 2027 increased by 6 percent; or

2 “(II) the base beneficiary premium computed under paragraph (2) for a  
3 month in 2028 that would have applied if this paragraph had not been  
4 enacted.

5 “(vi) 2029.—The base beneficiary premium for a month in 2029 shall be equal  
6 to the lesser of—

7 “(I) the base beneficiary premium computed under clause (v) for a month  
8 in 2028 increased by 6 percent; or

9 “(II) the base beneficiary premium computed under paragraph (2) for a  
10 month in 2029 that would have applied if this paragraph had not been  
11 enacted.

12 “(B) CLARIFICATION REGARDING 2030 AND SUBSEQUENT YEARS.—The base  
13 beneficiary premium for a month in 2030 or a subsequent year shall be computed  
14 under paragraph (2) without regard to this paragraph.”; and

15 (B) in subsection (b)(3)(A)(ii), by striking “subsection (a)(2)” and inserting  
16 “paragraph (2) or (8) of subsection (a) (as applicable)”.

17 (2) ADJUSTMENT TO BENEFICIARY PREMIUM PERCENTAGE FOR 2030 AND SUBSEQUENT  
18 YEARS.—Section 1860D–13(a) of the Social Security Act (42 U.S.C. 1395w–113(a)), as  
19 amended by paragraph (1), is amended—

20 (A) in paragraph (3)(A), by inserting “(or, for 2030 and each subsequent year, the  
21 percent specified under paragraph (9))” after “25.5 percent”; and

22 (B) by adding at the end the following new paragraph:

23 “(9) PERCENT SPECIFIED.—

24 “(A) IN GENERAL.—Subject to subparagraph (B), for purposes of paragraph (3)(A),  
25 the percent specified under this paragraph for 2030 and each subsequent year is the  
26 percent that the Secretary determines is necessary to ensure that the base beneficiary  
27 premium computed under paragraph (2) for a month in 2030 is equal to the lesser of—

28 “(i) the base beneficiary premium computed under paragraph (8)(A)(vi) for a  
29 month in 2029 increased by 6 percent; or

30 “(ii) the base beneficiary premium computed under paragraph (2) for a month  
31 in 2030 that would have applied if this paragraph had not been enacted.

32 “(B) FLOOR.—The percent specified under subparagraph (A) may not be less than  
33 20 percent.”.

34 (3) CONFORMING AMENDMENTS.—

35 (A) Section 1854(b)(2)(B) of the Social Security Act 42 U.S.C. 1395w–24(b)(2)(B))  
36 is amended by striking “section 1860D–13(a)(2)” and inserting “paragraph (2) or (8)  
37 (as applicable) of section 1860D–13(a)”.

38 (B) Section 1860D–11(g)(6) of the Social Security Act (42 U.S.C. 1395w–111(g)  
39 (6)) is amended by inserting “(or, for 2030 and each subsequent year, the percent

1 specified under section 1860D–13(a)(9))” after “25.5 percent”.

2 (C) Section 1860D–13(a)(7)(B)(i) of the Social Security Act (42 U.S.C. 1395w–  
3 113(a)(7)(B)(i)) is amended—

4 (i) in subclause (I), by inserting “(or, for 2030 and each subsequent year, the  
5 percent specified under paragraph (9))” after “25.5 percent”; and

6 (ii) in subclause (II), by inserting “(or, for 2030 and each subsequent year, the  
7 percent specified under paragraph (9))” after “25.5 percent”.

8 (D) Section 1860D–15(a) of the Social Security Act (42 U.S.C. 1395w–115(a)) is  
9 amended—

10 (i) in the matter preceding paragraph (1), by inserting “(or, for each of 2024  
11 through 2029, the percent applicable as a result of the application of section  
12 1860D–13(a)(8), or, for 2030 and each subsequent year, 100 percent minus the  
13 percent specified under section 1860D–13(a)(9))” after “74.5 percent”; and

14 (ii) in paragraph (1)(B), by striking “paragraph (2) of section 1860D–13(a)”  
15 and inserting “paragraph (2) or (8) of section 1860D–13(a) (as applicable)”.

16 (e) Conforming Amendments.—

17 (1) Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102) is amended—

18 (A) in subsection (a)~~(2)(A)(i)(I)~~**(2)(A)(i)(I)**, by striking “, or an increase in the  
19 initial” and inserting “or, for a year preceding 2025, an increase in the initial”;

20 (B) in subsection (c)(1)(C)—

21 (i) in the subparagraph heading, by striking “AT INITIAL COVERAGE LIMIT”; and

22 (ii) by inserting “for a year preceding 2025 or the annual out-of-pocket  
23 threshold specified in subsection (b)(4)(B) for the year for 2025 and each  
24 subsequent year” after “subsection (b)(3) for the year” each place it appears; and

25 (C) in subsection (d)(1)(A), by striking “or an initial” and inserting “or, for a year  
26 preceding 2025, an initial”.

27 (2) Section 1860D–4(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395w–104(a)(4)  
28 (B)(i)) is amended by striking “the initial” and inserting “for a year preceding 2025, the  
29 initial”.

30 (3) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is  
31 amended—

32 (A) in paragraph (1)—

33 (i) in subparagraph (C), by striking “The continuation” and inserting “For a  
34 year preceding 2025, the continuation”;

35 (ii) in subparagraph (D)(iii), by striking “1860D–2(b)(4)(A)(i)(I)” and inserting  
36 “1860D–2(b)(4)(A)(i)(I)(aa)”; and

37 (iii) in subparagraph (E), by striking “The elimination” and inserting “For a  
38 year preceding 2024, the elimination”; and

1 (B) in paragraph ~~(2)(2)~~—

2 (i) in subparagraph (C), by striking “The continuation” and inserting “For a year  
3 preceding 2025, the continuation”; and

4 (ii) in subparagraph (E), by striking “1860D–2(b)(4)(A)(i)(I)” and inserting  
5 “1860D–2(b)(4)(A)(i)(I)(aa) (for a year preceding 2024)”. “1860D–2(b)(4)(A)(i)(I)  
6 (aa)”.

7 (4) Section 1860D–21(d)(7) of the Social Security Act (42 U.S.C. 1395w–131(d)(7)) is  
8 amended by striking “section 1860D–2(b)(4)(B)(i)” and inserting “section 1860D–2(b)(4)  
9 (C)(i)”.

10 (5) Section 1860D–22(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w–132(a)(2)  
11 (A)) is amended—

12 (A) by striking “the value of any discount” and inserting the following: “the value of  
13 —

14 “(i) for years prior to 2025, any discount”;

15 (B) in clause (i), as inserted by subparagraph (A) of this paragraph, by striking the  
16 period at the end and inserting “; and”; and

17 (C) by adding at the end the following new clause:

18 “(ii) for 2025 and each subsequent year, any discount provided pursuant to  
19 section 1860D–14C.”.

20 (6) Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–151(a)(6)) is  
21 amended—

22 (A) by inserting “for a year before 2025” after “1860D–2(b)(3)”; and

23 (B) by inserting “for such year” before the period.

24 (7) Section 1860D–43 of the Social Security Act (42 U.S.C. 1395w–153) is amended—

25 (A) in subsection (a)—

26 (i) by striking paragraph (1) and inserting the following:

27 “(1) participate in—

28 “(A) for 2011 through 2024, the Medicare coverage gap discount program under  
29 section 1860D–14A; and

30 “(B) for 2025 and each subsequent year, the manufacturer discount program under  
31 section 1860D–14C;”;

32 (ii) by striking paragraph (2) and inserting the following:

33 “(2) have entered into and have in effect—

34 “(A) for 2011 through 2024, an agreement described in subsection (b) of section  
35 1860D–14A with the Secretary; and

36 “(B) for 2025 and each subsequent year, an agreement described in subsection (b) of  
37 section 1860D–14C with the Secretary; and”;

1 (iii) in paragraph (3), by striking “such section” and inserting “section 1860D–  
2 14A”; and

3 (B) by striking subsection (b) and inserting the following:

4 “(b) Effective Date.—Paragraphs (1)(A), (2)(A), and (3) of subsection (a) shall apply to  
5 covered part D drugs dispensed under this part on or after January 1, 2011, and before January 1,  
6 2025, and paragraphs (1)(B) and (2)(B) of such subsection shall apply to covered part D drugs  
7 dispensed under this part on or after January 1, 2025.”

8 (8) Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

9 (A) in subsection (c)(1)(C)(i)(VI), by inserting before the period at the end the  
10 following: “or under the manufacturer discount program under section 1860D–14C”;  
11 and

12 (B) in subsection (k)(1)(B)(i)(V), by inserting before the period at the end the  
13 following: “or under section 1860D–14C”.

14 (f) Implementation for 2024 Through 2026.—The Secretary shall implement this section,  
15 including the amendments made by this section, for 2024, 2025, and 2026 by program  
16 instruction or other forms of program guidance.

17 (g) Funding.—In addition to amounts otherwise available, there are appropriated to the  
18 Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise  
19 appropriated, \$341,000,000 for fiscal year 2022, including \$20,000,000 and \$65,000,000 to carry  
20 out the provisions of, including the amendments made by, this section in fiscal years 2022 and  
21 2023, respectively, and \$32,000,000 to carry out the provisions of, including the amendments  
22 made by, this section in each of fiscal years 2024 through 2031, to remain available until  
23 expended.

24 **SEC. 11202. MAXIMUM MONTHLY CAP ON COST-**  
25 **SHARING PAYMENTS UNDER PRESCRIPTION DRUG**  
26 **PLANS AND MA–PD PLANS.**

27 (a) In General.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is  
28 amended—

29 (1) in paragraph (2)—

30 (A) in subparagraph (A), by striking “and (D)” and inserting “, (D), and (E)”; and

31 (B) by adding at the end the following new subparagraph:

32 “(E) MAXIMUM MONTHLY CAP ON COST-SHARING PAYMENTS.—

33 “(i) IN GENERAL.—For plan years beginning on or after January 1, 2025, each  
34 PDP sponsor offering a prescription drug plan and each MA organization offering  
35 an MA–PD plan shall provide to any enrollee of such plan, including an enrollee  
36 who is a subsidy eligible individual (as defined in paragraph (3) of section  
37 1860D–14(a)), the option to elect with respect to a plan year to pay cost-sharing  
38 under the plan in monthly amounts that are capped in accordance with this  
39 subparagraph.

1 “(ii) DETERMINATION OF MAXIMUM MONTHLY CAP.—For each month in the  
2 plan year for which an enrollee in a prescription drug plan or an MA–PD plan has  
3 made an election pursuant to clause (i), the PDP sponsor or MA organization shall  
4 determine a maximum monthly cap (as defined in clause (iv)) for such enrollee.

5 “(iii) BENEFICIARY MONTHLY PAYMENTS.—With respect to an enrollee who  
6 has made an election pursuant to clause (i), for each month described in clause  
7 (ii), the PDP sponsor or MA organization shall bill such enrollee an amount (not  
8 to exceed the maximum monthly cap) for the out-of-pocket costs of such enrollee  
9 in such month.

10 “(iv) MAXIMUM MONTHLY CAP DEFINED.—In this subparagraph, the term  
11 ‘maximum monthly cap’ means, with respect to an enrollee—

12 “(I) for the first month for which the enrollee has made an election  
13 pursuant to clause (i), an amount determined by calculating—

14 “(aa) the annual out-of-pocket threshold specified in paragraph (4)(B)  
15 minus the incurred costs of the enrollee as described in paragraph (4)  
16 (C); divided by

17 “(bb) the number of months remaining in the plan year; and

18 “(II) for a subsequent month, an amount determined by calculating—

19 “(aa) the sum of any remaining out-of-pocket costs owed by the  
20 enrollee from a previous month that have not yet been billed to the  
21 enrollee and any additional out-of-pocket costs incurred by the enrollee;  
22 divided by

23 “(bb) the number of months remaining in the plan year.

24 “(v) ADDITIONAL REQUIREMENTS.—The following requirements shall apply  
25 with respect to the option to make an election pursuant to clause (i) under this  
26 subparagraph:

27 “(I) SECRETARIAL RESPONSIBILITIES.—The Secretary shall provide  
28 information to part D eligible individuals on the option to make such election  
29 through educational materials, including through the notices provided under  
30 section 1804(a).

31 “(II) TIMING OF ELECTION.—An enrollee in a prescription drug plan or an  
32 MA–PD plan may make such an election—

33 “(aa) prior to the beginning of the plan year; or

34 “(bb) in any month during the plan year.

35 “(III) PDP SPONSOR AND MA ORGANIZATION RESPONSIBILITIES.—Each  
36 PDP sponsor offering a prescription drug plan or MA organization offering  
37 an MA–PD plan—

38 “(aa) may not limit the option for an enrollee to make such an  
39 election to certain covered part D drugs;

40 “(bb) shall, prior to the plan year, notify prospective enrollees of the

1 option to make such an election in promotional materials;

2 “(cc) shall include information on such option in enrollee educational  
3 materials;

4 “(dd) shall have in place a mechanism to notify a pharmacy during  
5 the plan year when an enrollee incurs out-of-pocket costs with respect  
6 to covered part D drugs that make it likely the enrollee may benefit  
7 from making such an election;

8 “(ee) shall provide that a pharmacy, after receiving a notification  
9 described in item (dd) with respect to an enrollee, informs the enrollee  
10 of such notification;

11 “(ff) shall ensure that such an election by an enrollee has no effect on  
12 the amount paid to pharmacies (or the timing of such payments) with  
13 respect to covered part D drugs dispensed to the enrollee; and

14 “(gg) shall have in place a financial reconciliation process to correct  
15 inaccuracies in payments made by an enrollee under this subparagraph  
16 with respect to covered part D drugs during the plan year.

17 “(IV) FAILURE TO PAY AMOUNT BILLED.—If an enrollee fails to pay the  
18 amount billed for a month as required under this subparagraph—

19 “(aa) the election of the enrollee pursuant to clause (i) shall be  
20 terminated and the enrollee shall pay the cost-sharing otherwise  
21 applicable for any covered part D drugs subsequently dispensed to the  
22 enrollee up to the annual out-of-pocket threshold specified in paragraph  
23 (4)(B); and

24 “(bb) the PDP sponsor or MA organization may preclude the enrollee  
25 from making an election pursuant to clause (i) in a subsequent plan  
26 year.

27 “(V) CLARIFICATION REGARDING PAST DUE AMOUNTS.—Nothing in this  
28 subparagraph shall be construed as prohibiting a PDP sponsor or an MA  
29 organization from billing an enrollee for an amount owed under this  
30 subparagraph.

31 “(VI) TREATMENT OF UNSETTLED BALANCES.—Any unsettled balances  
32 with respect to amounts owed under this subparagraph shall be treated as  
33 plan losses and the Secretary shall not be liable for any such balances outside  
34 of those assumed as losses estimated in plan bids.”; and

35 (2) in paragraph (4)—

36 (A) in subparagraph (C), by striking “subparagraph (E)” and inserting  
37 “subparagraph (E) or subparagraph (F)”;

38 (B) by adding at the end the following new subparagraph:

39 “(F) INCLUSION OF COSTS PAID UNDER MAXIMUM MONTHLY CAP OPTION.—In  
40 applying subparagraph (A), with respect to an enrollee who has made an election

1 pursuant to clause (i) of paragraph (2)(E), costs shall be treated as incurred if such  
2 costs are paid by a PDP sponsor or an MA organization under the option provided  
3 under such paragraph.”.

4 (b) Application to Alternative Prescription Drug Coverage.—Section 1860D–2(c) of the  
5 Social Security Act (42 U.S.C. 1395w–102(c)) is amended by adding at the end the following  
6 new paragraph:

7 “(4) SAME MAXIMUM MONTHLY CAP ON COST-SHARING.—The maximum monthly cap on  
8 cost-sharing payments shall apply to coverage with respect to an enrollee who has made an  
9 election pursuant to clause (i) of subsection (b)(2)(E) under the option provided under such  
10 subsection.”.

11 (c) Implementation for 2025.—The Secretary shall implement this section, including the  
12 amendments made by this section, for 2025 by program instruction or other forms of program  
13 guidance.

14 (d) Funding.—In addition to amounts otherwise available, there are appropriated to the  
15 Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise  
16 appropriated, \$10,000,000 for fiscal year 2023, to remain available until expended, to carry out  
17 the provisions of, including the amendments made by, this section.

18 **PART 4—REPEAL 4—CONTINUED DELAY OF**  
19 **IMPLEMENTATION OF PRESCRIPTION DRUG REBATE**  
20 **RULE**

21 **SEC. 11301. PROHIBITING EXTENSION OF**  
22 **MORATORIUM ON IMPLEMENTATION OF RULE**  
23 **RELATING TO ELIMINATING THE ANTI-KICKBACK**  
24 **STATUTE SAFE HARBOR PROTECTION FOR**  
25 **PRESCRIPTION DRUG REBATES.**

26 ~~Section 90006 of division I of the Infrastructure Investment and Jobs Act (42 U.S.C. 1320a7b-~~  
27 ~~note), as amended by section 13101 of division A of the Bipartisan Safer Communities Act, is~~  
28 ~~amended by striking “The Secretary of Health and Human Services shall not, prior to January~~  
29 ~~1, 2027,”. 2032, implement, administer, or enforce the provisions of the final rule published~~  
30 ~~by the Office of the Inspector General of the Department of Health and Human Services on~~  
31 ~~November 30, 2020, and titled “Fraud and Abuse; Removal of Safe Harbor Protection for~~  
32 ~~Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor~~  
33 ~~Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals~~  
34 ~~and Certain Pharmacy Benefit Manager Service Fees” (85 Fed. Reg. 76666).~~

35 **PART 5—MISCELLANEOUS**

36 **SEC. 11401. COVERAGE OF ADULT VACCINES**  
37 **RECOMMENDED BY THE ADVISORY COMMITTEE ON**



1 IMMUNIZATION PRACTICES UNDER MEDICARE PART  
2 D.

3 (a) Ensuring Treatment of Cost-sharing and Deductible Is Consistent With Treatment of  
4 Vaccines Under Medicare Part B.—Section 1860D–2 of the Social Security Act (42 U.S.C.  
5 1395w–102), as amended by sections 11201 and 11202, is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1)(A), by striking “The coverage” and inserting “Subject to  
8 paragraph (8), the coverage”;

9 (B) in paragraph (2)—

10 (i) in subparagraph (A), by inserting “and paragraph (8)” after “and (E)”;

11 (ii) in subparagraph (C)(i), in the matter preceding subclause (I), by striking  
12 “paragraph (4)” and inserting “paragraphs (4) and (8)”; and

13 (iii) in subparagraph (D)(i), in the matter preceding subclause (I), by striking  
14 “paragraph (4)” and inserting “paragraphs (4) and (8)”;

15 (C) in paragraph (3)(A), in the matter preceding clause (i), by striking “and  
16 (4)” and inserting “(4), and (8)”;

17 (D) in paragraph (4)(A)(i), by striking “The coverage” and inserting “Subject to  
18 paragraph (8), the coverage”; and

19 ~~(D)~~(E) by adding at the end the following new paragraph:

20 “(8) TREATMENT OF COST-SHARING FOR ADULT VACCINES RECOMMENDED BY THE  
21 ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES CONSISTENT WITH TREATMENT OF  
22 VACCINES UNDER PART B.—

23 “(A) IN GENERAL.—For plan years beginning on or after January 1, 2023, with  
24 respect to an adult vaccine recommended by the Advisory Committee on  
25 Immunization Practices (as defined in subparagraph (B))—

26 “(i) the deductible under paragraph (1) shall not apply; and

27 “(ii) there shall be no coinsurance or other cost-sharing under this part with  
28 respect to such vaccine.

29 “(B) ADULT VACCINES RECOMMENDED BY THE ADVISORY COMMITTEE ON  
30 IMMUNIZATION PRACTICES.—For purposes of this paragraph, the term ‘adult vaccine  
31 recommended by the Advisory Committee on Immunization Practices’ means a  
32 covered part D drug that is a vaccine licensed under section 351 of the Public Health  
33 Service Act for use by adult populations and administered in accordance with  
34 recommendations of the Advisory Committee on Immunization Practices of the  
35 Centers for Disease Control and Prevention.”; and

36 (2) in subsection (c), by adding at the end the following new paragraph:

37 “(5) TREATMENT OF COST-SHARING FOR ADULT VACCINES RECOMMENDED BY THE  
38 ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES.—The coverage is in accordance with

1 subsection (b)(8).”.

2 (b) Conforming Amendments to Cost-sharing for Low-income Individuals.—Section 1860D–  
3 14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)), as amended by section 11201, is  
4 amended—

5 (1) in paragraph (1)(D), in each of clauses (ii) and (iii), by striking “In the case” and  
6 inserting “Subject to paragraph (6), in the case”;

7 (2) in paragraph (2)—

8 (A) in subparagraph (B), by striking “A reduction” and inserting “Subject to section  
9 1860D–2(b)(8), a reduction”;

10 (B) in subparagraph (D), by striking “The substitution” and inserting “Subject to  
11 paragraph (6), the substitution”; and

12 (C) in subparagraph (E), by striking “and subsection” “subsection (c)” and inserting  
13 “, paragraph” “paragraph (6) of this subsection; and subsection (c)”;

14 (3) by adding at the end the following new paragraph:

15 “(6) NO APPLICATION OF COST-SHARING OR DEDUCTIBLE FOR ADULT VACCINES  
16 RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES.—For plan  
17 years beginning on or after January 1, 2023, with respect to an adult vaccine recommended  
18 by the Advisory Committee on Immunization Practices (as defined in section 1860D–2(b)  
19 (8)(B))—

20 “(A) the deductible under section 1860D–2(b)(1) shall not apply; and

21 “(B) there shall be no cost-sharing under this section with respect to such vaccine.”.

22 (c) Temporary Retrospective Subsidy.—Section Subsidy.—

23 (1) IN GENERAL.—Section 1860D–15 of the Social Security Act (42 U.S.C. 1395w–115)  
24 is amended by adding at the end the following new subsection:

25 “(h) Temporary Retrospective Subsidy for Reduction in Cost-sharing and Deductible for  
26 Adult Vaccines Recommended by the Advisory Committee on Immunization Practices During  
27 2023.—

28 “(1) IN GENERAL.—In addition to amounts otherwise payable under this section to a PDP  
29 sponsor of a prescription drug plan or an MA organization offering an MA–PD plan, for  
30 plan year 2023, the Secretary shall provide the PDP sponsor or MA organization offering  
31 the plan subsidies in an amount equal to the aggregate reduction in cost-sharing and  
32 deductible by reason of the application of section 1860D–2(b)(8) for individuals under the  
33 plan during the year.

34 “(2) TIMING.—The Secretary shall provide a subsidy under paragraph (1), as applicable,  
35 not later than 18 months following the end of the applicable plan year.”.

36 (2) TREATMENT AS INCURRED COSTS.—Section 1860D–2(b)(4)(C)(iii)(I) of the Social  
37 Security Act (42 U.S.C. 1395w–102(b)(4)(C)(iii)(I)), as amended by section 11201(a)(3)  
38 (C), is amended—

39 (A) in item (cc), by striking “or” at the end; and

1 **(B) by adding at the end the following new item:**

2 **“(dd) under section 1860D–15(h); or”.**

3 (d) Rule of Construction.—Nothing in this section shall be construed as limiting coverage  
4 under part D of title XVIII of the Social Security Act for vaccines that are not recommended by  
5 the Advisory Committee on Immunization Practices.

6 (e) Implementation for 2023 Through 2025.—The Secretary shall implement this section,  
7 including the amendments made by this section, for 2023, 2024, and 2025, by program  
8 instruction or other forms of program guidance.

## 9 SEC. 11402. PAYMENT FOR BIOSIMILAR BIOLOGICAL 10 PRODUCTS DURING INITIAL PERIOD.

11 Section 1847A(c)(4) of the Social Security Act (42 U.S.C. 1395w–3a(c)(4)) is amended—

12 (1) in each of subparagraphs (A) and (B), by redesignating clauses (i) and (ii) as  
13 subclauses (I) and (II), respectively, and moving such subclauses 2 ems to the right;

14 (2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and moving such  
15 clauses 2 ems to the right;

16 (3) by striking “UNAVAILABLE.—In the case” and inserting “UNAVAILABLE.—

17 “(A) IN GENERAL.—Subject to subparagraph (B), in the case”; and

18 (4) by adding at the end the following new subparagraph:

19 “(B) LIMITATION ON PAYMENT AMOUNT FOR BIOSIMILAR BIOLOGICAL PRODUCTS  
20 DURING INITIAL PERIOD.—In the case of a biosimilar biological product furnished on or  
21 after July 1, 2024, during the initial period described in subparagraph (A) with respect  
22 to the biosimilar biological product, the amount payable under this section for the  
23 biosimilar biological product is the lesser of the following:

24 “(i) The amount determined under clause (ii) of such subparagraph for the  
25 biosimilar biological product.

26 “(ii) The amount determined under subsection (b)(1)(B) for the reference  
27 biological product.”.

## 28 SEC. 11403. TEMPORARY INCREASE IN MEDICARE 29 PART B PAYMENT FOR CERTAIN BIOSIMILAR 30 BIOLOGICAL PRODUCTS.

31 Section 1847A(b)(8) of the Social Security Act (42 U.S.C. 1395w–3a(b)(8)) is amended—

32 (1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and  
33 moving the margin of each such redesignated clause 2 ems to the right;

34 (2) by striking “PRODUCT.—The amount” and inserting the following: “PRODUCT.—

35 “(A) IN GENERAL.—Subject to subparagraph (B), the amount”; and

36 (3) by adding at the end the following new subparagraph:

1 “(B) TEMPORARY PAYMENT INCREASE.—

2 “(i) IN GENERAL.—In the case of a qualifying biosimilar biological product that  
3 is furnished during the applicable 5-year period for such product, the amount  
4 specified in this paragraph for such product with respect to such period is the sum  
5 determined under subparagraph (A), except that clause (ii) of such subparagraph  
6 shall be applied by substituting ‘8 percent’ for ‘6 percent’.

7 “(ii) APPLICABLE 5-YEAR PERIOD.—For purposes of clause (i), the applicable 5-  
8 year period for a qualifying biosimilar biological product is—

9 “(I) in the case of such a product for which payment was made under this  
10 paragraph as of September 30, 2022, the 5-year period beginning on October  
11 1, 2022; and

12 “(II) in the case of such a product for which payment is first made under  
13 this paragraph during a calendar quarter during the period beginning October  
14 1, 2022, and ending December 31, 2027, the 5-year period beginning on the  
15 first day of such calendar quarter during which such payment is first made.

16 “(iii) QUALIFYING BIOSIMILAR BIOLOGICAL PRODUCT DEFINED.—For purposes  
17 of this subparagraph, the term ‘qualifying biosimilar biological product’ means a  
18 biosimilar biological product described in paragraph (1)(C) with respect to which  
19 —

20 “(I) in the case of a product described in clause (ii)(I), the average sales  
21 price under paragraph (8)(A)(i) for a calendar quarter during the 5-year  
22 period described in such clause is not more than the average sales price  
23 under paragraph (4)(A) for such quarter for the reference biological product;  
24 and

25 “(II) in the case of a product described in clause (ii)(II), the average sales  
26 price under paragraph (8)(A)(i) for a calendar quarter during the 5-year  
27 period described in such clause is not more than the average sales price  
28 under paragraph (4)(A) for such quarter for the reference biological  
29 product.”.

30 **SEC. 11404. EXPANDING ELIGIBILITY FOR LOW-**  
31 **INCOME SUBSIDIES UNDER PART D OF THE MEDICARE**  
32 **PROGRAM.**

33 Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)), as amended by  
34 **section sections 11201 and 11401**, is amended—

35 (1) in the subsection heading, by striking “Individuals” and all that follows through  
36 “Line” and inserting “Certain Individuals”;

37 (2) in paragraph (1)—

38 (A) by striking the paragraph heading and inserting “INDIVIDUALS WITH CERTAIN  
39 LOW INCOMES”; and

1 (B) in the matter preceding subparagraph ~~(A)~~, (A)—

2 (i) by inserting “(or, with respect to a plan year beginning on or after January 1,  
3 2024, 150 percent)” after “135 percent”; and

4 (ii) by inserting “(or, with respect to a plan year beginning on or after  
5 January 1, 2024, paragraph (3)(E))” after “the resources requirement  
6 described in paragraph (3)(D)”; and

7 (3) in paragraph (2)—

8 (A) by striking the paragraph heading and inserting “OTHER LOW-INCOME  
9 INDIVIDUALS”; and

10 (B) in the matter preceding subparagraph (A), by striking “In the case of a subsidy”  
11 and inserting “With respect to a plan year beginning before January 1, 2024, in the  
12 case of a subsidy”.

## 13 SEC. 11405. IMPROVING ACCESS TO ADULT VACCINES 14 UNDER MEDICAID AND CHIP.

15 (a) Medicaid.—

16 (1) REQUIRING COVERAGE OF ADULT VACCINATIONS.—

17 (A) IN GENERAL.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C.  
18 1396a(a)(10)(A)) is amended in the matter preceding clause (i) by inserting “(13)(B),”  
19 after “(5).”.

20 (B) MEDICALLY NEEDY.—Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C.  
21 1396a(a)(10)(C)(iv)) is amended by inserting “, (13)(B),” after “(5)”.

22 (2) NO COST SHARING FOR VACCINATIONS.—

23 (A) GENERAL COST-SHARING LIMITATIONS.—Section 1916 of the Social Security  
24 Act (42 U.S.C. 1396o) is amended—

25 (i) in subsection (a)(2)—

26 (I) in subparagraph (G), by inserting a comma after “State plan”;

27 (II) in subparagraph (H), by striking “; or” and inserting a comma;

28 (III) in subparagraph (I), by striking “; and” and inserting “, or”; and

29 (IV) by adding at the end the following new subparagraph:

30 “(J) vaccines described in section 1905(a)(13)(B) and the administration of such  
31 vaccines; and”; and

32 (ii) in subsection (b)(2)—

33 (I) in subparagraph (G), by inserting a comma after “State plan”;

34 (II) in subparagraph (H), by striking “; or” and inserting a comma;

35 (III) in subparagraph (I), by striking “; and” and inserting “, or”; and

1 (IV) by adding at the end the following new subparagraph:

2 “(J) vaccines described in section 1905(a)(13)(B) and the administration of such  
3 vaccines; and”.

4 (B) APPLICATION TO ALTERNATIVE COST SHARING.—Section 1916A(b)(3)(B) of the  
5 Social Security Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended by adding at the end the  
6 following new clause:

7 “(xiv) Vaccines described in section 1905(a)(13)(B) and the administration of  
8 such vaccines.”.

9 (3) INCREASED FMAP FOR ADULT VACCINES AND THEIR ADMINISTRATION.—Section  
10 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

11 (A) by striking “and (5)” and inserting “(5)”;

12 (B) by striking “services and vaccines described in subparagraphs (A) and (B) of  
13 subsection (a)(13), and prohibits cost-sharing for such services and vaccines” and  
14 inserting “services described in subsection (a)(13)(A), and prohibits cost-sharing for  
15 such services”;

16 (C) by striking “medical assistance for such services and vaccines” and inserting  
17 “medical assistance for such services”; and

18 (D) by inserting “, and (6) during the first 8 fiscal quarters beginning on or after the  
19 effective date of this clause, in the case of a State which, as of the date of enactment of  
20 the ~~Inflation Reduction Act of 2022~~ **Act titled ‘An Act to provide for reconciliation  
21 pursuant to title II of S. Con. Res. 14’**, provides medical assistance for vaccines  
22 described in subsection (a)(13)(B) and their administration and prohibits cost-sharing  
23 for such vaccines, the Federal medical assistance percentage, as determined under this  
24 subsection and subsection (y), shall be increased by 1 percentage point with respect to  
25 medical assistance for such vaccines and their administration” before the first period.

26 (b) CHIP.—

27 (1) REQUIRING COVERAGE OF ADULT VACCINATIONS.—Section 2103(c) of the Social  
28 Security Act (42 U.S.C. 1397cc(c)) is amended by adding at the end the following  
29 paragraph:

30 “(12) REQUIRED COVERAGE OF APPROVED, RECOMMENDED ADULT VACCINES AND THEIR  
31 ADMINISTRATION.—Regardless of the type of coverage elected by a State under subsection  
32 (a), if the State child health plan or a waiver of such plan provides child health assistance or  
33 pregnancy-related assistance (as defined in section 2112) to an individual who is 19 years of  
34 age or older, such assistance shall include coverage of vaccines described in section 1905(a)  
35 (13)(B) and their administration.”.

36 (2) NO COST-SHARING FOR VACCINATIONS.—Section 2103(e)(2) of such Act (42 U.S.C.  
37 1397cc(e)(2)) is amended by inserting “vaccines described in subsection (c)(12) (and the  
38 administration of such vaccines),” after “in vitro diagnostic products described in subsection  
39 (c)(10) (and administration of such products),”.

40 (c) Effective Date.—The amendments made by this section take effect on the 1st day of the 1st  
41 fiscal quarter that begins on or after the date that is 1 year after the date of enactment of this Act

1 and shall apply to expenditures made under a State plan or waiver of such plan under title XIX of  
2 the Social Security Act (42 U.S.C. 1396 through 1396w-6) or under a State child health plan or  
3 waiver of such plan under title XXI of such Act (42 U.S.C. 1397aa through 1397mm) on or after  
4 such effective date.

## 5 **SEC. 11406. APPROPRIATE COST-SHARING FOR** 6 **COVERED INSULIN PRODUCTS UNDER MEDICARE** 7 **PART D.**

8 **(a) In General.—Section 1860D-2 of the Social Security Act (42 U.S.C. 1395w-102), as**  
9 **amended by sections 11201, 11202, and 11401, is amended—**

10 **(1) in subsection (b)—**

11 **(A) in paragraph (1)(A), by striking “paragraph (8)” and inserting**  
12 **“paragraphs (8) and (9)”;**

13 **(B) in paragraph (2)—**

14 **(i) in subparagraph (A), by striking “paragraph (8)” and inserting**  
15 **“paragraphs (8) and (9)”;**

16 **(ii) in subparagraph (C)(i), in the matter preceding subclause (I), by**  
17 **striking “and (8)” and inserting “, (8), and (9)”;** and

18 **(iii) in subparagraph (D)(i), in the matter preceding subclause (I), by**  
19 **striking “and (8)” and inserting “, (8), and (9)”;**

20 **(C) in paragraph (3)(A), in the matter preceding clause (i), by striking “and**  
21 **(8)” and inserting “(8), and (9)”;**

22 **(D) in paragraph (4)(A)(i), by striking “paragraph (8)” and inserting**  
23 **“paragraphs (8) and (9)”;** and

24 **(E) by adding at the end the following new paragraph:**

25 **“(9) TREATMENT OF COST-SHARING FOR COVERED INSULIN PRODUCTS.—**

26 **“(A) NO APPLICATION OF DEDUCTIBLE.—For plan year 2023 and subsequent**  
27 **plan years, the deductible under paragraph (1) shall not apply with respect to any**  
28 **covered insulin product.**

29 **“(B) APPLICATION OF COST-SHARING.—**

30 **“(i) PLAN YEARS 2023 AND 2024.—For plan years 2023 and 2024, the**  
31 **coverage provides benefits for any covered insulin product, regardless of**  
32 **whether an individual has reached the initial coverage limit under paragraph**  
33 **(3) or the out-of-pocket threshold under paragraph (4), with cost-sharing for**  
34 **a month’s supply that does not exceed the applicable copayment amount.**

35 **“(ii) PLAN YEAR 2025 AND SUBSEQUENT PLAN YEARS.—For a plan year**  
36 **beginning on or after January 1, 2025, the coverage provides benefits for any**  
37 **covered insulin product, prior to an individual reaching the out-of-pocket**  
38 **threshold under paragraph (4), with cost-sharing for a month’s supply that**

1 does not exceed the applicable copayment amount.

2 “(C) COVERED INSULIN PRODUCT.—In this paragraph, the term ‘covered  
3 insulin product’ means an insulin product that is a covered part D drug covered  
4 under the prescription drug plan or MA–PD plan that is approved under section  
5 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of  
6 the Public Health Service Act and marketed pursuant to such approval or  
7 licensure, including any covered insulin product that has been deemed to be  
8 licensed under section 351 of the Public Health Service Act pursuant to section  
9 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 and  
10 marketed pursuant to such section.

11 “(D) APPLICABLE COPAYMENT AMOUNT.—In this paragraph, the term  
12 ‘applicable copayment amount’ means, with respect to a covered insulin product  
13 under a prescription drug plan or an MA–PD plan dispensed—

14 “(i) during plan years 2023, 2024, and 2025, \$35; and

15 “(ii) during plan year 2026 and each subsequent plan year, the lesser of—

16 “(I) \$35;

17 “(II) an amount equal to 25 percent of the maximum fair price  
18 established for the covered insulin product in accordance with part E of  
19 title XI; or

20 “(III) an amount equal to 25 percent of the negotiated price of the  
21 covered insulin product under the prescription drug plan or MA–PD  
22 plan.

23 “(E) SPECIAL RULE FOR FIRST 3 MONTHS OF 2023.—With respect to a month’s  
24 supply of a covered insulin product dispensed during the period beginning on  
25 January 1, 2023, and ending on March 31, 2023, a PDP sponsor offering a  
26 prescription drug plan or an MA organization offering an MA–PD plan shall  
27 reimburse an enrollee within 30 days for any cost-sharing paid by such enrollee  
28 that exceeds the cost-sharing applied by the prescription drug plan or MA–PD  
29 plan under subparagraph (B)(i) at the point-of-sale for such month’s supply.”;  
30 and

31 (2) in subsection (c), by adding at the end the following new paragraph:

32 “(6) TREATMENT OF COST-SHARING FOR COVERED INSULIN PRODUCTS.—The  
33 coverage is provided in accordance with subsection (b)(9).”.

34 (b) Conforming Amendments to Cost-sharing for Low-income Individuals.—Section  
35 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)), as amended by sections  
36 11201, 11401, and 11404, is amended—

37 (1) in paragraph (1)—

38 (A) in subparagraph (D)(iii), by adding at the end the following new sentence:  
39 “For plan year 2023 and subsequent plan years, the copayment amount  
40 applicable under the preceding sentence to a month’s supply of a covered insulin  
41 product (as defined in section 1860D–2(b)(9)(C)) dispensed to the individual may



1 not exceed the applicable copayment amount for the product under the  
2 prescription drug plan or MA–PD plan in which the individual is enrolled.”; and

3 (B) in subparagraph (E), by inserting the following before the period at the  
4 end: “or under section 1860D–2(b)(9) in the case of a covered insulin product (as  
5 defined in subparagraph (C) of such section)”;

6 (2) in paragraph (2)—

7 (A) in subparagraph (B), by striking “section 1860D–2(b)(8)” and inserting  
8 “paragraphs (8) and (9) of section 1860D–2(b)”;

9 (B) in subparagraph (D), by adding at the end the following new sentence: “For  
10 plan year 2023, the amount of the coinsurance applicable under the preceding  
11 sentence to a month’s supply of a covered insulin product (as defined in section  
12 1860D–2(b)(9)(C)) dispensed to the individual may not exceed the applicable  
13 copayment amount for the product under the prescription drug plan or MA–PD  
14 plan in which the individual is enrolled.”; and

15 (C) in subparagraph (E), by adding at the end the following new sentence: “For  
16 plan year 2023, the amount of the copayment or coinsurance applicable under the  
17 preceding sentence to a month’s supply of a covered insulin product (as defined in  
18 section 1860D–2(b)(9)(C)) dispensed to the individual may not exceed the  
19 applicable copayment amount for the product under the prescription drug plan  
20 or MA–PD plan in which the individual is enrolled.”.

21 (c) Temporary Retrospective Subsidy.—Section 1860D–15(h) of the Social Security Act  
22 (42 U.S.C. 1395w–115(h)), as added by section 11401(c), is amended—

23 (1) in the subsection heading, by inserting “and Insulin” after “Practices”; and

24 (2) in paragraph (1), by striking “section 1860D–2(b)(8)” and inserting “paragraph  
25 (8) or (9) of section 1860D–2(b)”.

26 (d) Implementation for 2023 Through 2025.—The Secretary shall implement this section  
27 for plan years 2023, 2024, and 2025 by program instruction or other forms of program  
28 guidance.

29 (e) Funding.—In addition to amounts otherwise available, there is appropriated to the  
30 Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise  
31 appropriated, \$1,500,000 for fiscal year 2022, to remain available until expended, to carry  
32 out the provisions of, including the amendments made by, this section.

33 **SEC. 11407. LIMITATION ON MONTHLY**  
34 **COINSURANCE AND ADJUSTMENTS TO SUPPLIER**  
35 **PAYMENT UNDER MEDICARE PART B FOR INSULIN**  
36 **FURNISHED THROUGH DURABLE MEDICAL**  
37 **EQUIPMENT.**

38 (a) Waiver of Deductible.—The first sentence of section 1833(b) of the Social Security  
39 Act (42 U.S.C. 1395l(b)) is amended—

1 (1) by striking “and (12)” and inserting “(12)”; and

2 (2) by inserting before the period the following: “, and (13) such deductible shall not  
3 apply with respect to insulin furnished on or after July 1, 2023, through an item of  
4 durable medical equipment covered under section 1861(n).”.

5 **(b) Coinsurance.—**

6 (1) IN GENERAL.—Section 1833(a)(1)(S) of the Social Security Act (42 U.S.C.  
7 1395l(a)(1)(S)) is amended—

8 (A) by inserting “(i) except as provided in clause (ii),” after “(S)”; and

9 (B) by inserting after “or 1847B),” the following: “and (ii) with respect to  
10 insulin furnished on or after July 1, 2023, through an item of durable medical  
11 equipment covered under section 1861(n), the amounts paid shall be, subject to  
12 the fourth sentence of this subsection, 80 percent of the payment amount  
13 established under section 1847A (or section 1847B, if applicable) for such  
14 insulin.”.

15 (2) ADJUSTMENT TO SUPPLIER PAYMENTS; LIMITATION ON MONTHLY COINSURANCE.  
16 —Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended, in the  
17 flush matter at the end, by adding at the end the following new sentence: “The  
18 Secretary shall make such adjustments as may be necessary to the amounts paid as  
19 specified under paragraph (1)(S)(ii) for insulin furnished on or after July 1, 2023,  
20 through an item of durable medical equipment covered under section 1861(n), such  
21 that the amount of coinsurance payable by an individual enrolled under this part for a  
22 month’s supply of such insulin does not exceed \$35.”.

23 (c) Implementation.—The Secretary of Health and Human Services shall implement this  
24 section for 2023 by program instruction or other forms of program guidance.

25 **SEC. 11408. SAFE HARBOR FOR ABSENCE OF**  
26 **DEDUCTIBLE FOR INSULIN.**

27 (a) In General.—Paragraph (2) of section 223(c) of the Internal Revenue Code of 1986 is  
28 amended by adding at the end the following new subparagraph:

29 **“(G) SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE FOR CERTAIN INSULIN**  
30 **PRODUCTS.—**

31 **“(i) IN GENERAL.—A plan shall not fail to be treated as a high deductible**  
32 **health plan by reason of failing to have a deductible for selected insulin**  
33 **products.**

34 **“(ii) SELECTED INSULIN PRODUCTS.—For purposes of this subparagraph—**

35 **“(I) IN GENERAL.—The term ‘selected insulin products’ means any**  
36 **dosage form (such as vial, pump, or inhaler dosage forms) of any**  
37 **different type (such as rapid-acting, short-acting, intermediate-acting,**  
38 **long-acting, ultra long-acting, and premixed) of insulin.**

39 **“(II) INSULIN.—The term ‘insulin’ means insulin that is licensed**

1 under subsection (a) or (k) of section 351 of the Public Health Service  
2 Act (42 U.S.C. 262) and continues to be marketed under such section,  
3 including any insulin product that has been deemed to be licensed under  
4 section 351(a) of such Act pursuant to section 7002(e)(4) of the Biologics  
5 Price Competition and Innovation Act of 2009 (Public Law 111-148)  
6 and continues to be marketed pursuant to such licensure.”.

7 **\*\* 3 (e)(b)** Effective Date.—The ~~amendments~~ **amendment** made by this section shall apply to  
8 **taxable plan** years beginning after December 31, 2022.

## 9 Subtitle C—Affordable Care Act Subsidies

### 10 SEC. 12001. IMPROVE AFFORDABILITY AND REDUCE 11 PREMIUM COSTS OF HEALTH INSURANCE FOR 12 CONSUMERS.

13 (a) In General.—Clause (iii) of section 36B(b)(3)(A) of the Internal Revenue Code of 1986 is  
14 amended—

15 (1) by striking “in 2021 or 2022” and inserting “after December 31, 2020, and before  
16 January 1, 2026”, and

17 (2) by striking “2021 AND 2022” in the heading and inserting “2021 THROUGH 2025”.

18 (b) Extension Through 2025 of Rule to Allow Credit to Taxpayers Whose Household Income  
19 Exceeds 400 Percent of the Poverty Line.—Section 36B(c)(1)(E) of the Internal Revenue Code  
20 of 1986 is amended—

21 (1) by striking “in 2021 or 2022” and inserting “after December 31, 2020, and before  
22 January 1, 2026”, and

23 (2) by striking “2021 AND 2022” in the heading and inserting “2021 THROUGH 2025”.

24 (c) Effective Date.—The amendments made by this section shall apply to taxable years  
25 beginning after December 31, 2022.

## 26 Subtitle D—Energy Security

### 27 SEC. 13001. AMENDMENT OF 1986 CODE.

28 Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is  
29 expressed in terms of an amendment to, or repeal of, a section or other provision, the reference  
30 shall be considered to be made to a section or other provision of the Internal Revenue Code of  
31 1986.

## 32 PART 1—CLEAN ELECTRICITY AND REDUCING 33 CARBON EMISSIONS

### 34 SEC. 13101. EXTENSION AND MODIFICATION OF 35 CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN

## 1 RENEWABLE RESOURCES.

2 (a) In General.—The following provisions of section 45(d) are each amended by striking  
3 “January 1, 2022” each place it appears and inserting “January 1, 2025”:

4 (1) Paragraph (2)(A).

5 (2) Paragraph (3)(A).

6 (3) Paragraph (6).

7 (4) Paragraph (7).

8 (5) Paragraph (9).

9 (6) Paragraph (11)(B).

10 (b) Base Credit Amount.—Section 45 is amended—

11 (1) in subsection (a)(1), by striking “1.5 cents” and inserting “0.3 cents”, and

12 (2) in subsection (b)(2), by striking “1.5 cent” and inserting “0.3 cent”.

13 (c) Application of Extension to Geothermal and Solar.—Section 45(d)(4) is amended by  
14 striking “and which” and all that follows through “January 1, 2022” and inserting “and the  
15 construction of which begins before January 1, 2025”.

16 (d) Extension of Election to Treat Qualified Facilities as Energy Property.—Section 48(a)(5)  
17 (C)(ii) is amended by striking “January 1, 2022” and inserting “January 1, 2025”.

18 (e) Application of Extension to Wind Facilities.—

19 (1) IN GENERAL.—Section 45(d)(1) is amended by striking “January 1, 2022” and  
20 inserting “January 1, 2025”.

21 (2) APPLICATION OF PHASEOUT PERCENTAGE.—

22 (A) RENEWABLE ELECTRICITY PRODUCTION CREDIT.—Section 45(b)(5) is amended  
23 by inserting “which is placed in service before January 1, 2022” after “using wind to  
24 produce electricity”.

25 (B) ENERGY CREDIT.—Section 48(a)(5)(E) is amended by inserting “placed in  
26 service before January 1, 2022, and” before “treated as energy property”.

27 (3) QUALIFIED OFFSHORE WIND FACILITIES UNDER ENERGY CREDIT.—Section 48(a)(5)(F)  
28 (i) is amended by striking “offshore wind facility” and all that follows and inserting the  
29 following: “offshore wind facility, subparagraph (E) shall not apply.”.

30 (f) Wage and Apprenticeship Requirements.—Section 45(b) is amended by adding at the end  
31 the following new paragraphs:

32 “(6) INCREASED CREDIT AMOUNT FOR QUALIFIED FACILITIES.—

33 “(A) IN GENERAL.—In the case of any qualified facility which satisfies the  
34 requirements of subparagraph (B), the amount of the credit determined under  
35 subsection (a) (determined after the application of paragraphs (1) through (5) and  
36 without regard to this paragraph) shall be equal to such amount multiplied by 5.

1 “(B) QUALIFIED FACILITY REQUIREMENTS.—A qualified facility meets the  
2 requirements of this subparagraph if it is one of the following:

3 “(i) A facility with a maximum net output of less than 1 megawatt (as measured  
4 in alternating current).

5 “(ii) A facility the construction of which begins prior to the date that is 60 days  
6 after the Secretary publishes guidance with respect to the requirements of  
7 paragraphs (7)(A) and (8).

8 “(iii) A facility which satisfies the requirements of paragraphs (7)(A) and (8).

9 “(7) PREVAILING WAGE REQUIREMENTS.—

10 **\*\* 4** “(A) IN GENERAL.—The requirements described in this subparagraph with  
11 respect to any qualified **clean hydrogen production** facility are that the taxpayer shall  
12 ensure that any laborers and mechanics employed by **contractors and subcontractors**  
13 **the taxpayer or any contractor or subcontractor** in—

14  
15 ~~“(A) In general.—The requirements described in this subparagraph with respect~~  
16 ~~to any qualified facility are that the taxpayer shall ensure that any laborers and~~  
17 ~~mechanics employed by contractors and subcontractors in—~~“(i) the construction  
18 of such facility, and

19 “(ii) with respect to any taxable year, for any portion of such taxable year  
20 which is within the period described in subsection (a)(2)(A)(ii), the alteration or  
21 repair of such facility,

22 shall be paid wages at rates not less than the prevailing rates for construction,  
23 alteration, or repair of a similar character in the locality in which such facility is  
24 located as most recently determined by the Secretary of Labor, in accordance with  
25 subchapter IV of chapter 31 of title 40, United States Code. For purposes of  
26 determining an increased credit amount under paragraph (6)(A) for a taxable year, the  
27 requirement under clause (ii) is applied to such taxable year in which the alteration or  
28 repair of the qualified facility occurs.”

29 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
30 REQUIREMENTS.—

31 “(i) IN GENERAL.—In the case of any taxpayer which fails to satisfy the  
32 requirement under subparagraph (A) with respect to the construction of any  
33 qualified facility or with respect to the alteration or repair of a facility in any year  
34 during the period described in subparagraph (A)(ii), such taxpayer shall be  
35 deemed to have satisfied such requirement under such subparagraph with respect  
36 to such facility for any year if, with respect to any laborer or mechanic who was  
37 paid wages at a rate below the rate described in such subparagraph for any period  
38 during such year, such taxpayer—

39 “(I) makes payment to such laborer or mechanic in an amount equal to the  
40 sum of—

41 “(aa) an amount equal to the difference between—

1 “(AA) the amount of wages paid to such laborer or mechanic  
2 during such period, and

3 “(BB) the amount of wages required to be paid to such laborer or  
4 mechanic pursuant to such subparagraph during such period, plus

5 “(bb) interest on the amount determined under item (aa) at the  
6 underpayment rate established under section 6621 (determined by  
7 substituting ‘6 percentage points’ for ‘3 percentage points’ in subsection  
8 (a)(2) of such section) for the period described in such item, and

9 “(II) makes payment to the Secretary of a penalty in an amount equal to  
10 the product of—

11 “(aa) \$5,000, multiplied by

12 “(bb) the total number of laborers and mechanics who were paid  
13 wages at a rate below the rate described in subparagraph (A) for any  
14 period during such year.

15 “(ii) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63  
16 (relating to deficiency procedures for income, estate, gift, and certain excise  
17 taxes) shall not apply with respect to the assessment or collection of any penalty  
18 imposed by this paragraph.

19 “(iii) INTENTIONAL DISREGARD.—If the Secretary determines that any failure  
20 described in clause (i) is due to intentional disregard of the requirements under  
21 subparagraph (A), such clause shall be applied—

22 “(I) in subclause (I), by substituting ‘three times the sum’ for ‘the sum’,  
23 and

24 “(II) in subclause (II), by substituting ‘\$10,000’ for ‘5,000’ in item (aa)  
25 thereof.

26 “(iv) LIMITATION ON PERIOD FOR PAYMENT.—Pursuant to rules issued by the  
27 Secretary, in the case of a final determination by the Secretary with respect to any  
28 failure by the taxpayer to satisfy the requirement under subparagraph (A),  
29 subparagraph (B)(i) shall not apply unless the payments described in subclauses  
30 (I) and (II) of such subparagraph are made by the taxpayer on or before the date  
31 which is 180 days after the date of such determination.

32 “(8) APPRENTICESHIP REQUIREMENTS.—The requirements described in this paragraph  
33 with respect to the construction of any qualified facility are as follows:

34 “(A) LABOR HOURS.—

35 “(i) PERCENTAGE OF TOTAL LABOR HOURS.—Taxpayers shall ensure that, with  
36 respect to the construction of any qualified facility, not less than the applicable  
37 percentage of the total labor hours of the construction, alteration, or repair work  
38 (including such work performed by any contractor or subcontractor) with respect  
39 to such facility shall, subject to subparagraph (B), be performed by qualified  
40 apprentices.

1 “(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable  
2 percentage shall be—

3 “(I) in the case of a qualified facility the construction of which begins  
4 before January 1, 2023, 10 percent,

5 “(II) in the case of a qualified facility the construction of which begins  
6 after December 31, 2022, and before January 1, 2024, 12.5 percent, and

7 “(III) in the case of a qualified facility the construction of which begins  
8 after December 31, 2023, 15 percent.

9 “(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under  
10 subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-  
11 journeyworker ratios of the Department of Labor or the applicable State apprenticeship  
12 agency.

13 “(C) PARTICIPATION.—Each taxpayer, contractor and, or subcontractor who  
14 employs 4 or more individuals to perform construction, alteration, or repair work with  
15 respect to the construction of a qualified facility shall employ 1 or more qualified  
16 apprentices to perform such work.

17 “(D) EXCEPTION.—

18 “(i) IN GENERAL.—A taxpayer shall not be treated as failing to satisfy the  
19 requirements of this paragraph if such taxpayer—

20 “(I) satisfies the requirements described in clause (ii), or

21 “(II) subject to clause (iii), in the case of any failure by the taxpayer to  
22 satisfy the requirement under subparagraphs (A) and (C) with respect to the  
23 construction, alteration, or repair work on any qualified facility to which  
24 subclause (I) does not apply, makes payment to the Secretary of a penalty in  
25 an amount equal to the product of—

26 “(aa) \$50, multiplied by

27 “(bb) the total labor hours for which the requirement described in  
28 such subparagraph was not satisfied with respect to the construction,  
29 alteration, or repair work on such qualified facility.

30 “(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be  
31 deemed to have satisfied the requirements under this paragraph with respect to a  
32 qualified facility if such taxpayer has requested qualified apprentices from a  
33 registered apprenticeship program, as defined in section 3131(e)(3)(B), and—

34 “(I) such request has been denied, provided that such denial is not the  
35 result of a refusal by the taxpayer or any contractors or subcontractors  
36 engaged in the performance of construction, alteration, or repair work with  
37 respect to such qualified facility to comply with the established standards  
38 and requirements of the registered apprenticeship program, or

39 “(II) the registered apprenticeship program fails to respond to such request  
40 within 5 business days after the date on which such registered apprenticeship

1 program received such request.

2 “(iii) INTENTIONAL DISREGARD.—If the Secretary determines that any failure  
3 described in subclause (i)(II) is due to intentional disregard of the requirements  
4 under subparagraphs (A) and (C), subclause (i)(II) shall be applied by substituting  
5 ‘\$500’ for ‘\$50’ in item (aa) thereof.

6 “(E) DEFINITIONS.—For purposes of this paragraph—

7 “(i) LABOR HOURS.—The term ‘labor hours’—

8 “(I) means the total number of hours devoted to the performance of  
9 construction, alteration, or repair work by **employees of any individual**  
10 **employed by** the taxpayer ~~(including construction, alteration, or repair work~~  
11 **or** by any contractor or subcontractor), and

12 “(II) excludes any hours worked by—

13 “(aa) foremen,

14 “(bb) superintendents,

15 “(cc) owners, or

16 “(dd) persons employed in a bona fide executive, administrative, or  
17 professional capacity (within the meaning of those terms in part 541 of  
18 title 29, Code of Federal Regulations).

19 “(ii) QUALIFIED APPRENTICE.—The term ‘qualified apprentice’ means an  
20 individual who is ~~an employee of the~~ **employed by the taxpayer or by any**  
21 contractor or subcontractor and who is participating in a registered apprenticeship  
22 program, as defined in section 3131(e)(3)(B).

23 “(9) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
24 guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of  
25 this subsection, including regulations or other guidance which provides for requirements for  
26 recordkeeping or information reporting for purposes of administering the requirements of  
27 this subsection.”.

28 (g) Domestic Content, Phaseout, and Energy Communities.—Section 45(b), as amended by  
29 subsection (f), is amended—

30 (1) by redesignating paragraph (9) as paragraph (12), and

31 (2) by inserting after paragraph (8) the following:

32 “(9) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

33 “(A) IN GENERAL.—In the case of any qualified facility which satisfies the  
34 requirement under subparagraph (B)(i), the amount of the credit determined under  
35 subsection (a) (determined after the application of paragraphs (1) through (8)) shall be  
36 increased by an amount equal to 10 percent of the amount so determined.

37 “(B) REQUIREMENT.—

38 “(i) IN GENERAL.—The requirement described in this **subclause clause** is  
39 satisfied with respect to any qualified facility if the taxpayer certifies to the



1 Secretary (at such time, and in such form and manner, as the Secretary may  
2 prescribe) that any steel, iron, or manufactured product which is a component of  
3 such facility (upon completion of construction) was produced in the United States  
4 (as determined under section 661 of title 49, Code of Federal Regulations).

5 “(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in  
6 a manner consistent with section 661.5 of title 49, Code of Federal Regulations.

7 “(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), the manufactured  
8 products which are components of a qualified facility upon completion of  
9 construction shall be deemed to have been produced in the United States if not  
10 less than the adjusted percentage (as determined under subparagraph (C)) of the  
11 total costs of all such manufactured products of such facility are attributable to  
12 manufactured products (including components) which are mined, produced, or  
13 manufactured in the United States.

14 “(C) ADJUSTED PERCENTAGE.—

15 “(i) IN GENERAL.—Subject to subclause (ii), for purposes of subparagraph (B)  
16 (iii), the adjusted percentage shall be 40 percent.

17 “(ii) OFFSHORE WIND FACILITY.—For purposes of subparagraph (B)(iii), in the  
18 case of a qualified facility which is an offshore wind facility, the adjusted  
19 percentage shall be 20 percent.

20 “(10) PHASEOUT FOR ELECTIVE PAYMENT.—

21 “(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417  
22 with respect to a credit under this section, the amount of such credit shall be replaced  
23 with—

24 “(i) the value of such credit (determined without regard to this paragraph),  
25 multiplied by

26 “(ii) the applicable percentage.

27 “(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN QUALIFIED FACILITIES.—  
28 In the case of any qualified facility—

29 “(i) which satisfies the requirements under paragraph (9)(B) with respect to the  
30 construction of such facility, or

31 “(ii) with a maximum net output of less than 1 megawatt (as measured in  
32 alternating current),

33 the applicable percentage shall be 100 percent.

34 “(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in  
35 the case of any qualified facility which is not described in subparagraph (B), the  
36 applicable percentage shall be—

37 “(i) if construction of such facility began before January 1, 2024, 100 percent,  
38 and

39 “(ii) if construction of such facility began in calendar year 2024, 90 percent.

1 “(D) EXCEPTION.—

2 “(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall provide  
3 exceptions to the requirements under this paragraph ~~for the construction of~~  
4 ~~qualified facilities~~ if—

5 “(I) the inclusion of steel, iron, or manufactured products which are  
6 produced in the United States increases the overall costs of construction of  
7 qualified facilities by more than 25 percent, or

8 “(II) relevant steel, iron, or manufactured products are not produced in the  
9 United States in sufficient and reasonably available quantities or of a  
10 satisfactory quality.

11 “(ii) APPLICABLE PERCENTAGE.—In any case in which the Secretary provides  
12 an exception pursuant to clause (i), the applicable percentage shall be 100 percent.

13 “(11) SPECIAL RULE FOR QUALIFIED FACILITY LOCATED IN ENERGY COMMUNITY.—

14 “(A) IN GENERAL.—In the case of a qualified facility which is located in an energy  
15 community, the credit determined under subsection (a) (determined after the  
16 application of paragraphs (1) through (10), without the application of paragraph (9))  
17 shall be increased by an amount equal to 10 percent of the amount so determined.

18 “(B) ENERGY COMMUNITY.—For purposes of this paragraph, the term ‘energy  
19 community’ means—

20 “(i) a brownfield site (as defined in subparagraphs (A), (B), and (D)(ii)(III) of  
21 section 101(39) of the Comprehensive Environmental Response, Compensation,  
22 and Liability Act of 1980 (42 U.S.C. 9601(39))),

23 “(ii) ~~an area which~~ **a metropolitan statistical area or non-metropolitan**  
24 **statistical area which—**

25 “(I) ~~has (or, at any time during the period beginning after December 31,~~  
26 ~~1999, had) significant employment~~ **2009, had) 0.17 percent or greater**  
27 **direct employment or 25 percent or greater local tax revenues** related to  
28 the extraction, processing, transport, or storage of coal, oil, or natural gas (as  
29 determined by the Secretary), **and**

30 **“(II) has an unemployment rate at or above the national average**  
31 **unemployment rate for the previous year (as determined by the**  
32 **Secretary), or**

33 “(iii) a census tract—

34 “(I) in which—

35 “(aa) after December 31, 1999, a coal mine has closed, or

36 “(bb) after December 31, 2009, a coal-fired electric generating unit  
37 has been retired, or

38 “(II) which is directly adjoining to any census tract described in subclause  
39 (I).”.

1 (h) Credit Reduced for Tax-exempt Bonds.—Section 45(b)(3) is amended to read as follows:

2 “(3) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—The amount of the credit determined  
3 under subsection (a) with respect to any facility for any taxable year (determined after the  
4 application of paragraphs (1) and (2)) shall be reduced by the amount which is the product  
5 of the amount so determined for such year and the lesser of 15 percent or a fraction—

6 “(A) the numerator of which is the sum, for the taxable year and all prior taxable  
7 years, of proceeds of an issue of any obligations the interest on which is exempt from  
8 tax under section 103 and which is used to provide financing for the qualified facility,  
9 and

10 “(B) the denominator of which is the aggregate amount of additions to the capital  
11 account for the qualified facility for the taxable year and all prior taxable years.

12 The amounts under the preceding sentence for any taxable year shall be determined as of  
13 the close of the taxable year.”.

14 (i) Rounding Adjustment.—

15 (1) IN GENERAL.—Section 45(b)(2) is amended by striking the second sentence and  
16 inserting the following: “If the 0.3 cent amount as increased under the preceding sentence is  
17 not a multiple of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05  
18 cent. In any other case, if an amount as increased under this paragraph is not a multiple of  
19 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.”.

20 (2) CONFORMING AMENDMENT.—Section 45(b)(4)(A) is amended by striking “last  
21 sentence” and inserting “last two sentences”.

22 (j) Hydropower.—

23 (1) ELIMINATION OF CREDIT RATE REDUCTION FOR QUALIFIED HYDROELECTRIC  
24 PRODUCTION AND MARINE AND HYDROKINETIC RENEWABLE ENERGY.—Section 45(b)(4)(A),  
25 as amended by the preceding provisions of this section, is amended by striking “(7), (9), or  
26 (11)” and inserting “or (7)”.

27 (2) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—Section 45 is amended—

28 (A) in subsection (c)(10)(A)—

29 (i) in clause (iii), by striking “or”,

30 (ii) in clause (iv), by striking the period at the end and inserting “, or” and

31 (iii) by adding at the end the following:

32 “(v) pressurized water used in a pipeline (or similar man-made water  
33 conveyance) which is operated—

34 “(I) for the distribution of water for agricultural, municipal, or industrial  
35 consumption, and

36 “(II) not primarily for the generation of electricity.”, and

37 (B) in subsection (d)(11)(A), by striking “150” and inserting “25”.

38 (k) Effective Dates.—

1 (1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made  
2 by this section shall apply to facilities placed in service after December 31, 2021.

3 (2) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—The amendment made by subsection (h)  
4 shall apply to facilities the construction of which begins after the date of enactment of this  
5 Act.

6 (3) DOMESTIC CONTENT, PHASEOUT, ENERGY COMMUNITIES, AND HYDROPOWER.—The  
7 amendments made by subsections (g) and (j) shall apply to facilities placed in service after  
8 December 31, 2022.

## 9 SEC. 13102. EXTENSION AND MODIFICATION OF 10 ENERGY CREDIT.

11 (a) Extension of Credit.—The following provisions of section 48 are each amended by striking  
12 “January 1, 2024” each place it appears and inserting “January 1, 2025”:

13 (1) Subsection (a)(2)(A)(i)(II).

14 (2) Subsection (a)(3)(A)(ii).

15 (3) Subsection (c)(1)(D).

16 (4) Subsection (c)(2)(D).

17 (5) Subsection (c)(3)(A)(iv).

18 (6) Subsection (c)(4)(C).

19 (7) Subsection (c)(5)(D).

20 (b) Further Extension for Certain Energy Property.—Section 48(a)(3)(A)(vii) is amended by  
21 striking “January 1, 2024” and inserting “January 1, 2035”.

22 (c) Phaseout of Credit.—Section 48(a) is amended by striking paragraphs (6) and (7) and  
23 inserting the following new paragraph:

24 “(6) PHASEOUT FOR CERTAIN ENERGY PROPERTY.—In the case of any qualified fuel cell  
25 property, qualified small wind property, or energy property described in clause (i) or clause  
26 (ii) of paragraph (3)(A) the construction of which begins after December 31, 2019, and  
27 which is placed in service before January 1, 2022, the energy percentage determined under  
28 paragraph (2) shall be equal to 26 percent.”.

29 (d) Base Energy Percentage Amount.—Section 48(a) is amended— **Amount; Phaseout of**  
30 **Certain Energy Property.—**

31 **(1) BASE ENERGY PERCENTAGE AMOUNT.—Section 48(a) is amended—**

32 **(A)** in paragraph (2)(A)—

33 **(A)(i)** in clause (i), by striking “30 percent” and inserting “6 percent”, and

34 **(B)(ii)** in clause (ii), by striking “10 percent” and inserting “2 percent”, and

35 **(2)(B)** in paragraph (5)(A)(ii), by striking “30 percent” and inserting “6 percent”.

36 **\*\* 5 (5)(2) PHASEOUT OF CERTAIN ENERGY PROPERTY.—Section 48(a), as amended by**

1 the preceding provisions of this Act, is amended by adding at the end the following new  
2 paragraph:

3 **\*\* 6** “(7) PHASEOUT FOR CERTAIN ENERGY PROPERTY.—In the case of any energy  
4 property described in clause (vii) of paragraph (3)(A), the energy percentage determined  
5 under paragraph (2) shall be equal to—

6 **\*\* 7** “(A) in the case of any property the construction of which begins before  
7 January 1, 2033, and which is placed in service after December 31, 2021, 6 percent,

8 **\*\* 8** “(B) in the case of any property the construction of which begins after  
9 December 31, 2032, and before January 1, 2034, 5.2 percent, and

10 **\*\* 9** “(C) in the case of any property the construction of which begins after  
11 December 31, 2033, and before January 1, 2035, 4.4 percent.”.

12 (e) 6 Percent Credit for Geothermal.—Section 48(a)(2)(A)(i)(II) is amended by striking  
13 “paragraph (3)(A)(i)” and inserting “clause (i) or (iii) of paragraph (3)(A)”.

14 (f) Energy Storage Technologies; Qualified Biogas Property; Microgrid Controllers; Extension  
15 of Other Property.—

16 (1) IN GENERAL.—Section 48(a)(3)(A) is amended by striking “or” at the end of clause  
17 (vii), and by adding at the end the following new clauses:

18 “(ix) energy storage technology,

19 “(x) qualified biogas property, or

20 “(xi) microgrid controllers.”.

21 (2) APPLICATION OF 6 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking  
22 “and” at the end of subclauses (IV) and (V) and adding at the end the following new  
23 subclauses:

24 “(VI) energy storage technology,

25 “(VII) qualified biogas property,

26 “(VIII) microgrid controllers, and

27 “(IX) energy property described in clauses (v) and (vii) of paragraph (3)  
28 (A), and”.

29 (3) DEFINITIONS.—Section 48(c) is amended by adding at the end the following new  
30 paragraphs:

31 “(6) ENERGY STORAGE TECHNOLOGY.—

32 “(A) IN GENERAL.—The term ‘energy storage technology’ means—

33 “(i) property (other than property primarily used in the transportation of goods  
34 or individuals and not for the production of electricity) which receives, stores, and  
35 delivers energy for conversion to electricity (or, in the case of hydrogen, which  
36 stores energy), and has a nameplate capacity of not less than 5 kilowatt hours, and

37 “(ii) thermal energy storage property.

1 “(B) MODIFICATIONS OF CERTAIN PROPERTY.—In the case of any property which  
2 either—

3 “(i) was placed in service before the date of enactment of this section and  
4 would be described in subparagraph (A)(i), except that such property has a  
5 capacity of less than 5 kilowatt hours and is modified in a manner that such  
6 property (after such modification) has a nameplate capacity of not less than 5  
7 kilowatt hours, or

8 “(ii) is described in subparagraph (A)(i) and is modified in a manner that such  
9 property (after such modification) has an increase in nameplate capacity of not  
10 less than 5 kilowatt hours,

11 such property shall be treated as described in subparagraph (A)(i) except that the basis  
12 of any existing property prior to such modification shall not be taken into account for  
13 purposes of this section. In the case of any property to which this subparagraph applies,  
14 subparagraph (D) shall be applied by substituting ‘modification’ for ‘construction’.

15 “(C) THERMAL ENERGY STORAGE PROPERTY.—

16 “(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, the  
17 term ‘thermal energy storage property’ means **property comprising** a system  
18 which—

19 “(I) is directly connected to a heating, ventilation, or air conditioning  
20 system,

21 “(II) removes heat from, or adds heat to, a storage medium for subsequent  
22 use, and

23 “(III) provides energy for the heating or cooling of the interior of a  
24 residential or commercial building.

25 “(ii) EXCLUSION.—The term ‘thermal energy storage property’ shall not  
26 include—

27 “(I) a swimming pool,

28 “(II) combined heat and power system property, or

29 “(III) a building or its structural components.

30 “(D) TERMINATION.—The term ‘energy storage technology’ shall not include any  
31 property the construction of which begins after December 31, 2024.

32 “(7) QUALIFIED BIOGAS PROPERTY.—

33 “(A) IN GENERAL.—The term ‘qualified biogas property’ means property  
34 comprising a system which—

35 “(i) converts biomass (as defined in section 45K(c)(3), as in effect on the date  
36 of enactment of this paragraph) into a gas which—

37 “(I) consists of not less than 52 percent methane by volume, or

38 “(II) is concentrated by such system into a gas which consists of not less  
39 than 52 percent methane, and

1 “(ii) captures such gas for sale or productive use, and not for disposal via  
2 combustion.

3 “(B) INCLUSION OF CLEANING AND CONDITIONING PROPERTY.—The term ‘qualified  
4 biogas property’ includes any property which is part of such system which cleans or  
5 conditions such gas.

6 “(C) TERMINATION.—The term ‘qualified biogas property’ shall not include any  
7 property the construction of which begins after December 31, 2024.

8 “(8) MICROGRID CONTROLLER.—

9 “(A) IN GENERAL.—The term ‘microgrid controller’ means equipment which is—

10 “(i) part of a qualified microgrid, and

11 “(ii) designed and used to monitor and control the energy resources and loads  
12 on such microgrid.

13 “(B) QUALIFIED MICROGRID.—The term ‘qualified microgrid’ means an electrical  
14 system which—

15 “(i) includes equipment which is capable of generating not less than 4 kilowatts  
16 and not greater than 20 megawatts of electricity,

17 “(ii) is capable of operating—

18 “(I) in connection with the electrical grid and as a single controllable  
19 entity with respect to such grid, and

20 “(II) independently (and disconnected) from such grid, and

21 “(iii) is not part of a bulk-power system (as defined in section 215 of the  
22 Federal Power Act (16 U.S.C. 824o)).

23 “(C) TERMINATION.—The term ‘microgrid controller’ shall not include any property  
24 the construction of which begins after December 31, 2024.”.

25 (4) DENIAL OF DOUBLE BENEFIT FOR QUALIFIED BIOGAS PROPERTY.—Section 45(e) is  
26 amended by adding at the end the following new paragraph:

27 “(12) COORDINATION WITH ENERGY CREDIT FOR QUALIFIED BIOGAS PROPERTY.—The  
28 term ‘qualified facility’ shall not include any facility which produces electricity from gas  
29 produced by qualified biogas property (as defined in section 48(c)(7)) if a credit is allowed  
30 under section 48 with respect to such property for the taxable year or any prior taxable  
31 year.”.

32

33 ~~\* 5 (5) Phaseout of certain energy property.—Section 48(a), as amended by the preceding~~  
34 ~~provisions of this Act, is amended by adding at the end the following new paragraph:~~

35

36 ~~\* 6 “(7) Phaseout for certain energy property.—In the case of any energy property~~  
37 ~~described in clause (vii) of paragraph (3)(A), the energy percentage determined under~~  
38 ~~paragraph (2) shall be equal to—~~

1

2 \* 7 “(A) in the case of any property the construction of which begins before January 1,  
3 2033, and which is placed in service after December 31, 2021, 6 percent,

4

5 \* 8 “(B) in the case of any property the construction of which begins after December 31,  
6 2032, and before January 1, 2034, 5.2 percent, and

7

8 \* 9 “(C) in the case of any property the construction of which begins after December 31,  
9 2033, and before January 1, 2035, 4.4 percent.”

10 (6)(5) PUBLIC UTILITY PROPERTY.—Paragraph (2) of section 50(d) is amended—

11 (A) by adding after the first sentence the following new sentence: “At the election of  
12 a taxpayer, this paragraph shall not apply to any energy storage technology (as defined  
13 in section 48(c)(6)), provided—”, and

14 (B) by adding the following new subparagraphs:

15 “(A) no election under this paragraph shall be permitted if the making of such  
16 election is prohibited by a State or political subdivision thereof, by any agency or  
17 instrumentality of the United States, or by a public service or public utility commission  
18 or other similar body of any State or political subdivision that regulates public utilities  
19 as described in section 7701(a)(33)(A),

20 “(B) an election under this paragraph shall be made separately with respect to each  
21 energy storage technology by the due date (including extensions) of the Federal tax  
22 return for the taxable year in which the energy storage technology is placed in service  
23 by the taxpayer, and once made, may be revoked only with the consent of the  
24 Secretary, and

25 “(C) an election shall not apply with respect to any energy storage technology if  
26 such energy storage technology has a maximum capacity equal to or less than 500  
27 kilowatt hours.”

28 (g) Fuel Cells Using Electromechanical Processes.—

29 (1) IN GENERAL.—Section 48(c)(1) is amended—

30 (A) in subparagraph (A)(i)—

31 (i) by inserting “or electromechanical” after “electrochemical”, and

32 (ii) by inserting “(1 kilowatt in the case of a fuel cell power plant with a linear  
33 generator assembly)” after “0.5 kilowatt”, and

34 (B) in subparagraph (C)—

35 (i) by inserting “, or linear generator assembly,” after “a fuel cell stack  
36 assembly”, and

37 (ii) by inserting “or electromechanical” after “electrochemical”.

38 (2) LINEAR GENERATOR ASSEMBLY LIMITATION.—Section 48(c)(1) is amended by

3



1 redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C)  
2 the following new subparagraph:

3 “(D) LINEAR GENERATOR ASSEMBLY.—The term ‘linear generator assembly’ does  
4 not include any assembly which contains rotating parts.”.

5 (h) Dynamic Glass.—Section 48(a)(3)(A)(ii) is amended by inserting “, or electrochromic  
6 glass which uses electricity to change its light transmittance properties in order to heat or cool a  
7 structure,” after “sunlight”.

8 (i) Coordination With Low Income Housing Tax Credit.—Paragraph (3) of section 50(c) is  
9 amended—

10 (1) by striking “and” at the end of subparagraph (A),

11 (2) by striking the period at the end of subparagraph (B) and inserting “, and”, and

12 (3) by adding at the end the following new subparagraph:

13 “(C) paragraph (1) shall not apply for purposes of determining eligible basis under  
14 section 42.”.

15 (j) Interconnection Property.—Section 48(a), as amended by the preceding provisions of this  
16 Act, is amended by adding at the end the following new paragraph:

17 “(8) INTERCONNECTION PROPERTY.—

18 “(A) IN GENERAL.—For purposes of determining the credit under subsection (a),  
19 energy property shall include amounts paid or incurred by the taxpayer for qualified  
20 interconnection property in connection with the installation of energy property (as  
21 defined in paragraph (3)) which has a maximum net output of not greater than 5  
22 megawatts (as measured in alternating current), to provide for the transmission or  
23 distribution of the electricity produced or stored by such property, and which are  
24 properly chargeable to the capital account of the taxpayer.

25 “(B) QUALIFIED INTERCONNECTION PROPERTY.—The term ‘qualified  
26 interconnection property’ means, with respect to an energy project which is not a  
27 microgrid controller, any tangible property—

28 “(i) which is part of an addition, modification, or upgrade to a transmission or  
29 distribution system which is required at or beyond the point at which the energy  
30 project interconnects to such transmission or distribution system in order to  
31 accommodate such interconnection,

32 “(ii) either—

33 “(I) which is constructed, reconstructed, or erected by the taxpayer, or

34 “(II) for which the cost with respect to the construction, reconstruction, or  
35 erection of such property is paid or incurred by such taxpayer, and

36 “(iii) the original use of which, pursuant to an interconnection agreement,  
37 commences with a utility.

38 “(C) INTERCONNECTION AGREEMENT.—The term ‘interconnection agreement’  
39 means an agreement with a utility for the purposes of interconnecting the energy

1 property owned by such taxpayer to the transmission or distribution system of such  
2 utility.

3 “(D) UTILITY.—For purposes of this paragraph, the term ‘utility’ means the owner  
4 or operator of an electrical transmission or distribution system which is subject to the  
5 regulatory authority of a State or political subdivision thereof, any agency or  
6 instrumentality of the United States, a public service or public utility commission or  
7 other similar body of any State or political subdivision thereof, or the governing or  
8 ratemaking body of an electric cooperative.

9 “(E) SPECIAL RULE FOR INTERCONNECTION PROPERTY.—In the case of expenses  
10 paid or incurred for interconnection property, amounts otherwise chargeable to capital  
11 account with respect to such expenses shall be reduced under rules similar to the rules  
12 of section 50(c).”.

13 (k) Energy Projects, Wage Requirements, and Apprenticeship Requirements.—Section 48(a),  
14 as amended by the preceding provisions of this Act, is amended by adding at the end the  
15 following new paragraphs:

16 “(9) INCREASED CREDIT AMOUNT FOR ENERGY PROJECTS.—

17 “(A) IN GENERAL.—

18 “(i) RULE.—In the case of any energy project which satisfies the requirements  
19 of subparagraph (B), the amount of the credit determined under this subsection  
20 (determined after the application of paragraphs (1) through (8) and without regard  
21 to this clause) shall be equal to such amount multiplied by 5.

22 “(ii) ENERGY PROJECT DEFINED.—For purposes of this subsection, the term  
23 ‘energy project’ means a project consisting of one or more energy properties that  
24 are part of a single project.

25 “(B) PROJECT REQUIREMENTS.—A project meets the requirements of this  
26 subparagraph if it is one of the following:

27 “(i) A project with a maximum net output of less than 1 megawatt **of electrical**  
28 (as measured in alternating current) **of electrical** or thermal energy.

29 “(ii) A project the construction of which begins before the date that is 60 days  
30 after the Secretary publishes guidance with respect to the requirements of  
31 paragraphs (10)(A) and (11).

32 “(iii) A project which satisfies the requirements of paragraphs (10)(A) and (11).

33 “(10) PREVAILING WAGE REQUIREMENTS.—

34 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
35 any energy project are that the taxpayer shall ensure that any laborers and mechanics  
36 employed by **contractors and subcontractors** **the taxpayer or any contractor or**  
37 **subcontractor** in—

38 “(i) the construction of such energy project, and

39 “(ii) for the 5-year period beginning on the date such project is originally  
40 placed in service, the alteration or repair of such project,

1 shall be paid wages at rates not less than the prevailing rates for construction,  
2 alteration, or repair of a similar character in the locality in which such project is  
3 located as most recently determined by the Secretary of Labor, in accordance with  
4 subchapter IV of chapter 31 of title 40, United States Code. Subject to subparagraph  
5 (C), for purposes of any determination under paragraph (9)(A)(i) for the taxable year in  
6 which the energy project is placed in service, the taxpayer shall be deemed to satisfy  
7 the requirement under clause (ii) at the time such project is placed in service.

8 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
9 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

10 “(C) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide  
11 for recapturing the benefit of any increase in the credit allowed under this subsection  
12 by reason of this paragraph with respect to any project which does not satisfy the  
13 requirements under subparagraph (A) (after application of subparagraph (B)) for the  
14 period described in clause (ii) of subparagraph (A) (but which does not cease to be  
15 investment credit property within the meaning of section 50(a)). The period and  
16 percentage of such recapture shall be determined under rules similar to the rules of  
17 section 50(a).

18 “(11) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
19 shall apply.”.

20 (l) Domestic Content; Phaseout for Elective Payment.—Section 48(a), as amended by the  
21 preceding provisions of this Act, is amended by adding at the end the following new paragraphs:

22 “(12) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

23 “(A) IN GENERAL.—In the case of any energy project which satisfies the requirement  
24 under subparagraph (B), for purposes of applying paragraph (2) with respect to such  
25 property, the energy percentage shall be increased by the applicable credit rate  
26 increase.

27 “(B) REQUIREMENT.—Rules similar to the rules of section 45(b)(9)(B) shall apply.

28 “(C) APPLICABLE CREDIT RATE INCREASE.—For purposes of subparagraph (A), the  
29 applicable credit rate increase shall be—

30 “(i) in the case of an energy project which does not satisfy the requirements of  
31 paragraph (9)(B), 2 percentage points, and

32 “(ii) in the case of an energy project which satisfies the requirements of  
33 paragraph (9)(B), 10 percentage points.

34 “(13) PHASEOUT FOR ELECTIVE PAYMENT.—In the case of a taxpayer making an election  
35 under section 6417 with respect to a credit under this section, rules similar to the rules of  
36 section 45(b)(10) shall apply.”.

37 (m) Special Rule for Property Financed by Tax-exempt Bonds.—Section 48(a)(4) is amended  
38 to read as follows:

39 “(4) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.—Rules similar to  
40 the rule under section 45(b)(3) shall apply for purposes of this section.”.

1 (n) Treatment of Certain Contracts Involving Energy Storage.—Section 7701(e) is amended—

2 (1) in paragraph (3)—

3 (A) in subparagraph (A)(i), by striking “or” at the end of subclause (II), by striking  
4 “and” at the end of subclause (III) and inserting “or”, and by adding at the end the  
5 following new subclause:

6 “(IV) the operation of a storage facility, and”, and

7 (B) by adding at the end the following new subparagraph:

8 “(F) STORAGE FACILITY.—For purposes of subparagraph (A), the term ‘storage  
9 facility’ means a facility which uses energy storage technology within the meaning of  
10 section 48(c)(6).”, and

11 (2) in paragraph (4), by striking “or water treatment works facility” and inserting “water  
12 treatment works facility, or storage facility”.

13 (o) Increase in Credit Rate for Energy Communities.—Section 48(a), as amended by the  
14 preceding provisions of this Act, is amended by adding at the end the following new paragraph:

15 “(14) INCREASE IN CREDIT RATE FOR ENERGY COMMUNITIES.—

16 “(A) IN GENERAL.—In the case of any energy project that is placed in service within  
17 an energy community (as defined in section 45(b)(11)(B), as applied by substituting  
18 ‘energy project’ for ‘qualified facility’ each place it appears), for purposes of applying  
19 paragraph (2) with respect to energy property which is part of such project, the energy  
20 percentage shall be increased by the applicable credit rate increase.

21 “(B) APPLICABLE CREDIT RATE INCREASE.—For purposes of subparagraph (A), the  
22 applicable credit rate increase shall be equal to—

23 “(i) in the case of any energy project which does not satisfy the requirements of  
24 paragraph (9)(B), 2 percentage points, and

25 “(ii) in the case of any energy project which satisfies the requirements of  
26 paragraph (9)(B), 10 percentage points.”.

27 (p) Regulations.—Section 48(a), as amended by the preceding provisions of this Act, is  
28 amended by adding at the end the following new paragraph:

29 “(15) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
30 guidance as the Secretary determines necessary or appropriate to carry out the purposes of  
31 this subsection, including regulations or other guidance which provides for requirements for  
32 recordkeeping or information reporting for purposes of administering the requirements of  
33 this subsection.”.

34 (q) Effective Dates.—

35 (1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made  
36 by this section shall apply to property placed in service after December 31, 2021.

37 (2) OTHER PROPERTY.—The amendments made by subsections (f), (g), (h), (i), (j), (l),  
38 (n), and (o) shall apply to property placed in service after December 31, 2022.

39 (3) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.—The amendments

1 made by subsection (m) shall apply to property the construction of which begins after the  
2 date of enactment of this Act.

3 **SEC. 13103. INCREASE IN ENERGY CREDIT FOR SOLAR**  
4 **AND WIND FACILITIES PLACED IN SERVICE IN**  
5 **CONNECTION WITH LOW-INCOME COMMUNITIES.**

6 (a) In General.—Section 48 is amended by adding at the end the following new subsection:

7 “(e) Special Rules for Certain Solar and Wind Facilities Placed in Service in Connection With  
8 Low-income Communities.—

9 “(1) IN GENERAL.—In the case of any qualified solar and wind facility with respect to  
10 which the Secretary makes an allocation of environmental justice solar and wind capacity  
11 limitation under paragraph (4)—

12 “(A) the energy percentage otherwise determined under paragraph (2) or (5) of  
13 subsection (a) with respect to any eligible property which is part of such facility shall  
14 be increased by—

15 “(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii)  
16 and not described in subclause (II) of such paragraph, 10 percentage points, and

17 “(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii),  
18 20 percentage points, and

19 “(B) the increase in the credit determined under subsection (a) by reason of this  
20 subsection for any taxable year with respect to all property which is part of such  
21 facility shall not exceed the amount which bears the same ratio to the amount of such  
22 increase (determined without regard to this subparagraph) as—

23 “(i) the environmental justice solar and wind capacity limitation allocated to  
24 such facility, bears to

25 “(ii) the total megawatt nameplate capacity of such facility, as measured in  
26 direct current.

27 “(2) QUALIFIED SOLAR AND WIND FACILITY.—For purposes of this subsection—

28 “(A) IN GENERAL.—The term ‘qualified solar and wind facility’ means any facility  
29 —

30 “(i) which generates electricity solely from property described in section 45(d)  
31 (1) or in clause (i) or (vi) of subsection (a)(3)(A),

32 “(ii) which has a maximum net output of less than 5 megawatts (as measured in  
33 alternating current), and

34 “(iii) which—

35 “(I) is located in a low-income community (as defined in section 45D(e))  
36 or on Indian land (as defined in section 2601(2) of the Energy Policy Act of  
37 1992 (25 U.S.C. 3501(2))), or

38 “(II) is part of a qualified low-income residential building project or a

1 qualified low-income economic benefit project.

2 “(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.—A facility shall be  
3 treated as part of a qualified low-income residential building project if—

4 “(i) such facility is installed on a residential rental building which participates  
5 in a covered housing program (as defined in section 41411(a) of the Violence  
6 Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a housing assistance  
7 program administered by the Department of Agriculture under title V of the  
8 Housing Act of 1949, a housing program administered by a tribally designated  
9 housing entity (as defined in section 4(22) of the Native American Housing  
10 Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))) or such  
11 other affordable housing programs as the Secretary may provide, and

12 “(ii) the financial benefits of the electricity produced by such facility are  
13 allocated equitably among the occupants of the dwelling units of such building.

14 “(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.—A facility shall be  
15 treated as part of a qualified low-income economic benefit project if at least 50 percent  
16 of the financial benefits of the electricity produced by such facility are provided to  
17 households with income of—

18 “(i) less than 200 percent of the poverty line (as defined in section 36B(d)(3)  
19 (A)) applicable to a family of the size involved, or

20 “(ii) less than 80 percent of area median gross income (as determined under  
21 section 142(d)(2)(B)).

22 “(D) FINANCIAL BENEFIT.—For purposes of subparagraphs (B) and (C), electricity  
23 acquired at a below-market rate shall not fail to be taken into account as a financial  
24 benefit.

25 “(3) ELIGIBLE PROPERTY.—For purposes of this section, the term ‘eligible property’  
26 means energy property which—

27 “(A) is part of a facility described in section 45(d)(1) for which an election was  
28 made under subsection (a)(5), or

29 “(B) is described in clause (i) or (vi) of subsection (a)(3)(A),  
30 including energy storage technology (as described in subsection (a)(3)(A)(ix)) installed in  
31 connection with such energy property.

32 “(4) ALLOCATIONS.—

33 “(A) IN GENERAL.—Not later than 180 days after the date of enactment of this  
34 subsection, the Secretary shall establish a program to allocate amounts of  
35 environmental justice solar and wind capacity limitation to qualified solar and wind  
36 facilities. In establishing such program and to carry out the purposes of this subsection,  
37 the Secretary shall provide procedures to allow for an efficient allocation process,  
38 including, when determined appropriate, consideration of multiple projects in a single  
39 application if such projects will be placed in service by a single taxpayer.

40 “(B) LIMITATION.—The amount of environmental justice solar and wind capacity

1 limitation allocated by the Secretary under subparagraph (A) during any calendar year  
2 shall not exceed the annual capacity limitation with respect to such year.

3 “(C) ANNUAL CAPACITY LIMITATION.—For purposes of this paragraph, the term  
4 ‘annual capacity limitation’ means 1.8 gigawatts of direct current capacity for each of  
5 calendar years 2023 and 2024, and zero thereafter.

6 “(D) CARRYOVER OF UNUSED LIMITATION.—If the annual capacity limitation for  
7 any calendar year exceeds the aggregate amount allocated for such year under this  
8 paragraph, such limitation for the succeeding calendar year shall be increased by the  
9 amount of such excess. No amount may be carried under the preceding sentence to any  
10 calendar year after 2024 except as provided in section ~~48D(h)(4)(D)(ii)~~ **48E(h)(4)(D)**  
11 **(ii)**.

12 “(E) PLACED IN SERVICE DEADLINE.—

13 “(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any property  
14 which is placed in service after the date that is 4 years after the date of the  
15 allocation with respect to the facility of which such property is a part.

16 “(ii) APPLICATION OF CARRYOVER.—Any amount of environmental justice  
17 solar and wind capacity limitation which expires under clause (i) during any  
18 calendar year shall be taken into account as an excess described in subparagraph  
19 (D) (or as an increase in such excess) for such calendar year, subject to the  
20 limitation imposed by the last sentence of such subparagraph.

21 “(5) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide for  
22 recapturing the benefit of any increase in the credit allowed under subsection (a) by reason  
23 of this subsection with respect to any property which ceases to be property eligible for such  
24 increase (but which does not cease to be investment credit property within the meaning of  
25 section 50(a)). The period and percentage of such recapture shall be determined under rules  
26 similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture  
27 may not apply with respect to any property if, within 12 months after the date the taxpayer  
28 becomes aware (or reasonably should have become aware) of such property ceasing to be  
29 property eligible for such increase, the eligibility of such property for such increase is  
30 restored. The preceding sentence shall not apply more than once with respect to any  
31 facility.”.

32 (b) Effective Date.—The amendments made by this section shall take effect on January 1,  
33 2023.

## 34 SEC. 13104. EXTENSION AND MODIFICATION OF 35 CREDIT FOR CARBON OXIDE SEQUESTRATION.

36 (a) Modification of Carbon Oxide Capture Requirements.—

37 (1) IN GENERAL.—Section 45Q(d) is amended to read as follows:

38 “(d) Qualified Facility.—For purposes of this section, the term ‘qualified facility’ means any  
39 industrial facility or direct air capture facility—

40 “(1) the construction of which begins before January 1, 2033, and either—

1 “(A) construction of carbon capture equipment begins before such date, or  
2 “(B) the original planning and design for such facility includes installation of carbon  
3 capture equipment, and  
4 “(2) which—  
5 “(A) in the case of a direct air capture facility, captures not less than 1,000 metric  
6 tons of qualified carbon oxide during the taxable year,  
7 “(B) in the case of an electricity generating facility—  
8 “(i) captures not less than 18,750 metric tons of qualified carbon oxide during  
9 the taxable year, and  
10 “(ii) with respect to any carbon capture equipment for the applicable electric  
11 generating unit at such facility, has a capture design capacity of not less than 75  
12 percent of the baseline carbon oxide production of such unit, or  
13 “(C) in the case of any other facility, captures not less than 12,500 metric tons of  
14 qualified carbon oxide during the taxable year.”.

15 (2) DEFINITIONS.—

16 (A) IN GENERAL.—Section 45Q(e) is amended—

17 (i) by redesignating paragraphs (1) through (3) as paragraphs (3) through (5),  
18 respectively, and

19 (ii) by inserting after “For purposes of this section—” the following new  
20 paragraphs:

21 “(1) APPLICABLE ELECTRIC GENERATING UNIT.—The term ‘applicable electric generating  
22 unit’ means the principal electric generating unit for which the carbon capture equipment is  
23 originally planned and designed.

24 “(2) BASELINE CARBON OXIDE PRODUCTION.—

25 “(A) IN GENERAL.—The term ‘baseline carbon oxide production’ means either of the  
26 following:

27 “(i) In the case of an applicable electric generating unit which was originally  
28 placed in service more than 1 year prior to the date on which construction of the  
29 carbon capture equipment begins, the average annual carbon oxide production, by  
30 mass, from such unit ~~during the shorter of either the following periods: during—~~

31 ~~“(I) The period beginning on the date such unit was placed in service and~~  
32 ~~ending on“(I) in the case of an applicable electric generating unit which~~  
33 ~~was originally placed in service more than 1 year prior to the date on~~  
34 ~~which construction of the carbon capture equipment begins and on or~~  
35 ~~after the date which is 3 years prior to the date on which construction of~~  
36 ~~such equipment begins, the period beginning on the date such unit was~~  
37 ~~placed in service and ending on the date on which construction of such~~  
38 ~~equipment began, and;~~

39 ~~“(II) The 6“(II) in the case of an applicable electric generating unit~~



1 which was originally placed in service more than 3 years prior to the  
2 date on which construction of the carbon capture equipment begins, the  
3 3 years with the highest annual carbon oxide production during the 12-  
4 year period preceding the date on which construction of such equipment  
5 began.

6 “(ii) In the case of an applicable electric generating unit which—

7 “(I) as of the date on which construction of the carbon capture equipment  
8 begins, is not yet placed in service, or

9 “(II) was placed in service during the 1-year period prior to the date on  
10 which construction of the carbon capture equipment begins,

11 the designed annual carbon oxide production, by mass, as determined based on an  
12 assumed capacity factor of 60 percent.

13 “(B) CAPACITY FACTOR.—The term ‘capacity factor’ means the ratio (expressed as a  
14 percentage) of the actual electric output from the applicable electric generating unit to  
15 the potential electric output from such unit.”.

16 (B) CONFORMING AMENDMENT.—Section 142(o)(1)(B) is amended by striking  
17 “section 45Q(e)(1)” and inserting “section 45Q(e)(3)”.

18 (b) Modified Applicable Dollar Amount.—Section 45Q(b)(1)(A) is amended—

19 (1) in clause (i)—

20 (A) in subclause (I), by striking “the dollar amount” and all that follows through  
21 “such period” and inserting “\$17”, and

22 (B) in subclause (II), by striking “the dollar amount” and all that follows through  
23 “such period” and inserting “\$12”, and

24 (2) in clause (ii)—

25 (A) in subclause (I), by striking “\$50” and inserting “\$17”, and

26 (B) in subclause (II), by striking “\$35” and inserting “\$12”.

27 (c) Determination of Applicable Dollar Amount.—

28 (1) IN GENERAL.—Section 45Q(b)(1), as amended by the preceding provisions of this  
29 Act, is amended—

30 (A) by redesignating subparagraph (B) as subparagraph (D), and

31 (B) by inserting after subparagraph (A) the following new subparagraphs:

32 “(B) SPECIAL RULE FOR DIRECT AIR CAPTURE FACILITIES.—In the case of any  
33 qualified facility described in subsection (d)(2)(A) which is placed in service after  
34 December 31, 2022, the applicable dollar amount shall be an amount equal to the  
35 applicable dollar amount otherwise determined with respect to such qualified facility  
36 under subparagraph (A), except that such subparagraph shall be applied—

37 “(i) by substituting ‘\$36’ for ‘\$17’ each place it appears, and

38 “(ii) by substituting ‘\$26’ for ‘\$12’ each place it appears.

1 “(C) APPLICABLE DOLLAR AMOUNT FOR ADDITIONAL CARBON CAPTURE EQUIPMENT.  
2 —In the case of any qualified facility which is placed in service before January 1,  
3 2023, if any additional carbon capture equipment is installed at such facility and such  
4 equipment is placed in service after December 31, 2022, the applicable dollar amount  
5 shall be an amount equal to the applicable dollar amount otherwise determined under  
6 this paragraph, except that subparagraph (B) shall be applied—

7 “(i) by substituting ‘before January 1, 2023’ for ‘after December 31, 2022’, and

8 “(ii) by substituting ‘the additional carbon capture equipment installed at such  
9 qualified facility’ for ‘such qualified facility’.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 45Q(b)(1)(A) is amended by striking “The applicable dollar amount”  
12 and inserting “Except as provided in subparagraph (B) or (C), the applicable dollar  
13 amount”.

14 (B) Section 45Q(b)(1)(D), as redesignated by paragraph (1)(A), is amended by  
15 striking “subparagraph (A)” and inserting “subparagraph (A), (B), or (C)”.

16 (d) ~~Installation of Additional Carbon Capture Equipment on Certain Facilities.—~~

17 (1) ~~In general.—Section 45Q(b) is amended by redesignating paragraph (3) as paragraph (4)~~  
18 ~~and by inserting after paragraph (2) the following new paragraph:~~

19 ~~“(3) Installation of additional carbon capture equipment on certain facilities.—In the case of a~~  
20 ~~qualified facility described in paragraph (1)(C), the amount of qualified carbon oxide which is~~  
21 ~~captured by the taxpayer for purposes of subsection (a) shall be determined pursuant to~~  
22 ~~paragraph (2), as applied—~~

23 ~~“(A) in the matter preceding subparagraph (A)—~~

24 ~~“(i) by substituting ‘January 1, 2023’ for ‘the date of the enactment of the Bipartisan Budget~~  
25 ~~Act of 2018’, and~~

26 ~~“(ii) by substituting ‘after December 31, 2022’ for ‘on or after the date of the enactment of~~  
27 ~~such Act’, and~~

28 ~~“(B) in subparagraph (A)(ii), by substituting ‘December 31, 2022’ for ‘the day before the date~~  
29 ~~of the enactment of the Bipartisan Budget Act of 2018’.”.~~

30 (2) ~~Conforming amendment.—Section 45Q(b)(2) is amended by striking “In the case” and~~  
31 ~~inserting “Subject to paragraph (3), in the case”.~~

32 (e) ~~Wage and Apprenticeship Requirements.—Section 45Q is amended by redesignating~~  
33 ~~subsection (h) as subsection (i) and inserting after subsection (g) following new subsection:~~

34 “(h) Increased Credit Amount for Qualified Facilities and Carbon Capture Equipment.—

35 “(1) IN GENERAL.—In the case of any qualified facility or any carbon capture equipment  
36 which satisfy the requirements of paragraph (2), the amount of the credit determined under  
37 subsection (a) shall be equal to such amount (determined without regard to this sentence)  
38 multiplied by 5.

39 “(2) REQUIREMENTS.—The requirements described in this paragraph are that—

1 “(A) with respect to any qualified facility the construction of which begins on or  
2 after the date that is 60 days after the Secretary publishes guidance with respect to the  
3 requirements of paragraphs (3)(A) and (4), as well as any carbon capture equipment  
4 placed in service at such facility—

5 “(i) subject to subparagraph (B) of paragraph (3), the taxpayer satisfies the  
6 requirements under subparagraph (A) of such paragraph with respect to such  
7 facility and equipment, and

8 “(ii) the taxpayer satisfies the requirements under paragraph (4) with respect to  
9 the construction of such facility and equipment,

10 “(B) with respect to any carbon capture equipment the construction of which begins  
11 **on or** after the date that is 60 days after the Secretary publishes guidance with respect  
12 to the requirements of paragraphs (3)(A) and (4), and which is installed at a qualified  
13 facility the construction of which began prior to such date—

14 “(i) subject to subparagraph (B) of paragraph (3), the taxpayer satisfies the  
15 requirements under subparagraph (A) of such paragraph with respect to such  
16 equipment, and

17 “(ii) the taxpayer satisfies the requirements under paragraph (4) with respect to  
18 the construction of such equipment, or

19 “(C) the construction of carbon capture equipment begins prior to the date that is 60  
20 days after the Secretary publishes guidance with respect to the requirements of  
21 paragraphs (3)(A) and (4), and such equipment is installed at a qualified facility the  
22 construction of which begins prior to such date.

23 “(3) PREVAILING WAGE REQUIREMENTS.—

24 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
25 any qualified facility and any carbon capture equipment placed in service at such  
26 facility are that the taxpayer shall ensure that any laborers and mechanics employed by  
27 ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in  
28 —

29 “(i) the construction of such facility or equipment, and

30 “(ii) with respect to any taxable year, for any portion of such taxable year  
31 which is within the period described in paragraph (3)(A) or (4)(A) of subsection  
32 (a), the alteration or repair of such facility or such equipment,

33 shall be paid wages at rates not less than the prevailing rates for construction,  
34 alteration, or repair of a similar character in the locality in which such facility and  
35 equipment are located as most recently determined by the Secretary of Labor, in  
36 accordance with subchapter IV of chapter 31 of title 40, United States Code. For  
37 purposes of determining an increased credit amount under paragraph (1) for a taxable  
38 year, the requirement under clause (ii) of this subparagraph is applied to such taxable  
39 year in which the alteration or repair of qualified facility occurs.

40 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
41 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

1 “(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
2 shall apply.

3 “(5) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
4 guidance as the Secretary determines necessary or appropriate to carry out the purposes of  
5 this subsection, including regulations or other guidance which provides for requirements for  
6 recordkeeping or information reporting for purposes of administering the requirements of  
7 this subsection.”.

8 ~~(f)~~(e) Credit Reduced for Tax-exempt Bonds.—Section 45Q(f) is amended—

9 (1) by striking the second paragraph (3), as added at the end of such section by section  
10 80402(e) of the Infrastructure Investment and Jobs Act (Public Law 117-58), and

11 (2) by adding at the end the following new paragraph:

12 “(8) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Rules similar to the rule under section  
13 45(b)(3) shall apply for purposes of this section.”.

14 ~~(g)~~(f) Application of Section for Certain Carbon Capture Equipment.—Section 45Q(g) is  
15 amended by inserting “the earlier of January 1, 2023, and” before “the end of the calendar year”.

16 ~~(h)~~(g) Election.—Section 45Q(f), as amended by subsection ~~(f)~~(e), is amended by adding at  
17 the end the following new paragraph:

18 “(9) ELECTION.—For purposes of paragraphs (3) and (4) of subsection (a), a person  
19 described in paragraph (3)(A)(ii) may elect, at such time and in such manner as the  
20 Secretary may prescribe, to have the 12–year period begin on the first day of the first  
21 taxable year in which a credit under this section is claimed with respect to carbon capture  
22 equipment which is originally placed in service at a qualified facility on or after the date of  
23 the enactment of the Bipartisan Budget Act of 2018 (after application of ~~subsection (f)~~  
24 ~~paragraph~~ (6), where applicable) if—

25 “(A) no taxpayer claimed a credit under this section with respect to such carbon  
26 capture equipment for any prior taxable year,

27 “(B) the qualified facility at which such carbon capture equipment is placed in  
28 service is located in an area affected by a federally-declared disaster (as defined by  
29 section 165(i)(5)(A)) after the carbon capture equipment is originally placed in service,  
30 and

31 “(C) such federally-declared disaster results in a cessation of the operation of the  
32 qualified facility or the carbon capture equipment after such equipment is originally  
33 placed in service.”.

34 ~~(i)~~(h) Regulations for Baseline Carbon Oxide Production.—Subsection (i) of section 45Q, as  
35 redesignated by subsection ~~(e)~~(d), is amended—

36 (1) in paragraph (1), by striking “and”,

37 (2) in paragraph (2), by striking the period at the end and inserting “, and”, and

38 (3) by adding at the end the following new paragraph:

39 “(3) for purposes of subsection (d)(2)(B)(ii), adjust the baseline carbon oxide production  
40 with respect to any applicable electric generating unit at any electricity generating facility **if,**

1 if—

2 “(A) after the date on which the carbon capture equipment is placed in service,  
3 modifications **which are chargeable to capital account** are made to such unit which result  
4 in a significant increase or decrease in carbon oxide ~~production, or~~ **production.”.**

5 “(B) for any reason other than a modification described in subparagraph (A), there is a  
6 significant increase or decrease in carbon oxide production with respect to such unit.”.

7 **(j)(i)** Effective Dates.—

8 (1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), the amendments  
9 made by this section shall apply to facilities or equipment placed in service after December  
10 31, 2022.

11 (2) MODIFICATION OF CARBON OXIDE CAPTURE REQUIREMENTS.—The amendments made  
12 by subsection (a) shall apply to facilities or equipment the construction of which begins  
13 after the date of enactment of this Act.

14 (3) APPLICATION OF SECTION FOR CERTAIN CARBON CAPTURE EQUIPMENT.—The  
15 amendments made by subsection **(g)(f)** shall take effect on the date of enactment of this Act.

16 (4) ELECTION.—The amendments made by subsection **(h)(g)** shall apply to carbon oxide  
17 captured and disposed of after December 31, 2021.

## 18 SEC. 13105. ZERO-EMISSION NUCLEAR POWER 19 PRODUCTION CREDIT.

20 (a) In General.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at  
21 the end the following new section:

### 22 “SEC. 45U. ZERO-EMISSION NUCLEAR POWER 23 PRODUCTION CREDIT.

24 “(a) Amount of Credit.—For purposes of section 38, the zero-emission nuclear power  
25 production credit for any taxable year is an amount equal to the amount by which—

26 “(1) the product of—

27 “(A) 0.3 cents, multiplied by

28 “(B) the kilowatt hours of electricity—

29 “(i) produced by the taxpayer at a qualified nuclear power facility, and

30 “(ii) sold by the taxpayer to an unrelated person during the taxable year,  
31 exceeds

32 “(2) the reduction amount for such taxable year.

33 “(b) Definitions.—

34 “(1) QUALIFIED NUCLEAR POWER FACILITY.—For purposes of this section, the term  
35 ‘qualified nuclear power facility’ means any nuclear facility—

36 “(A) which is owned by the taxpayer and which uses nuclear energy to produce

1 electricity,

2 “(B) which is not an advanced nuclear power facility as defined in subsection (d)(1)  
3 of section 45J, and

4 “(C) which is placed in service before the date of the enactment of this section.

5 “(2) REDUCTION AMOUNT.—

6 “(A) IN GENERAL.—For purposes of this section, the term ‘reduction amount’  
7 means, with respect to any qualified nuclear power facility for any taxable year, the  
8 amount equal to the lesser of—

9 “(i) the amount determined under subsection (a)(1), or

10 “(ii) the amount equal to ~~80~~ **16** percent of the excess of—

11 “(I) subject to subparagraph (B), the gross receipts from any electricity  
12 produced by such facility (including any electricity services or products  
13 provided in conjunction with the electricity produced by such facility) and  
14 sold to an unrelated person during such taxable year, over

15 “(II) the amount equal to the product of—

16 “(aa) 2.5 cents, multiplied by

17 “(bb) the amount determined under subsection (a)(1)(B).

18 “(B) TREATMENT OF CERTAIN RECEIPTS.—

19 “(i) IN ~~GENERAL.—THE~~ **GENERAL.—Subject to clause (iii), the** amount  
20 determined under subparagraph (A)(ii)(I) shall include any amount received by  
21 the taxpayer during the taxable year with respect to the qualified nuclear power  
22 facility from a zero-emission credit program. **For purposes of determining the**  
23 **amount received during such taxable year, the taxpayer shall take into**  
24 **account any reductions required under such program.**

25 “(ii) ZERO-EMISSION CREDIT PROGRAM.—For purposes of this subparagraph,  
26 the term ‘zero-emission credit program’ means any payments with respect to a  
27 qualified nuclear power facility as a result of any Federal, State or local  
28 government program for, in whole or in part, the zero-emission, zero-carbon, or  
29 air quality attributes of any portion of the electricity produced by such facility.

30 **“(iii) EXCLUSION.—For purposes of clause (i), any amount received by the**  
31 **taxpayer from a zero-emission credit program shall be excluded from the**  
32 **amount determined under subparagraph (A)(ii)(I) if the full amount of the**  
33 **credit calculated pursuant to subsection (a) (determined without regard to**  
34 **this subparagraph) is used to reduce payments from such zero-emission**  
35 **credit program.**

36 “(3) ELECTRICITY.—For purposes of this section, the term ‘electricity’ means the energy  
37 produced by a qualified nuclear power facility from the conversion of nuclear fuel into  
38 electric power.

39 “(c) Other Rules.—

1 “(1) INFLATION ADJUSTMENT.—The 0.3 cent amount in subsection (a)(1)(A) and the 2.5  
2 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such  
3 amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied  
4 by substituting ‘calendar year 2023’ for ‘calendar year 1992’ in subparagraph (B) thereof)  
5 for the calendar year in which the sale occurs. If the 0.3 cent amount as increased under this  
6 paragraph is not a multiple of 0.05 cent, such amount shall be rounded to the nearest  
7 multiple of 0.05 cent. If the 2.5 cent amount as increased under this paragraph is not a  
8 multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

9 “(2) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (3), (4), and (5) of  
10 section 45(e) shall apply for purposes of this section.

11 “(d) Wage Requirements.—

12 “(1) INCREASED CREDIT AMOUNT FOR QUALIFIED NUCLEAR POWER FACILITIES.—In the  
13 case of any qualified nuclear power facility which satisfies the requirements of paragraph  
14 (2)(A), the amount of the credit determined under subsection (a) shall be equal to such  
15 amount (as determined without regard to this sentence) multiplied by 5.

16 “(2) PREVAILING WAGE REQUIREMENTS.—

17 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
18 any qualified nuclear power facility are that the taxpayer shall ensure that any laborers  
19 and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any**  
20 **contractor or subcontractor** in the alteration or repair of such facility shall be paid  
21 wages at rates not less than the prevailing rates for alteration or repair of a similar  
22 character in the locality in which such facility is located as most recently determined  
23 by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40,  
24 United States Code.

25 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
26 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

27 “(3) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
28 guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of  
29 this subsection, including regulations or other guidance which provides for requirements for  
30 recordkeeping or information reporting for purposes of administering the requirements of  
31 this subsection.

32 “(e) Termination.—This section shall not apply to taxable years beginning after December 31,  
33 2032.”.

34 (b) Conforming Amendments.—

35 (1) Section 38(b) is amended—

36 (A) in paragraph (32), by striking “plus” at the end,

37 (B) in paragraph (33), by striking the period at the end and inserting “, plus”, and

38 (C) by adding at the end the following new paragraph:

39 “(34) the zero-emission nuclear power production credit determined under section  
40 45U(a).”.

1 (2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended  
2 by adding at the end the following new item:

3 “Sec.45U.Zero-emission nuclear power production credit.”.

4 (c) Effective Date.—This section shall apply to electricity produced and sold after December  
5 31, 2023, in taxable years beginning after such date.

## 6 PART 2—CLEAN FUELS

### 7 SEC. 13201. EXTENSION OF INCENTIVES FOR 8 BIODIESEL, RENEWABLE DIESEL AND ALTERNATIVE 9 FUELS.

10 (a) Biodiesel and Renewable Diesel Credit.—Section 40A(g) is amended by striking  
11 “December 31, 2022” and inserting “December 31, 2024”.

12 (b) Biodiesel Mixture Credit.—

13 (1) IN GENERAL.—Section 6426(c)(6) is amended by striking “December 31, 2022” and  
14 inserting “December 31, 2024”.

15 (2) FUELS NOT USED FOR TAXABLE PURPOSES.—Section 6427(e)(6)(B) is amended by  
16 striking “December 31, 2022” and inserting “December 31, 2024”.

17 (c) Alternative Fuel Credit.—Section 6426(d)(5) is amended by striking “December 31, 2021”  
18 and inserting “December 31, 2024”.

19 (d) Alternative Fuel Mixture Credit.—Section 6426(e)(3) is amended by striking “December  
20 31, 2021” and inserting “December 31, 2024”.

21 (e) Payments for Alternative Fuels.—Section 6427(e)(6)(C) is amended by striking  
22 “December 31, 2021” and inserting “December 31, 2024”.

23 (f) Effective Date.—The amendments made by this section shall apply to fuel sold or used  
24 after December 31, 2021.

25 (g) Special ~~Rule.—Notwithstanding any other provision of law, in~~ **Rule.—In** the case of any  
26 alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code  
27 of 1986 for the period beginning on January 1, 2022, and ending with the close of the last  
28 calendar quarter beginning before the date of the enactment of this Act, such credit shall be  
29 allowed, and any refund or payment attributable to such credit (including any payment under  
30 section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the  
31 Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within  
32 30 days after the date of the enactment of this Act providing for a one-time submission of claims  
33 covering periods described in the preceding sentence. Such guidance shall provide for a 180-day  
34 period for the submission of such claims (in such manner as prescribed by such Secretary) to  
35 begin not later than 30 days after such guidance is issued. Such claims shall be paid by such  
36 Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim  
37 filed under this subsection within 60 days after the date of the filing of such claim, the claim  
38 shall be paid with interest from such date determined by using the overpayment rate and method  
39 under section 6621 of such Code.



1 SEC. 13202. EXTENSION OF SECOND GENERATION  
2 BIOFUEL INCENTIVES.

3 (a) In General.—Section 40(b)(6)(J)(i) is amended by striking “2022” and inserting “2025”.

4 (b) Effective Date.—The amendment made by subsection (a) shall apply to qualified second  
5 generation biofuel production after December 31, 2021.

6 SEC. 13203. SUSTAINABLE AVIATION FUEL CREDIT.

7 (a) In General.—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting  
8 after section 40A the following new section:

9 “SEC. 40B. SUSTAINABLE AVIATION FUEL CREDIT.

10 “(a) In General.—For purposes of section 38, the sustainable aviation fuel credit determined  
11 under this section for the taxable year is, with respect to any sale or use of a qualified mixture  
12 which occurs during such taxable year, an amount equal to the product of—

13 “(1) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

14 “(2) the sum of—

15 “(A) \$1.25, plus

16 “(B) the applicable supplementary amount with respect to such sustainable aviation  
17 fuel.

18 “(b) Applicable Supplementary Amount.—For purposes of this section, the term ‘applicable  
19 supplementary amount’ means, with respect to any sustainable aviation fuel, an amount equal to  
20 \$0.01 for each percentage point by which the lifecycle greenhouse gas emissions reduction  
21 percentage with respect to such fuel exceeds 50 percent. In no event shall the applicable  
22 supplementary amount determined under this subsection exceed \$0.50.

23 “(c) Qualified Mixture.—For purposes of this section, the term ‘qualified mixture’ means a  
24 mixture of sustainable aviation fuel and kerosene if—

25 “(1) such mixture is produced by the taxpayer in the United States,

26 “(2) such mixture is used by the taxpayer (or sold by the taxpayer for use) in an aircraft,

27 “(3) such sale or use is in the ordinary course of a trade or business of the taxpayer, and

28 “(4) the transfer of such mixture to the fuel tank of such aircraft occurs in the United  
29 States.

30 “(d) Sustainable Aviation Fuel.—

31 “(1) IN GENERAL.—For purposes of this section, the term ‘sustainable aviation fuel’  
32 means liquid fuel, **the portion of which is not kerosene**, which—

33 “(A) meets the requirements of—

34 “(i) ASTM International Standard D7566, or

35 “(ii) the Fischer Tropsch provisions of ASTM International Standard D1655,

1 Annex A1,

2 “(B) is not derived from coprocessing an applicable material (or materials derived  
3 from an applicable material) with a feedstock which is not biomass,

4 “(C) is not derived from palm fatty acid distillates or petroleum, and

5 “(D) has been certified in accordance with subsection (e) as having a lifecycle  
6 greenhouse gas emissions reduction percentage of at least 50 percent.

7 “(2) DEFINITIONS.—In this subsection—

8 “(A) APPLICABLE MATERIAL.—The term ‘applicable material’ means—

9 “(i) monoglycerides, diglycerides, and triglycerides,

10 “(ii) free fatty acids, and

11 “(iii) fatty acid esters.

12 “(B) BIOMASS.—The term ‘biomass’ has the same meaning given such term in  
13 section 45K(c)(3).

14 “(e) Lifecycle Greenhouse Gas Emissions Reduction Percentage.—For purposes of this  
15 section, the term ‘lifecycle greenhouse gas emissions reduction percentage’ means, with respect  
16 to any sustainable aviation fuel, the percentage reduction in lifecycle greenhouse gas emissions  
17 achieved by such fuel as compared with petroleum-based jet fuel, as defined in accordance with  
18 —

19 “(1) the most recent Carbon Offsetting and Reduction Scheme for International Aviation  
20 which has been adopted by the International Civil Aviation Organization with the  
21 agreement of the United States, or

22 “(2) any similar methodology which satisfies the criteria under section 211(o)(1)(H) of  
23 the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of enactment of this  
24 section.

25 “(f) Registration of Sustainable Aviation Fuel Producers.—No credit shall be allowed under  
26 this section with respect to any sustainable aviation fuel unless the producer **or importer** of such  
27 fuel—

28 “(1) is registered with the Secretary under section 4101, and

29 “(2) provides—

30 “(A) certification (in such form and manner as the Secretary shall prescribe) from an  
31 unrelated party demonstrating compliance with—

32 “(i) any general requirements, supply chain traceability requirements, and  
33 information transmission requirements established under the Carbon Offsetting  
34 and Reduction Scheme for International Aviation described in paragraph (1) of  
35 subsection (e), or

36 “(ii) in the case of any methodology established under paragraph (2) of such  
37 subsection, requirements similar to the requirements described in clause (i), and

38 “(B) such other information with respect to such fuel as the Secretary may require

1 for purposes of carrying out this section.

2 “(g) Coordination With Credit Against Excise Tax.—The amount of the credit determined  
3 under this section with respect to any sustainable aviation fuel shall, under rules prescribed by  
4 the Secretary, be properly reduced to take into account any benefit provided with respect to such  
5 sustainable aviation fuel solely by reason of the application of section 6426 or 6427(e).

6 “(h) Termination.—This section shall not apply to any sale or use after December 31, 2024.”.

7 (b) Credit Made Part of General Business Credit.— Section 38(b), as amended by the  
8 preceding provisions of this Act, is amended by striking “plus” at the end of paragraph (33), by  
9 striking the period at the end of paragraph (34) and inserting “, plus”, and by inserting after  
10 paragraph (34) the following new paragraph:

11 “(35) the sustainable aviation fuel credit determined under section 40B.”.

12 (c) Coordination With Biodiesel Incentives.—

13 (1) IN GENERAL.—Section 40A(d)(1) is amended by inserting “or 40B” after “determined  
14 under section 40”.

15 (2) CONFORMING AMENDMENT.—Section 40A(f) is amended by striking paragraph (4).

16 (d) Sustainable Aviation Fuel Added to Credit for Alcohol Fuel, Biodiesel, and Alternative  
17 Fuel Mixtures.—

18 (1) IN GENERAL.—Section 6426 is amended by adding at the end the following new  
19 subsection:

20 “(k) Sustainable Aviation Fuel Credit.—

21 “(1) IN GENERAL.—For purposes of this section, the sustainable aviation fuel credit for  
22 the taxable year is, with respect to any sale or use of a qualified mixture, an amount equal to  
23 the product of—

24 “(A) the number of gallons of sustainable aviation fuel in such mixture, multiplied  
25 by

26 “(B) the sum of—

27 “(i) \$1.25, plus

28 “(ii) the applicable supplementary amount with respect to such sustainable  
29 aviation fuel.

30 “(2) DEFINITIONS.—Any term used in this subsection which is also used in section 40B  
31 shall have the meaning given such term by section 40B.

32 “(3) REGISTRATION REQUIREMENT.—For purposes of this subsection, rules similar to the  
33 rules of section 40B(f) shall apply.”.

34 (2) CONFORMING AMENDMENTS.—

35 (A) Section 6426 is amended—

36 (i) in subsection (a)(1), by striking “and (e)” and inserting “(e), and (k)”, and

37 (ii) in subsection (h), by striking “under section 40 or 40A” and inserting

1 “under section 40, 40A, or 40B”.

2 (B) Section 6427(e) is amended—

3 (i) in the heading, by striking “or Alternative Fuel” and inserting, “Alternative  
4 Fuel, or Sustainable Aviation Fuel”,

5 (ii) in paragraph (1), by inserting “or the sustainable aviation fuel mixture  
6 credit” after “alternative fuel mixture credit”, and

7 (iii) in paragraph (6)—

8 (I) in subparagraph (C), by striking “and” at the end,

9 (II) in subparagraph (D), by striking the period at the end and inserting “,  
10 and”, and

11 (III) by adding at the end the following new subparagraph:

12 “(E) any qualified mixture of sustainable aviation fuel (as defined in section 6426(k)  
13 (3)) sold or used after December 31, 2024.”.

14 (C) Section 4101(a)(1) is amended by inserting “every person producing **or**  
15 **importing** sustainable aviation fuel (as defined in section 40B),” before “and every  
16 person producing second generation biofuel”.

17 (D) The table of sections for subpart D of subchapter A of chapter 1 is amended by  
18 inserting after the item relating to section 40A the following new item:

19 “Sec.40B.Sustainable aviation fuel credit.”.

20 (e) Amount of Credit Included in Gross Income.—Section 87 is amended by striking “and” in  
21 paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by  
22 adding at the end the following new paragraph:

23 “(3) the sustainable aviation fuel credit determined with respect to the taxpayer for the  
24 taxable year under section 40B(a).”.

25 (f) Effective Date.—The amendments made by this section shall apply to fuel sold or used  
26 after December 31, 2022.

## 27 SEC. 13204. CLEAN HYDROGEN.

28 (a) Credit for Production of Clean Hydrogen.—

29 (1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by the  
30 preceding provisions of this Act, is amended by adding at the end the following new  
31 section:

## 32 “SEC. 45V. CREDIT FOR PRODUCTION OF CLEAN 33 HYDROGEN.

34 “(a) Amount of Credit.—For purposes of section 38, the clean hydrogen production credit for  
35 any taxable year is an amount equal to the product of—

36 “(1) the kilograms of qualified clean hydrogen produced by the taxpayer during such

1 taxable year at a qualified clean hydrogen production facility during the 10-year period  
2 beginning on the date such facility was originally placed in service, multiplied by

3 “(2) the applicable amount (as determined under subsection (b)) with respect to such  
4 hydrogen.

5 “(b) Applicable Amount.—

6 “(1) IN GENERAL.—For purposes of subsection (a)(2), the applicable amount shall be an  
7 amount equal to the applicable percentage of \$0.60. If any amount as determined under the  
8 preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest  
9 multiple of 0.1 cent.

10 “(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable  
11 percentage shall be determined as follows:

12 “(A) In the case of any qualified clean hydrogen which is produced through a  
13 process that results in a lifecycle greenhouse gas emissions rate of—

14 “(i) not greater than 4 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

15 “(ii) not less than 2.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

16 the applicable percentage shall be 20 percent.

17 “(B) In the case of any qualified clean hydrogen which is produced through a  
18 process that results in a lifecycle greenhouse gas emissions rate of—

19 “(i) less than 2.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

20 “(ii) not less than 1.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

21 the applicable percentage shall be 25 percent.

22 “(C) In the case of any qualified clean hydrogen which is produced through a  
23 process that results in a lifecycle greenhouse gas emissions rate of—

24 “(i) less than 1.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

25 “(ii) not less than 0.45 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

26 the applicable percentage shall be 33.4 percent.

27 “(D) In the case of any qualified clean hydrogen which is produced through a  
28 process that results in a lifecycle greenhouse gas emissions rate of less than 0.45  
29 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, the applicable percentage shall be 100  
30 percent.

31 “(3) INFLATION ADJUSTMENT.—The \$0.60 amount in paragraph (1) shall be adjusted by  
32 multiplying such amount by the inflation adjustment factor (as determined under section  
33 45(e)(2), determined by substituting ‘2022’ for ‘1992’ in subparagraph (B) thereof) for the  
34 calendar year in which the qualified clean hydrogen is produced. If any amount as increased  
35 under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to  
36 the nearest multiple of 0.1 cent.

37 “(c) Definitions.—For purposes of this section—

38 “(1) LIFECYCLE GREENHOUSE GAS EMISSIONS.—

1 “(A) IN GENERAL.—Subject to subparagraph (B), the term ‘lifecycle greenhouse gas  
2 emissions’ has the same meaning given such term under subparagraph (H) of section  
3 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of  
4 enactment of this section.

5 “(B) GREET MODEL.—The term ‘lifecycle greenhouse gas emissions’ shall only  
6 include emissions through the point of production (well-to-gate), as determined under  
7 the most recent Greenhouse gases, Regulated Emissions, and Energy use in  
8 Transportation model (commonly referred to as the ‘GREET model’) developed by  
9 Argonne National Laboratory, or a successor model (as determined by the Secretary).

10 “(2) QUALIFIED CLEAN HYDROGEN.—

11 “(A) IN GENERAL.—The term ‘qualified clean hydrogen’ means hydrogen which is  
12 produced through a process that results in a lifecycle greenhouse gas emissions rate of  
13 not greater than 4 kilograms of CO<sub>2</sub>e per kilogram of hydrogen.

14 “(B) ADDITIONAL REQUIREMENTS.—Such term shall not include any hydrogen  
15 unless—

16 “(i) such hydrogen is produced—

17 “(I) in the United States (as defined in section 638(1)) or a possession of  
18 the United States (as defined in section 638(2)),

19 “(II) in the ordinary course of a trade or business of the taxpayer, and

20 “(III) for sale or use, and

21 “(ii) the production and sale or use of such hydrogen is verified by an unrelated  
22 party.

23 “(C) PROVISIONAL EMISSIONS RATE.—In the case of any hydrogen for which a  
24 lifecycle greenhouse gas emissions rate has not been determined for purposes of this  
25 section, a taxpayer producing such hydrogen may file a petition with the Secretary for  
26 determination of the lifecycle greenhouse gas emissions rate with respect to such  
27 hydrogen.

28 “(3) QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—The term ‘qualified clean  
29 hydrogen production facility’ means a facility—

30 “(A) owned by the taxpayer,

31 “(B) which produces qualified clean hydrogen, and

32 “(C) the construction of which begins before January 1, 2033.

33 “(d) Special Rules.—

34 “(1) TREATMENT OF FACILITIES OWNED BY MORE THAN 1 TAXPAYER.—Rules similar to  
35 the rules section 45(e)(3) shall apply for purposes of this section.

36 “(2) COORDINATION WITH CREDIT FOR CARBON OXIDE SEQUESTRATION.—No credit shall  
37 be allowed under this section with respect to any qualified clean hydrogen produced at a  
38 facility which includes carbon capture equipment for which a credit is allowed to any  
39 taxpayer under section 45Q for the taxable year or any prior taxable year.

1 “(e) Increased Credit Amount for Qualified Clean Hydrogen Production Facilities.—

2 “(1) IN GENERAL.—In the case of any qualified clean hydrogen production facility which  
3 satisfies the requirements of paragraph (2), the amount of the credit determined under  
4 subsection (a) with respect to qualified clean hydrogen described in subsection (b)(2) shall  
5 be equal to such amount (determined without regard to this sentence) multiplied by 5.

6 “(2) REQUIREMENTS.—A facility meets the requirements of this paragraph if it is one of  
7 the following:

8 “(A) A facility—

9 “(i) the construction of which begins prior to the date that is 60 days after the  
10 Secretary publishes guidance with respect to the requirements of paragraphs (3)  
11 (A) and (4), and

12 “(ii) which meets the requirements of paragraph (3)(A) with respect to  
13 alteration or repair of such facility which occurs after such date.

14 “(B) A facility which satisfies the requirements of paragraphs (3)(A) and (4).

15 “(3) PREVAILING WAGE REQUIREMENTS.—

16

17 \* 4 “(A) In general.—The requirements described in this subparagraph with respect  
18 to any qualified clean hydrogen production facility are that the taxpayer shall ensure  
19 that any laborers and mechanics employed by contractors and subcontractors in—

20 “(A) IN GENERAL.—The requirements described in this subparagraph with  
21 respect to any qualified clean hydrogen production facility are that the taxpayer  
22 shall ensure that any laborers and mechanics employed by the taxpayer or any  
23 contractor or subcontractor in—

24 “(i) the construction of such facility, and

25 “(ii) with respect to any taxable year, for any portion of such taxable year  
26 which is within the period described in subsection (a)(2), the alteration or repair  
27 of such facility,

28 shall be paid wages at rates not less than the prevailing rates for construction,  
29 alteration, or repair of a similar character in the locality in which such facility is  
30 located as most recently determined by the Secretary of Labor, in accordance with  
31 subchapter IV of chapter 31 of title 40, United States Code. For purposes of  
32 determining an increased credit amount under paragraph (1) for a taxable year, the  
33 requirement under clause (ii) of this subparagraph is applied to such taxable year in  
34 which the alteration or repair of qualified facility occurs.

35 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
36 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

37 “(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
38 shall apply.

39 “(5) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
40 guidance as the Secretary determines necessary or appropriate to carry out the purposes of

3

1 this subsection, including regulations or other guidance which provides for requirements for  
2 recordkeeping or information reporting for purposes of administering the requirements of  
3 this subsection.

4 “(f) Regulations.—Not later than 1 year after the date of enactment of this section, the  
5 Secretary shall issue regulations or other guidance to carry out the purposes of this section,  
6 including regulations or other guidance for determining lifecycle greenhouse gas emissions.”.

7 (2) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Section 45V(d), as added by this  
8 section, is amended by adding at the end the following new paragraph:

9 “(3) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Rules similar to the rule under section  
10 45(b)(3) shall apply for purposes of this section.”.

11 (3) MODIFICATION OF EXISTING FACILITIES.—Section 45V(d), as added and amended by  
12 the preceding provisions of this section, is amended by adding at the end the following new  
13 paragraph:

14 “(4) MODIFICATION OF EXISTING FACILITIES.—For purposes of subsection ~~(a)(2)(a)(1)~~, in  
15 the case of any facility which—

16 “(A) was originally placed in service before January 1, 2023, and, prior to the  
17 modification described in subparagraph (B), did not produce qualified clean hydrogen,  
18 and

19 “(B) after the date such facility was originally placed in service—

20 “(i) is modified to produce qualified clean hydrogen, and

21 “(ii) amounts paid or incurred with respect to such modification are properly  
22 chargeable to capital account of the taxpayer,

23 such facility shall be deemed to have been originally placed in service as of the date that the  
24 property required to complete the modification described in subparagraph (B) is placed in  
25 service.”.

26 (4) CONFORMING AMENDMENTS.—

27 (A) Section 38(b), as amended by the preceding provisions of this Act, is amended  
28 —

29 (i) in paragraph (34), by striking “plus” at the end,

30 (ii) in paragraph (35), by striking the period at the end and inserting “, plus”,  
31 and

32 (iii) by adding at the end the following new paragraph:

33 “(36) the clean hydrogen production credit determined under section 45V(a).”.

34 (B) The table of sections for subpart D of part IV of subchapter A of chapter 1, as  
35 amended by the preceding provisions of this Act, is amended by adding at the end the  
36 following new item:

37 “Sec.45V.Credit for production of clean hydrogen.”.

38 (5) EFFECTIVE DATES.—



1 (A) IN GENERAL.—The amendments made by paragraphs (1) and (4) of this  
2 subsection shall apply to hydrogen produced after December 31, 2022.

3 (B) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—The amendment made by  
4 paragraph (2) shall apply to facilities the construction of which begins after the date of  
5 enactment of this Act.

6 (C) MODIFICATION OF EXISTING FACILITIES.—The amendment made by paragraph  
7 (3) shall apply to modifications made after December 31, 2022.

8 (b) Credit for Electricity Produced From Renewable Resources Allowed if Electricity Is Used  
9 to Produce Clean Hydrogen.—

10 (1) IN GENERAL.—Section 45(e), as amended by the preceding provisions of this Act, is  
11 amended by adding at the end the following new paragraph:

12 “(13) SPECIAL RULE FOR ELECTRICITY USED AT A QUALIFIED CLEAN HYDROGEN  
13 PRODUCTION FACILITY.—Electricity produced by the taxpayer shall be treated as sold by  
14 such taxpayer to an unrelated person during the taxable year if—

15 “(A) such electricity is used during such taxable year by the taxpayer or a person  
16 related to the taxpayer at a qualified clean hydrogen production facility (as defined in  
17 section 45V(c)(3)) to produce qualified clean hydrogen (as defined in section 45V(c)  
18 (2)), and

19 “(B) such use and production is verified (in such form or manner as the Secretary  
20 may prescribe) by an unrelated third party.”.

21 (2) SIMILAR RULE FOR ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.—  
22 Subsection (c)(2) of section 45U, as added by section 13105 of this Act, is amended by  
23 striking “and (5)” and inserting “(5), and (13)”.

24 (3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity  
25 produced after December 31, 2022.

26 (c) Election to Treat Clean Hydrogen Production Facilities as Energy Property.—

27 (1) IN GENERAL.—Section 48(a), as amended by the preceding provisions of this Act, is  
28 amended—

29 (A) by redesignating paragraph (15) as paragraph (16), and

30 (B) by inserting after paragraph (14) the following new paragraph:

31 “(15) ELECTION TO TREAT CLEAN HYDROGEN PRODUCTION FACILITIES AS ENERGY  
32 PROPERTY.—

33 “(A) IN GENERAL.—In the case of any qualified property (as defined in paragraph  
34 (5)(D)) which is part of a specified clean hydrogen production facility—

35 “(i) such property shall be treated as energy property for purposes of this  
36 section, and

37 “(ii) the energy percentage with respect to such property is—

38 “(I) in the case of a facility which is designed and reasonably expected to  
39 produce qualified clean hydrogen which is described in a subparagraph (A)

1 of section 45V(b)(2), 1.2 percent,

2 “(II) in the case of a facility which is designed and reasonably expected to  
3 produce qualified clean hydrogen which is described in a subparagraph (B)  
4 of such section, 1.5 percent,

5 “(III) in the case of a facility which is designed and reasonably expected to  
6 produce qualified clean hydrogen which is described in a subparagraph (C)  
7 of such section, 2 percent, and

8 “(IV) in the case of a facility which is designed and reasonably expected  
9 to produce qualified clean hydrogen which is described in subparagraph (D)  
10 of such section, 6 percent.

11 “(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section  
12 45V or section 45Q for any taxable year with respect to any specified clean hydrogen  
13 production facility or any carbon capture equipment included at such facility.

14 “(C) SPECIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—For purposes of this  
15 paragraph, the term ‘specified clean hydrogen production facility’ means any qualified  
16 clean hydrogen production facility (as defined in section 45V(c)(3))—

17 “(i) which is placed in service after December 31, 2022,

18 “(ii) with respect to which—

19 “(I) no credit has been allowed under section 45V or 45Q, and

20 “(II) the taxpayer makes an irrevocable election to have this paragraph  
21 apply, and

22 “(iii) for which an unrelated third party has verified (in such form or manner as  
23 the Secretary may prescribe) that such facility produces hydrogen through a  
24 process which results in lifecycle greenhouse gas emissions which are consistent  
25 with the hydrogen that such facility was designed and expected to produce under  
26 subparagraph (A)(ii).

27 “(D) QUALIFIED CLEAN HYDROGEN.—For purposes of this paragraph, the term  
28 ‘qualified clean hydrogen’ has the meaning given such term by section 45V(c)(2).

29 “(E) REGULATIONS.—The Secretary shall issue such regulations or other guidance  
30 as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this  
31 section, including regulations or other guidance which recaptures so much of any  
32 credit allowed under this section as exceeds the amount of the credit which would have  
33 been allowed if the expected production were consistent with the actual verified  
34 production (or all of the credit so allowed in the absence of such verification).”.

35 (2) CONFORMING AMENDMENT.—Paragraph (9)(A)(i) of section 48(a), as added by  
36 section 13102, is amended by inserting “and paragraph (15)” after “paragraphs (1) through  
37 (8)”.

38 (3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property  
39 placed in service after December 31, 2022, and, for any property the construction of which  
40 begins prior to January 1, 2023, only to the extent of the basis thereof attributable to the

1 construction, reconstruction, or erection after December 31, 2022.

2 (d) Termination of Excise Tax Credit for Hydrogen.—

3 (1) IN GENERAL.—Section 6426(d)(2) is amended by striking subparagraph (D) and by  
4 redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F),  
5 respectively.

6 (2) CONFORMING AMENDMENT.—Section 6426(e)(2) is amended by striking “(F)” and  
7 inserting “(E)”.

8 (3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to fuel sold  
9 or used after December 31, 2022.

## 10 PART 3—CLEAN ENERGY AND EFFICIENCY 11 INCENTIVES FOR INDIVIDUALS

### 12 SEC. 13301. EXTENSION, INCREASE, AND 13 MODIFICATIONS OF NONBUSINESS ENERGY 14 PROPERTY CREDIT.

15 (a) Extension of Credit.—Section 25C(g)(2) is amended by striking “December 31, 2021” and  
16 inserting “December 31, 2032”.

17 (b) Allowance of Credit.—Section 25C(a) is amended to read as follows:

18 “(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit  
19 against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the  
20 sum of—

21 “(1) the amount paid or incurred by the taxpayer for qualified energy efficiency  
22 improvements installed during such taxable year, and

23 “(2) the amount of the residential energy property expenditures paid or incurred by the  
24 taxpayer during such taxable year.”.

25 (c) Application of Annual Limitation in Lieu of Lifetime Limitation.—Section 25C(b) is  
26 amended to read as follows:

27 “(b) Limitations.—

28 “(1) IN GENERAL.—The credit allowed under this section with respect to any taxpayer for  
29 any taxable year shall not exceed \$1,200.

30 “(2) ENERGY PROPERTY.—The credit allowed under this section by reason of subsection  
31 (a)(2) with respect to any taxpayer for any taxable year shall not exceed, with respect to any  
32 item of qualified energy property, \$600.

33 “(3) WINDOWS.—The credit allowed under this section by reason of subsection (a)(1)  
34 with respect to any taxpayer for any taxable year shall not exceed, in the aggregate with  
35 respect to all exterior windows and skylights, \$600.

36 “(4) DOORS.—The credit allowed under this section by reason of subsection (a)(1) with  
37 respect to any taxpayer for any taxable year shall not exceed—

1 “(A) \$250 in the case of any exterior door, and

2 “(B) \$500 in the aggregate with respect to all exterior doors.

3 “(5) HEAT PUMP AND HEAT PUMP WATER HEATERS; BIOMASS STOVES AND BOILERS.—  
4 Notwithstanding paragraphs (1) and (2), the credit allowed under this section by reason of  
5 subsection (a)(2) with respect to any taxpayer for any taxable year shall not, in the  
6 aggregate, exceed \$2,000 with respect to amounts paid or incurred for property described in  
7 clauses (i) and (ii) of subsection (d)(2)(A) and in subsection (d)(2)(B).”.

8 (d) Modifications Related to Qualified Energy Efficiency Improvements.—

9 (1) STANDARDS FOR ENERGY EFFICIENT BUILDING ENVELOPE COMPONENTS.—Section  
10 25C(c)(2) is amended by striking “meets—” and all that follows through the period at the  
11 end and inserting the following: “meets—

12 “(A) in the case of an exterior window or skylight, Energy Star most efficient  
13 certification requirements,

14 “(B) in the case of an exterior door, applicable Energy Star requirements, and

15 “(C) in the case of any other component, the prescriptive criteria for such component  
16 established by the most recent International Energy Conservation Code standard in  
17 effect as of the beginning of the calendar year which is 2 years prior to the calendar  
18 year in which such component is placed in service.”.

19 (2) ROOFS NOT TREATED AS BUILDING ENVELOPE COMPONENTS.—Section 25C(c)(3) is  
20 amended by adding “and” at the end of subparagraph (B), by striking “, and” at the end of  
21 subparagraph (C) and inserting a period, and by striking subparagraph (D).

22 (3) AIR SEALING INSULATION ADDED TO DEFINITION OF BUILDING ENVELOPE  
23 COMPONENT.—Section 25C(c)(3)(A) is amended by inserting “, including air sealing  
24 material or system,” after “material or system”.

25 (e) Modification of Residential Energy Property Expenditures.—Section 25C(d) is amended to  
26 read as follows:

27 “(d) Residential Energy Property Expenditures.—For purposes of this section—

28 “(1) IN GENERAL.—The term ‘residential energy property expenditures’ means  
29 expenditures made by the taxpayer for qualified energy property which is—

30 “(A) installed on or in connection with a dwelling unit located in the United States  
31 and used as a residence by the taxpayer, and

32 “(B) originally placed in service by the taxpayer.

33 Such term includes expenditures for labor costs properly allocable to the onsite preparation,  
34 assembly, or original installation of the property.

35 “(2) QUALIFIED ENERGY PROPERTY.—The term ‘qualified energy property’ means any of  
36 the following:

37 “(A) Any of the following which meet or exceed the highest efficiency tier (not  
38 including any advanced tier) established by the Consortium for Energy Efficiency  
39 which is in effect as of the beginning of the calendar year in which the property is

1 placed in service:

2 “(i) An electric or natural gas heat pump water heater.

3 “(ii) An electric or natural gas heat pump.

4 “(iii) A central air conditioner.

5 “(iv) A natural gas, propane, or oil water heater.

6 “(v) A natural gas, propane, or oil furnace or hot water boiler.

7 “(B) A biomass stove or boiler which—

8 “(i) uses the burning of biomass fuel to heat a dwelling unit located in the  
9 United States and used as a residence by the taxpayer, or to heat water for use in  
10 such a dwelling unit, and

11 “(ii) has a thermal efficiency rating of at least 75 percent (measured by the  
12 higher heating value of the fuel).

13 “(C) Any oil furnace or hot water boiler which—

14 “(i) is placed in service after December 31, 2022, and before January 1, 2027,  
15 and—

16 “(I) meets or exceeds 2021 Energy Star efficiency criteria, and

17 “(II) is rated by the manufacturer for use with fuel blends at least 20  
18 percent of the volume of which consists of an eligible fuel, or

19 “(ii) is placed in service after December 31, 2026, and—

20 “(I) achieves an annual fuel utilization efficiency rate of not less than 90,  
21 and

22 “(II) is rated by the manufacturer for use with ~~eligible fuel blends of 50-~~  
23 ~~percent or more.~~ **fuel blends at least 50 percent of the volume of which**  
24 **consists of an eligible fuel.**

25 “(D) Any improvement to, or replacement of, a panelboard, sub-panelboard, branch  
26 circuits, or feeders which—

27 “(i) is installed in a manner consistent with the National Electric Code,

28 “(ii) has a load capacity of not less than 200 amps,

29 “(iii) is installed in conjunction with—

30 “(I) any qualified energy efficiency improvements, or

31 “(II) any qualified energy property described in subparagraphs (A)  
32 through (C) for which a credit is allowed under this section for expenditures  
33 with respect to such property, and

34 “(iv) enables the installation and use of any property described in subclause (I)  
35 or (II) of clause (iii).

36 “(3) ELIGIBLE FUEL.—For purposes of paragraph (2), the term ‘eligible fuel’ means—

1 “(A) biodiesel and renewable diesel (within the meaning of section 40A), and  
2 “(B) second generation biofuel (within the meaning of section 40).”.

3 (f) Home Energy Audits.—

4 (1) IN GENERAL.—Section 25C(a), as amended by subsection (b), is amended by striking  
5 “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and  
6 inserting “, and”, and by adding at the end the following new paragraph:

7 “(3) the amount paid or incurred by the taxpayer during the taxable year for home energy  
8 audits.”.

9 (2) LIMITATION.—Section 25C(b), as amended by subsection (c), is amended adding at  
10 the end the following new paragraph:

11 “(6) HOME ENERGY AUDITS.—

12 “(A) DOLLAR LIMITATION.—The amount of the credit allowed under this section by  
13 reason of subsection (a)(3) shall not exceed \$150.

14 “(B) SUBSTANTIATION REQUIREMENT.—No credit shall be allowed under this  
15 section by reason of subsection (a)(3) unless the taxpayer includes with the taxpayer’s  
16 return of tax such information or documentation as the Secretary may require.”.

17 (3) HOME ENERGY AUDITS.—

18 (A) IN GENERAL.—Section 25C is amended by redesignating subsections (e), (f),  
19 and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection  
20 (d) the following new subsection:

21 “(e) Home Energy Audits.—For purposes of this section, the term ‘home energy audit’ means  
22 an inspection and written report with respect to a dwelling unit located in the United States and  
23 owned or used by the taxpayer as the taxpayer’s principal residence (within the meaning of  
24 section 121) which—

25 “(1) identifies the most significant and cost-effective energy efficiency improvements  
26 with respect to such dwelling unit, including an estimate of the energy and cost savings with  
27 respect to each such improvement, and

28 “(2) is conducted and prepared by a home energy auditor that meets the certification or  
29 other requirements specified by the Secretary in regulations or other guidance (as prescribed  
30 by the Secretary not later than 365 days after the date of the enactment of this subsection).”.

31 (B) CONFORMING AMENDMENT.—Section 1016(a)(33) is amended by striking  
32 “section 25C(f)” and inserting “section 25C(g)”.

33 (4) LACK OF SUBSTANTIATION TREATED AS MATHEMATICAL OR CLERICAL ERROR.—  
34 Section 6213(g)(2) is amended—

35 (A) in subparagraph (P), by striking “and” at the end,

36 (B) in subparagraph (Q), by striking the period at the end and inserting “, and”, and

37 (C) by inserting after subparagraph (Q) the following:

38 “(R) an omission of information or documentation required under section 25C(b)(6)

1 (B) (relating to home energy audits) to be included on a return.”.

2 (g) Identification Number Requirement.—

3 (1) IN GENERAL.—Section 25C, as amended by this section, is amended by redesignating  
4 subsection (h) as subsection (i) and by inserting after subsection (g) the following new  
5 subsection:

6 “(h) Product Identification Number Requirement.—

7 “(1) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to any  
8 item of specified property placed in service after December 31, 2024, unless—

9 “(A) such item is produced by a qualified manufacturer, and

10 “(B) the taxpayer includes the qualified product identification number of such item  
11 on the return of tax for the taxable year.

12 “(2) QUALIFIED PRODUCT IDENTIFICATION NUMBER.—For purposes of this section, the  
13 term ‘qualified product identification number’ means, with respect to any item of specified  
14 property, the product identification number assigned to such item by the qualified  
15 manufacturer pursuant to the methodology referred to in paragraph (3).

16 “(3) QUALIFIED MANUFACTURER.—For purposes of this section, the term ‘qualified  
17 manufacturer’ means any manufacturer of specified property which enters into an  
18 agreement with the Secretary which provides that such manufacturer will—

19 “(A) assign a product identification number to each item of specified property  
20 produced by such manufacturer utilizing a methodology that will ensure that such  
21 number (including any alphanumeric) is unique to each such item (by utilizing  
22 numbers or letters which are unique to such manufacturer or by such other method as  
23 the Secretary may provide),

24 “(B) label such item with such number in such manner as the Secretary may provide,  
25 and

26 “(C) make periodic written reports to the Secretary (at such times and in such  
27 manner as the Secretary may provide) of the product identification numbers so  
28 assigned and including such information as the Secretary may require with respect to  
29 the item of specified property to which such number was so assigned.

30 “(4) SPECIFIED PROPERTY.—For purposes of this subsection, the term ‘specified property’  
31 means any qualified energy property and any property described in subparagraph (B) or (C)  
32 of subsection (c)(3).”.

33 (2) OMISSION OF CORRECT PRODUCT IDENTIFICATION NUMBER TREATED AS  
34 MATHEMATICAL OR CLERICAL ERROR.—Section 6213(g)(2), as amended by the preceding  
35 provisions of this Act, is amended—

36 (A) in subparagraph (Q), by striking “and” at the end,

37 (B) in subparagraph (R), by striking the period at the end and inserting “, and”, and

38 (C) by inserting after subparagraph (R) the following:

39 “(S) an omission of a correct product identification number required under section

1 25C(h) (relating to credit for nonbusiness energy property) to be included on a return.”.

2 (h) Energy Efficient Home Improvement Credit.—

3 (1) IN GENERAL.—The heading for section 25C is amended by striking “nonbusiness  
4 energy property” and inserting “energy efficient home improvement credit”.

5 (2) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter  
6 A of chapter 1 is amended by striking the item relating to section 25C and inserting after the  
7 item relating to section 25B the following item:

8 “Sec.25C.Energy efficient home improvement credit.”.

9 (i) Effective Dates.—

10 (1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments  
11 made by this section shall apply to property placed in service after December 31, 2022.

12 (2) EXTENSION OF CREDIT.—The amendments made by subsection (a) shall apply to  
13 property placed in service after December 31, 2021.

14 (3) IDENTIFICATION NUMBER REQUIREMENT.—The amendments made by subsection (g)  
15 shall apply to property placed in service after December 31, 2024.

## 16 SEC. 13302. RESIDENTIAL CLEAN ENERGY CREDIT.

17 (a) Extension of Credit.—

18 (1) IN GENERAL.—Section 25D(h) is amended by striking “December 31, 2023” and  
19 inserting “December 31, 2034”.

20 (2) APPLICATION OF PHASEOUT.—Section 25D(g) is amended—

21 (A) in paragraph (2), by striking “before January 1, 2023, 26 percent, and” and  
22 inserting “before January 1, 2022, 26 percent,” and

23 (B) by striking paragraph (3) and by inserting after paragraph (2) the following new  
24 paragraphs:

25 “(3) in the case of property placed in service after December 31, 2021, and before  
26 January 1, 2033, 30 percent,

27 “(4) in the case of property placed in service after December 31, 2032, and before  
28 January 1, 2034, 26 percent, and

29 “(5) in the case of property placed in service after December 31, 2033, and before  
30 January 1, 2035, 22 percent.”.

31 (b) Residential Clean Energy Credit for Battery Storage Technology; Certain Expenditures  
32 Disallowed.—

33 (1) ALLOWANCE OF CREDIT.—Paragraph (6) of section 25D(a) is amended to read as  
34 follows:

35 “(6) the qualified battery storage technology expenditures,”.

36 (2) DEFINITION OF QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.—  
37 Paragraph (6) of section 25D(d) is amended to read as follows:



1 “(6) QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.—The term ‘qualified  
2 battery storage technology expenditure’ means an expenditure for battery storage  
3 technology which—

4 “(A) is installed in connection with a dwelling unit located in the United States and  
5 used as a residence by the taxpayer, and

6 “(B) has a capacity of not less than 3 kilowatt hours.”.

7 (c) Conforming Amendments.—

8 (1) Section 25D(d)(3) is amended by inserting “, without regard to subparagraph (D)  
9 thereof” after “section 48(c)(1)”.

10 (2) The heading for section 25D is amended by striking “energy efficient property” and  
11 inserting “clean energy credit”.

12 (2)(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is  
13 amended by striking the item relating to section 25D and inserting the following:

14 “Sec.25D.Residential clean energy credit.”.

15 (d) Effective Dates.—

16 (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this  
17 section shall apply to expenditures made after December 31, 2021.

18 (2) RESIDENTIAL CLEAN ENERGY CREDIT FOR BATTERY STORAGE TECHNOLOGY; CERTAIN  
19 EXPENDITURES DISALLOWED.—The amendments made by subsection (b) shall apply to  
20 expenditures made after December 31, 2022.

## 21 SEC. 13303. ENERGY EFFICIENT COMMERCIAL 22 BUILDINGS DEDUCTION.

23 (a) In General.—

24 (1) MAXIMUM AMOUNT OF DEDUCTION.—Subsection (b) of section 179D is amended to  
25 read as follows:

26 “(b) Maximum Amount of Deduction.—

27 “(1) IN GENERAL.—The deduction under subsection (a) with respect to any building for  
28 any taxable year shall not exceed the excess (if any) of—

29 “(A) the product of—

30 “(i) the applicable dollar value, and

31 “(ii) the square footage of the building, over

32 “(B) the aggregate amount of the deductions under subsections (a) and (f) with  
33 respect to the building for the 3 taxable years immediately preceding such taxable year  
34 (or, in the case of any such deduction allowable to a person other than the taxpayer, for  
35 any taxable year ending during the 4-taxable-year period ending with such taxable  
36 year).

37 “(2) APPLICABLE DOLLAR VALUE.—For purposes of paragraph (1)(A)(i), the applicable

1 dollar value shall be an amount equal to \$0.50 increased (but not above \$1.00) by \$0.02 for  
2 each percentage point by which the total annual energy and power costs for the building are  
3 certified to be reduced by a percentage greater than 25 percent.

4 “(3) INCREASED **CREDIT DEDUCTION** AMOUNT FOR CERTAIN PROPERTY.—

5 “(A) IN GENERAL.—In the case of any property which satisfies the requirements of  
6 subparagraph (B), paragraph (2) shall be applied by substituting ‘\$2.50’ for ‘\$0.50’,  
7 ‘\$.10’ for ‘\$.02’, and ‘\$5.00’ for ‘\$1.00’.

8 “(B) PROPERTY REQUIREMENTS.—In the case of any energy efficient commercial  
9 building property, energy efficient building retrofit property, or property installed  
10 pursuant to a qualified retrofit plan, such property shall meet the requirements of this  
11 subparagraph if —

12 “(i) installation of such property begins prior to the date that is 60 days after the  
13 Secretary publishes guidance with respect to the requirements of paragraphs (4)  
14 (A) and (5), or

15 “(ii) installation of such property satisfies the requirements of paragraphs (4)  
16 (A) and (5).

17 “(4) PREVAILING WAGE REQUIREMENTS.—

18 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
19 any property are that the taxpayer shall ensure that any laborers and mechanics  
20 employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or**  
21 **subcontractor** in the installation of any property shall be paid wages at rates not less  
22 than the prevailing rates for construction, alteration, or repair of a similar character in  
23 the locality in which such property is located as most recently determined by the  
24 Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United  
25 States Code.

26 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
27 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

28 “(5) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
29 shall ~~apply.~~”

30 **apply.**

31 **“(6) REGULATIONS.—The Secretary shall issue such regulations or other guidance as**  
32 **the Secretary determines necessary to carry out the purposes of this subsection,**  
33 **including regulations or other guidance which provides for requirements for**  
34 **recordkeeping or information reporting for purposes of administering the**  
35 **requirements of this subsection.”.**

36 (2) MODIFICATION OF EFFICIENCY STANDARD.—Section 179D(c)(1)(D) is amended by  
37 striking “50 percent” and inserting “25 percent”.

38 (3) REFERENCE STANDARD.—Section 179D(c)(2) is amended by striking “the most  
39 recent” and inserting the following: “the more recent of—

40 “(A) Standard 90.1-2007 published by the American Society of Heating,

1 Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering  
2 Society of North America, or

3 “(B) the most recent”.

4 (4) FINAL DETERMINATION; EXTENSION OF PERIOD; PLACED IN SERVICE DEADLINE.—  
5 Subparagraph (B) of section 179D(c)(2), as amended by paragraph (3), is amended—

6 (A) by inserting “for which the Department of Energy has issued a final  
7 determination and” before “which has been affirmed”,

8 (B) by striking “2 years” and inserting “4 years”, and

9 (C) by striking “that construction of such property begins” and inserting “such  
10 property is placed in service”.

11 (5) ELIMINATION OF PARTIAL ALLOWANCE.—

12 (A) IN GENERAL.—Section 179D(d) is amended—

13 (i) by striking paragraph (1), and

14 (ii) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5),  
15 respectively.

16 (B) CONFORMING AMENDMENTS.—

17 (i) Section 179D(c)(1)(D) is amended—

18 (I) by striking “subsection (d)(6)” and inserting “subsection (d)(5)”, and

19 (II) by striking “subsection (d)(2)” and inserting “subsection (d)(1)”.

20 (ii) Paragraph (2)(A) of section 179D(d), as redesignated by subparagraph (A),  
21 is amended by striking “paragraph (2)” and inserting “paragraph (1)”.

22 (iii) Paragraph (4) of section 179D(d), as redesignated by subparagraph (A), is  
23 amended by striking “paragraph (3)(B)(iii)” and inserting “paragraph (2)(B)(iii)”.

24 (iv) Section 179D is amended by striking subsection (f).

25 (v) Section 179D(h) is amended by striking “or (d)(1)(A)”.

26 (6) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—Paragraph (3) of  
27 section 179D(d), as redesignated by paragraph (5)(A), is amended to read as follows:

28 “(3) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—

29 “(A) IN GENERAL.—In the case of energy efficient commercial building property  
30 installed on or in property owned by a specified tax-exempt entity, the Secretary shall  
31 promulgate regulations or guidance to allow the allocation of the deduction to the  
32 person primarily responsible for designing the property in lieu of the owner of such  
33 property. Such person shall be treated as the taxpayer for purposes of this section.

34 “(B) SPECIFIED TAX-EXEMPT ENTITY.—For purposes of this paragraph, the term  
35 ‘specified tax-exempt entity’ means—

36 “(i) the United States, any State or local government (or political subdivision  
37 thereof), any possession of the United States, or any agency or instrumentality of

1 any of the foregoing,

2 “(ii) an Indian tribal government (as defined in section 30D(g)(9)) or Alaska  
3 Native Corporation (as defined in section 3 of the Alaska Native Claims  
4 Settlement Act (43 U.S.C. 1602(m)), and

5 “(iii) any organization exempt from tax imposed by this chapter.”.

6 (7) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT BUILDING RETROFIT PROPERTY.—  
7 Section 179D, as amended by the preceding provisions of this section, is amended by  
8 inserting after subsection (e) the following new subsection:

9 “(f) Alternative Deduction for Energy Efficient Building Retrofit Property.—

10 “(1) IN GENERAL.—In the case of a taxpayer which elects (at such time and in such  
11 manner as the Secretary may provide) the application of this subsection with respect to any  
12 qualified building, there shall be allowed as a deduction for the taxable year which includes  
13 the date of the qualifying final certification with respect to the qualified retrofit plan of such  
14 building, an amount equal to the lesser of—

15 “(A) the excess described in subsection (b) (determined by substituting ‘energy use  
16 intensity’ for ‘total annual energy and power costs’ in paragraph (2) thereof), or

17 “(B) the aggregate adjusted basis (determined after taking into account all  
18 adjustments with respect to such taxable year other than the reduction under subsection  
19 (e)) of energy efficient building retrofit property placed in service by the taxpayer  
20 pursuant to such qualified retrofit plan.

21 “(2) QUALIFIED RETROFIT PLAN.—For purposes of this subsection, the term ‘qualified  
22 retrofit plan’ means a written plan prepared by a qualified professional which specifies  
23 modifications to a building which, in the aggregate, are expected to reduce such building’s  
24 energy use intensity by 25 percent or more in comparison to the baseline energy use  
25 intensity of such building. Such plan shall provide for a qualified professional to—

26 “(A) as of any date during the 1-year period ending on the date on which the  
27 property installed pursuant to such plan is placed in service, certify the energy use  
28 intensity of such building as of such date,

29 “(B) certify the status of property installed pursuant to such plan as meeting the  
30 requirements of subparagraphs (B) and (C) of paragraph (3), and

31 “(C) as of any date that is more than 1 year after the date on which the property  
32 installed pursuant to such plan is placed in service, certify the energy use intensity of  
33 such building as of such date.

34 “(3) ENERGY EFFICIENT BUILDING RETROFIT PROPERTY.—For purposes of this subsection,  
35 the term ‘energy efficient building retrofit property’ means property—

36 “(A) with respect to which depreciation (or amortization in lieu of depreciation) is  
37 allowable,

38 “(B) which is installed on or in any qualified building,

39 “(C) which is installed as part of—

40 “(i) the interior lighting systems,

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1 “(ii) the heating, cooling, ventilation, and hot water systems, or

2 “(iii) the building envelope, and

3 “(D) which is certified in accordance with paragraph (2)(B) as meeting the  
4 requirements of subparagraphs (B) and (C).

5 “(4) QUALIFIED BUILDING.—For purposes of this subsection, the term ‘qualified building’  
6 means any building which—

7 “(A) is located in the United States, and

8 “(B) was originally placed in service not less than 5 years before the establishment  
9 of the qualified retrofit plan with respect to such building.

10 “(5) QUALIFYING FINAL CERTIFICATION.—For purposes of this subsection, the term  
11 ‘qualifying final certification’ means, with respect to any qualified retrofit plan, the  
12 certification described in paragraph (2)(C) if the energy use intensity certified in such  
13 certification is not more than 75 percent of the baseline energy use intensity of the building.

14 “(6) BASELINE ENERGY USE INTENSITY.—

15 “(A) IN GENERAL.—For purposes of this subsection, the term ‘baseline energy use  
16 intensity’ means the energy use intensity certified under paragraph (2)(A), as adjusted  
17 to take into account weather.

18 “(B) DETERMINATION OF ADJUSTMENT.—For purposes of subparagraph (A), the  
19 adjustments described in such subparagraph shall be determined in such manner as the  
20 Secretary may provide.

21 “(7) OTHER DEFINITIONS.—For purposes of this subsection—

22 “(A) ENERGY USE INTENSITY.—The term ‘energy use intensity’ means the  
23 annualized, measured site energy use intensity determined in accordance with such  
24 regulations or other guidance as the Secretary may provide and measured in British  
25 thermal units.

26 “(B) QUALIFIED PROFESSIONAL.—The term ‘qualified professional’ means an  
27 individual who is a licensed architect or a licensed engineer and meets such other  
28 requirements as the Secretary may provide.

29 “(8) COORDINATION WITH DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A).—

30 “(A) IN GENERAL.—In the case of any building with respect to which an election is  
31 made under paragraph (1), the term ‘energy efficient commercial building property’  
32 shall not include any energy efficient building retrofit property with respect to which a  
33 deduction is allowable under this subsection.

34 “(B) CERTAIN RULES NOT APPLICABLE.—

35 “(i) IN GENERAL.—Except as provided in clause (ii), subsection (d) shall not  
36 apply for purposes of this subsection.

37 “(ii) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—Rules  
38 similar to subsection (d)(3) shall apply for purposes of this subsection.”.

39 (8) INFLATION ADJUSTMENT.—Section 179D(g) is amended—

- 1 (A) by striking “2020” and inserting “2022”,  
2 (B) by striking “or subsection (d)(1)(A)”, and  
3 (C) by striking “2019” and inserting “2021”.

4 (b) Application to Real Estate Investment Trust Earnings and Profits.—Section 312(k)(3)(B) is  
5 amended—

6 (1) by striking “For purposes of computing the earnings and profits of a corporation” and  
7 inserting the following:

8 “(i) IN GENERAL.—For purposes of computing the earnings and profits of a  
9 corporation, except as provided in clause (ii)”, and

10 (2) by adding at the end the following new clause:

11 “(ii) SPECIAL RULE.—In the case of a corporation that is a real estate  
12 investment trust, any amount deductible under section 179D shall be allowed in  
13 the year in which the property giving rise to such deduction is placed in service  
14 (or, in the case of energy efficient building retrofit property, the year in which the  
15 qualifying final certification is made).”.

16 (c) Conforming Amendment.—Paragraph (1) of section 179D(d), as redesignated by  
17 subsection (a)(5)(A), is amended by striking “not later than the date that is 2 years before the  
18 date that construction of such property begins” and inserting “not later than the date that is 4  
19 years before the date such property is placed in service”.

20 (d) Effective Date.—

21 (1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made  
22 by this section shall apply to taxable years beginning after December 31, 2022.

23 (2) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT BUILDING RETROFIT PROPERTY.—  
24 Subsection (f) of section 179D of the Internal Revenue Code of 1986 (as amended by this  
25 section), and any other provision of such section solely for purposes of applying such  
26 subsection, shall apply to property placed in service after December 31, 2022 (in taxable  
27 years ending after such date) if such property is placed in service pursuant to qualified  
28 retrofit plan (within the meaning of such section) established after such date.

29 **SEC. 13304. EXTENSION, INCREASE, AND**  
30 **MODIFICATIONS OF NEW ENERGY EFFICIENT HOME**  
31 **CREDIT.**

32 (a) Extension of Credit.—Section 45L(g) is amended by striking “December 31, 2021” and  
33 inserting “December 31, 2032”.

34 (b) Increase in Credit **Amounts.—Section 45L(a)(2) Amounts.—Paragraph (2) of section**  
35 **45L(a)** is amended to read as follows:

36 “(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an  
37 amount equal to—

38 “(A) in the case of a dwelling unit which is eligible to participate in the Energy Star

1 Residential New Construction Program or the Energy Star Manufactured New Homes  
2 program—

3 “(i) which meets the requirements of subsection (c)(1)(A) (and which does not  
4 meet the requirements of subsection (c)(1)(B)), \$2,500, and

5 “(ii) which meets the requirements of subsection (c)(1)(B), \$5,000, and

6 “(B) in the case of a dwelling unit which is part of a building eligible to participate  
7 in the Energy Star Multifamily New Construction Program—

8 “(i) which meets the requirements of subsection (c)(1)(A) (and which does not  
9 meet the requirements of subsection (c)(1)(B)), \$500, and

10 “(ii) which meets the requirements of subsection (c)(1)(B), \$1,000.”.

11 (c) Modification of Energy Saving Requirements.—Section 45L(c) is amended to read as  
12 follows:

13 “(c) Energy Saving Requirements.—

14 “(1) IN GENERAL.—

15 “(A) IN GENERAL.—A dwelling unit meets the requirements of this subparagraph if  
16 such dwelling unit meets the requirements of paragraph (2) or (3) (whichever is  
17 applicable).

18 “(B) ZERO ENERGY READY HOME PROGRAM.—A dwelling unit meets the  
19 requirements of this subparagraph if such dwelling unit is certified as a zero energy  
20 ready home under the zero energy ready home program of the Department of Energy  
21 as in effect on January 1, 2023 (or any successor program determined by the  
22 Secretary).

23 “(2) SINGLE-FAMILY HOME REQUIREMENTS.—A dwelling unit meets the requirements of  
24 this paragraph if—

25 “(A) such dwelling unit meets—

26 “(i)(I) in the case of a dwelling unit acquired before January 1, 2025, the  
27 Energy Star Single-Family New Homes National Program Requirements 3.1, or

28 “(II) in the case of a dwelling unit acquired after December 31, 2024, the  
29 Energy Star Single-Family New Homes National Program Requirements 3.2, and

30 “(ii) the most recent Energy Star Single-Family New Homes Program  
31 Requirements applicable to the location of such dwelling unit (as in effect on the  
32 latter of January 1, 2023, or January 1 of two calendar years prior to the date the  
33 dwelling unit was acquired), or

34 “(B) such dwelling unit meets the most recent Energy Star Manufactured Home  
35 National program requirements as in effect on the latter of January 1, 2023, or January  
36 1 of two calendar years prior to the date such dwelling unit is acquired.

37 “(3) MULTI-FAMILY HOME REQUIREMENTS.—A dwelling unit meets the requirements of  
38 this paragraph if—

39 “(A) such dwelling unit meets the most recent Energy Star Multifamily New

1 Construction National Program Requirements (as in effect on either January 1, 2023,  
2 or January 1 of three calendar years prior to the date the dwelling was acquired,  
3 whichever is later), and

4 “(B) such dwelling unit meets the most recent Energy Star Multifamily New  
5 Construction Regional Program Requirements applicable to the location of such  
6 dwelling unit (as in effect on either January 1, 2023, or January 1 of three calendar  
7 years prior to the date the dwelling was acquired, whichever is later).”.

8 (d) Prevailing Wage Requirement.—Section 45L is amended by redesignating subsection (g)  
9 as subsection (h) and by inserting after subsection (f) the following new subsection:

10 “(g) Prevailing Wage Requirement.—

11 “(1) IN GENERAL.—In the case of a qualifying residence described in subsection ~~(b)(2)(B)~~  
12 **(a)(2)(B)** meeting the prevailing wage requirements of paragraph (2)(A), the credit amount  
13 allowed with respect to such residence shall be—

14 “(A) \$2,500 in the case of a residence which meets the requirements of  
15 subparagraph (A) of subsection (c)(1) (and which does not meet the requirements of  
16 subparagraph (B) of such subsection), and

17 “(B) \$5,000 in the case of a residence which meets the requirements of subsection  
18 (c)(1)(B).

19 “(2) PREVAILING WAGE REQUIREMENTS.—

20 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
21 any qualified residence are that the taxpayer shall ensure that any laborers and  
22 mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any**  
23 **contractor or subcontractor** in the construction of such residence shall be paid wages  
24 at rates not less than the prevailing rates for construction, alteration, or repair of a  
25 similar character in the locality in which such residence is located as most recently  
26 determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31  
27 of title 40, United States Code.

28 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
29 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

30 “(3) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
31 guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of  
32 this subsection, including regulations or other guidance which provides for requirements for  
33 recordkeeping or information reporting for purposes of administering the requirements of  
34 this subsection.”.

35 (e) Basis Adjustment.—Section 45L(e) is amended by inserting after the first sentence the  
36 following: “This subsection shall not apply for purposes of determining the adjusted basis of any  
37 building under section 42.”.

38 (f) Effective Dates.—

39 (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this  
40 section shall apply to dwelling units acquired after December 31, 2022.



1 (2) EXTENSION OF CREDIT.—The amendments made by subsection (a) shall apply to  
2 dwelling units acquired after December 31, 2021.

### 3 PART 4—CLEAN VEHICLES

#### 4 SEC. 13401. CLEAN VEHICLE CREDIT.

5 (a) Per Vehicle Dollar Limitation.—Section 30D(b) is amended by striking paragraphs (2) and  
6 (3) and inserting the following:

7 “(2) CRITICAL MINERALS.—In the case of a vehicle with respect to which the requirement  
8 described in subsection (e)(1)(A) is satisfied, the amount determined under this paragraph is  
9 \$3,750.

10 “(3) BATTERY COMPONENTS.—In the case of a vehicle with respect to which the  
11 requirement described in subsection (e)(2)(A) is satisfied, the amount determined under this  
12 paragraph is \$3,750.”.

13 (b) Final Assembly.—Section 30D(d) is amended—

14 (1) in paragraph (1)—

15 (A) in subparagraph (E), by striking “and” at the end,

16 (B) in subparagraph (F)(ii), by striking the period at the end and inserting “, and”,  
17 and

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

19 “(G) the final assembly of which occurs within North America.”,

20 (2) by adding at the end the following:

21 “(5) FINAL ASSEMBLY.—For purposes of paragraph (1)(G), the term ‘final assembly’  
22 means the process by which a manufacturer produces a new clean vehicle at, or through the  
23 use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or  
24 importer with all component parts necessary for the mechanical operation of the vehicle  
25 included with the vehicle, whether or not the component parts are permanently installed in  
26 or on the vehicle.”.

27 (c) Definition of New Clean Vehicle.—

28 (1) IN GENERAL.—Section 30D(d), as amended by the preceding provisions of this  
29 section, is amended—

30 (A) in the heading, by striking “Qualified Plug-in Electric Drive Motor” and  
31 inserting “Clean”,

32 (B) in paragraph (1)—

33 (i) in the matter preceding subparagraph (A), by striking “qualified plug-in  
34 electric drive motor” and inserting “clean”,

35 (ii) in subparagraph (C), by inserting “qualified” before “manufacturer”,

36 (iii) in subparagraph (F)—

1 (I) in clause (i), by striking “4” and inserting “7”, and  
2 (II) in clause (ii), by striking “and” at the end,  
3 (iv) in subparagraph (G), by striking the period at the end and inserting “, and”,  
4 and

5 (v) by adding at the end the following:

6 “(H) for which the person who sells any vehicle to the taxpayer furnishes a report to  
7 the taxpayer and to the Secretary, at such time and in such manner as the Secretary  
8 shall provide, containing—

9 “(i) the name and taxpayer identification number of the taxpayer,

10 “(ii) the vehicle identification number of the vehicle, unless, in accordance with  
11 any applicable rules promulgated by the Secretary of Transportation, the vehicle  
12 is not assigned such a number,

13 “(iii) the battery capacity of the vehicle,

14 “(iv) verification that original use of the vehicle commences with the taxpayer,  
15 and

16 “(v) the maximum credit under this section allowable to the taxpayer with  
17 respect to the vehicle.”,

18 (C) in paragraph (3)—

19 (i) in the heading, by striking “MANUFACTURER” and inserting “QUALIFIED  
20 MANUFACTURER”,

21 (ii) by striking “The term ‘manufacturer’ has the meaning given such term in”  
22 and inserting “The term ‘qualified manufacturer’ means any manufacturer (within  
23 the meaning of the”, and

24 (iii) by inserting “) which enters into a written agreement with the Secretary  
25 under which such manufacturer agrees to make periodic written reports to the  
26 Secretary (at such times and in such manner as the Secretary may provide)  
27 providing vehicle identification numbers and such other information related to  
28 each vehicle manufactured by such manufacturer as the Secretary may require”  
29 before the period at the end, and

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

31 “(6) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this section, the term  
32 ‘new clean vehicle’ shall include any new qualified fuel cell motor vehicle (as defined in  
33 section 30B(b)(3)) which meets the requirements under subparagraphs (G) and (H) of  
34 paragraph (1).”.

35 (2) CONFORMING AMENDMENTS.—Section 30D is amended—

36 (A) in subsection (a), by striking “new qualified plug-in electric drive motor  
37 vehicle” and inserting “new clean vehicle”, and

38 (B) in subsection (b)(1), by striking “new qualified plug-in electric drive motor  
39 vehicle” and inserting “new clean vehicle”.

1 (d) Elimination of Limitation on Number of Vehicles Eligible for Credit.—Section 30D is  
2 amended by striking subsection (e).

3 (e) Critical Mineral and Battery Component Requirements.—

4 (1) IN GENERAL.—Section 30D, as amended by the preceding provisions of this section,  
5 is amended by inserting after subsection (d) the following:

6 “(e) Critical Mineral and Battery Component Requirements.—

7 “(1) CRITICAL MINERALS REQUIREMENT.—

8 “(A) IN GENERAL.—The requirement described in this subparagraph with respect to  
9 a vehicle is that, with respect to the battery from which the electric motor of such  
10 vehicle draws electricity, the percentage of the value of the applicable critical minerals  
11 (as defined in section 45X(c)(6)) contained in such battery that were—

12 “(i) extracted or ~~processed~~ **processed—**

13 **“(I) in the United States, or**

14 **“(II) in any country with which the United States has a free trade**  
15 agreement in effect, or

16 “(ii) recycled in North America,

17 is equal to or greater than the applicable percentage (as certified by the qualified  
18 manufacturer, in such form or manner as prescribed by the Secretary).

19 “(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable  
20 percentage shall be—

21 “(i) in the case of a vehicle placed in service after the date on which the  
22 proposed guidance described in paragraph (3)(B) is issued by the Secretary and  
23 before January 1, 2024, 40 percent,

24 “(ii) in the case of a vehicle placed in service during calendar year 2024, 50  
25 percent,

26 “(iii) in the case of a vehicle placed in service during calendar year 2025, 60  
27 percent,

28 “(iv) in the case of a vehicle placed in service during calendar year 2026, 70  
29 percent, and

30 “(v) in the case of a vehicle placed in service after December 31, 2026, 80  
31 percent.

32 “(2) BATTERY COMPONENTS.—

33 “(A) IN GENERAL.—The requirement described in this subparagraph with respect to  
34 a vehicle is that, with respect to the battery from which the electric motor of such  
35 vehicle draws electricity, the percentage of the value of the components contained in  
36 such battery that were manufactured or assembled in North America is equal to or  
37 greater than the applicable percentage (as certified by the qualified manufacturer, in  
38 such form or manner as prescribed by the Secretary).

1 “(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable  
2 percentage shall be—

3 “(i) in the case of a vehicle placed in service after the date on which the  
4 proposed guidance described in paragraph (3)(B) is issued by the Secretary and  
5 before January 1, 2024, 50 percent,

6 “(ii) in the case of a vehicle placed in service during calendar year 2024 or  
7 2025, 60 percent,

8 “(iii) in the case of a vehicle placed in service during calendar year 2026, 70  
9 percent,

10 “(iv) in the case of a vehicle placed in service during calendar year 2027, 80  
11 percent,

12 “(v) in the case of a vehicle placed in service during calendar year 2028, 90  
13 percent,

14 “(vi) in the case of a vehicle placed in service after December 31, 2028, 100  
15 percent.

16 “(3) REGULATIONS AND GUIDANCE.—

17 “(A) IN GENERAL.—The Secretary shall issue such regulations or other guidance as  
18 the Secretary determines necessary or appropriate to carry out the purposes of this  
19 subsection, including regulations or other guidance which provides for requirements  
20 for recordkeeping or information reporting for purposes of administering the  
21 requirements of this subsection.

22 “(B) DEADLINE FOR PROPOSED GUIDANCE.—Not later than December 31, 2022, the  
23 Secretary shall issue proposed guidance with respect to the requirements under this  
24 subsection.”.

25 (2) EXCLUDED ENTITIES.—Section 30D(d), as amended by the preceding provisions of  
26 this section, is amended by adding at the end the following:

27 “(7) EXCLUDED ENTITIES.—For purposes of this section, the term ‘new clean vehicle’  
28 shall not include—

29 “(A) any vehicle placed in service after December 31, 2024, with respect to which  
30 any of the applicable critical minerals contained in the battery of such vehicle (as  
31 described in subsection (e)(1)(A)) were extracted, processed, or recycled by a foreign  
32 entity of concern (as defined in section 40207(a)(5) of the Infrastructure Investment  
33 and Jobs Act (42 U.S.C. 18741(a)(5))), or

34 “(B) any vehicle placed in service after December 31, 2023, with respect to which  
35 any of the components contained in the battery of such vehicle (as described in  
36 subsection (e)(2)(A)) were manufactured or assembled by a foreign entity of concern  
37 (as so defined).”.

38 (f) Special Rules.—Section 30D(f) is amended by adding at the end the following:

39 “(8) ONE CREDIT PER VEHICLE.—In the case of any vehicle, the credit described in  
40 subsection (a) shall only be allowed once with respect to such vehicle, as determined based

1 upon the vehicle identification number of such vehicle.

2 “(9) VIN REQUIREMENT.—No credit shall be allowed under this section with respect to  
3 any vehicle unless the taxpayer includes the vehicle identification number of such vehicle  
4 on the return of tax for the taxable year.

5 “(10) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

6 “(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any taxable  
7 year if—

8 “(i) the lesser of—

9 “(I) the modified adjusted gross income of the taxpayer for such taxable  
10 year, or

11 “(II) the modified adjusted gross income of the taxpayer for the preceding  
12 taxable year, exceeds

13 “(ii) the threshold amount.

14 “(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A)(ii), the threshold  
15 amount shall be—

16 “(i) in the case of a joint return or a surviving spouse (as defined in section  
17 2(a)), \$300,000,

18 “(ii) in the case of a head of household (as defined in section 2(b)), \$225,000,  
19 and

20 “(iii) in the case of a taxpayer not described in clause (i) or (ii), \$150,000.

21 “(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term  
22 ‘modified adjusted gross income’ means adjusted gross income increased by any  
23 amount excluded from gross income under section 911, 931, or 933.

24 “(11) MANUFACTURER’S SUGGESTED RETAIL PRICE LIMITATION.—

25 “(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a vehicle  
26 with a manufacturer’s suggested retail price in excess of the applicable limitation.

27 “(B) APPLICABLE LIMITATION.—For purposes of subparagraph (A), the applicable  
28 limitation for each vehicle classification is as follows:

29 “(i) VANS.—In the case of a van, \$80,000.

30 “(ii) SPORT UTILITY VEHICLES.—In the case of a sport utility vehicle, \$80,000.

31 “(iii) PICKUP TRUCKS.—In the case of a pickup truck, \$80,000.

32 “(iv) OTHER.—In the case of any other vehicle, \$55,000.

33 “(C) REGULATIONS AND GUIDANCE.—For purposes of this paragraph, the Secretary  
34 shall prescribe such regulations or other guidance as the Secretary determines  
35 necessary or appropriate for determining vehicle classifications using criteria similar to  
36 that employed by the Environmental Protection Agency and the Department of the  
37 Energy to determine size and class of vehicles.”.

1 (g) Transfer of Credit.—

2 (1) IN GENERAL.—Section 30D is amended by striking subsection (g) and inserting the  
3 following:

4 “(g) Transfer of Credit.—

5 “(1) IN GENERAL.—Subject to such regulations or other guidance as the Secretary  
6 determines necessary or appropriate, if the taxpayer who acquires a new clean vehicle elects  
7 the application of this subsection with respect to such vehicle, the credit which would (but  
8 for this subsection) be allowed to such taxpayer with respect to such vehicle shall be  
9 allowed to the eligible entity specified in such election (and not to such taxpayer).

10 “(2) ELIGIBLE ENTITY.—For purposes of this subsection, the term ‘eligible entity’ means,  
11 with respect to the vehicle for which the credit is allowed under subsection (a), the dealer  
12 which sold such vehicle to the taxpayer and has—

13 “(A) subject to paragraph (4), registered with the Secretary for purposes of this  
14 paragraph, at such time, and in such form and manner, as the Secretary may prescribe,

15 “(B) prior to the election described in paragraph (1) and not later than at the time of  
16 such sale, disclosed to the taxpayer purchasing such vehicle—

17 “(i) the manufacturer’s suggested retail price,

18 “(ii) the value of the credit allowed and any other incentive available for the  
19 purchase of such vehicle, and

20 “(iii) the amount provided by the dealer to such taxpayer as a condition of the  
21 election described in paragraph (1),

22 “(C) not later than at the time of such sale, made payment to such taxpayer (whether  
23 in cash or in the form of a partial payment or down payment for the purchase of such  
24 vehicle) in an amount equal to the credit otherwise allowable to such taxpayer, and

25 “(D) with respect to any incentive otherwise available for the purchase of a vehicle  
26 for which a credit is allowed under this section, including any incentive in the form of  
27 a rebate or discount provided by the dealer or manufacturer, ensured that—

28 “(i) the availability or use of such incentive shall not limit the ability of a  
29 taxpayer to make an election described in paragraph (1), and

30 “(ii) such election shall not limit the value or use of such incentive.

31 “(3) TIMING.—An election described in paragraph (1) shall be made by the taxpayer not  
32 later than the date on which the vehicle for which the credit is allowed under subsection (a)  
33 is purchased.

34 “(4) REVOCATION OF REGISTRATION.—Upon determination by the Secretary that a dealer  
35 has failed to comply with the requirements described in paragraph (2), the Secretary may  
36 revoke the registration (as described in subparagraph (A) of such paragraph) of such dealer.

37 “(5) TAX TREATMENT OF PAYMENTS.—With respect to any payment described in  
38 paragraph (2)(C), such payment—

39 “(A) shall not be includible in the gross income of the taxpayer, and

1 “(B) with respect to the dealer, shall not be deductible under this title.

2 “(6) APPLICATION OF CERTAIN OTHER REQUIREMENTS.—In the case of any election under  
3 paragraph (1) with respect to any vehicle—

4 “(A) the requirements of paragraphs (1) and (2) of subsection (f) shall apply to the  
5 taxpayer who acquired the vehicle in the same manner as if the credit determined under  
6 this section with respect to such vehicle were allowed to such taxpayer,

7 “(B) paragraph (6) of such subsection shall not apply, and

8 “(C) the requirement of paragraph (9) of such subsection (f) shall be treated as  
9 satisfied if the eligible entity provides the vehicle identification number of such vehicle  
10 to the Secretary in such manner as the Secretary may provide.

11 “(7) ADVANCE PAYMENT TO REGISTERED DEALERS.—

12 “(A) IN GENERAL.—The Secretary shall establish a program to make advance  
13 payments to any eligible entity in an amount equal to the cumulative amount of the  
14 credits allowed under subsection (a) with respect to any vehicles sold by such entity for  
15 which an election described in paragraph (1) has been made.

16 “(B) EXCESSIVE PAYMENTS.—Rules similar to the rules of section 6417(c)(6)  
17 6417(d)(6) shall apply for purposes of this paragraph.

18 “(C) TREATMENT OF ADVANCE PAYMENTS.—For purposes of section 1324 of title  
19 31, United States Code, the payments under subparagraph (A) shall be treated in the  
20 same manner as a refund due from a credit provision referred to in subsection (b)(2) of  
21 such section.

22 “(8) DEALER.—For purposes of this subsection, the term ‘dealer’ means a person licensed  
23 by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory  
24 or possession of the United States, an Indian tribal government, or any Alaska Native  
25 Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C.  
26 1602(m)) to engage in the sale of vehicles.

27 “(9) INDIAN TRIBAL GOVERNMENT.—For purposes of this subsection, the term ‘Indian  
28 tribal government’ means the recognized governing body of any Indian or Alaska Native  
29 tribe, band, nation, pueblo, village, community, component band, or component reservation,  
30 individually identified (including parenthetically) in the list published most recently as of  
31 the date of enactment of this subsection pursuant to section 104 of the Federally Recognized  
32 Indian Tribe List Act of 1994 (25 U.S.C. 5131).”.

33 5131).

34 “(10) RECAPTURE.—In the case of any taxpayer who has made an election described  
35 in paragraph (1) with respect to a new clean vehicle and received a payment described  
36 in paragraph (2)(C) from an eligible entity, if the credit under subsection (a) would  
37 otherwise (but for this subsection) not be allowable to such taxpayer pursuant to the  
38 application of subsection (f)(10), the tax imposed on such taxpayer under this chapter  
39 for the taxable year in which such vehicle was placed in service shall be increased by  
40 the amount of the payment received by such taxpayer.”.

41 (2) CONFORMING AMENDMENTS.—Section 30D, as amended by the preceding provisions

1 of this section, is amended—

2 (A) in subsection (d)(1)(H) of such section—

3 (i) in clause (iv), by striking “and” at the end,

4 (ii) in clause (v), by striking the period at the end and inserting “, and”, and

5 (iii) by adding at the end the following:

6 “(vi) in the case of a taxpayer who makes an election under subsection (g)(1),  
7 any amount described in subsection (g)(2)(C) which has been provided to such  
8 taxpayer.”, and

9 (B) in subsection (f)—

10 (i) by striking paragraph (3), and

11 (ii) in paragraph (8), by inserting “, including any vehicle with respect to which  
12 the taxpayer elects the application of subsection (g)” before the period at the end.

13 (h) Termination.—Section 30D is amended by adding at the end the following:

14 “(h) Termination.—No credit shall be allowed under this section with respect to any vehicle  
15 placed in service after December 31, 2032.”.

16 (i) Additional Conforming Amendments.—

17 (1) The heading of section 30D is amended by striking “new qualified plug-in electric  
18 drive motor vehicles” and inserting “clean vehicle credit”.

19 (2) Section 30B is amended—

20 (A) in subsection (h)(8), by striking “, except that no benefit shall be recaptured if  
21 such property ceases to be eligible for such credit by reason of conversion to a  
22 qualified plug-in electric drive motor vehicle”, and

23 (B) by striking subsection (i).

24 (3) Section 38(b)(30) is amended by striking “qualified plug-in electric drive motor” and  
25 inserting “clean”.

26 (4) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended  
27 —

28 (A) in subparagraph (R), by striking “and” at the end,

29 (B) in subparagraph (S), by striking the period at the end and inserting “, and”, and

30 (C) by inserting after subparagraph (S) the following:

31 “(T) an omission of a correct vehicle identification number required under section  
32 30D(f)(9) (relating to credit for new clean vehicles) to be included on a return.”.

33 (5) Section 6501(m) is amended by striking “30D(e)(4)” and inserting “30D(f)(6)”.

34 (6) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended  
35 by striking the item relating to section 30D and inserting after the item relating to section  
36 30C the following item:



1 “Sec.30D.Clean vehicle credit.”

2 (j) Gross-up of Direct Spending.—Beginning in fiscal year 2023 and each fiscal year  
3 thereafter, the portion of any credit allowed to an eligible entity (as defined in section 30D(g)(2)  
4 of the Internal Revenue Code of 1986) pursuant to an election made under section 30D(g) of the  
5 Internal Revenue Code of 1986 that is direct spending shall be increased by 6.0445 percent.

6 (k) Effective Dates.—

7 (1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), the  
8 amendments made by this section shall apply to vehicles placed in service after December  
9 31, 2022.

10 (2) FINAL ASSEMBLY.—The amendments made by subsection (b) shall apply to vehicles  
11 sold after the date of enactment of this Act.

12 (3) PER VEHICLE DOLLAR LIMITATION AND RELATED REQUIREMENTS.—The amendments  
13 made by subsections (a) and (e) shall apply to vehicles placed in service after the date on  
14 which the proposed guidance described in paragraph (3)(B) of section 30D(e) of the Internal  
15 Revenue Code of 1986 (as added by subsection (e)) is issued by the Secretary of the  
16 Treasury (or the Secretary’s delegate).

17 (4) TRANSFER OF CREDIT.—The amendments made by subsection (g) shall apply to  
18 vehicles placed in service after December 31, 2023.

19 (5) ELIMINATION OF MANUFACTURER LIMITATION.—The amendment made by subsection  
20 (d) shall apply to vehicles sold after December 31, 2022.

21 (l) Transition Rule.—Solely for purposes of the application of section 30D of the Internal  
22 Revenue Code of 1986, in the case of a taxpayer that—

23 (1) after December 31, 2021, and before the date of enactment of this Act, purchased, or  
24 entered into a written binding contract to purchase, a new qualified plug-in electric drive  
25 motor vehicle (as defined in section 30D(d)(1) of the Internal Revenue Code of 1986, as in  
26 effect on the day before the date of enactment of this Act), and

27 (2) placed such vehicle in service on or after the date of enactment of this Act,  
28 such taxpayer may elect (at such time, and in such form and manner, as the Secretary of the  
29 Treasury, or the Secretary’s delegate, may prescribe) to treat such vehicle as having been placed  
30 in service on the day before the date of enactment of this Act.

31 **SEC. 13402. CREDIT FOR PREVIOUSLY-OWNED CLEAN**  
32 **VEHICLES.**

33 (a) In General.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting  
34 after section 25D the following new section:

35 **“SEC. 25E. PREVIOUSLY-OWNED CLEAN VEHICLES.**

36 **“(a) Allowance of Credit.—**In the case of a qualified buyer who during a taxable year places  
37 in service a previously-owned clean vehicle, there shall be allowed as a credit against the tax  
38 imposed by this chapter for the taxable year an amount equal to the lesser of—

1 “(1) \$4,000, or  
2 “(2) the amount equal to 30 percent of the sale price with respect to such vehicle.

3 “(b) Limitation Based on Modified Adjusted Gross Income.—

4 “(1) IN GENERAL.—No credit shall be allowed under subsection (a) for any taxable year if  
5 —

6 “(A) the lesser of—

7 “(i) the modified adjusted gross income of the taxpayer for such taxable year,  
8 or

9 “(ii) the modified adjusted gross income of the taxpayer for the preceding  
10 taxable year, exceeds

11 “(B) the threshold amount.

12 “(2) THRESHOLD AMOUNT.—For purposes of paragraph (1)(B), the threshold amount  
13 shall be—

14 “(A) in the case of a joint return or a surviving spouse (as defined in section 2(a)),  
15 \$150,000,

16 “(B) in the case of a head of household (as defined in section 2(b)), \$112,500, and

17 “(C) in the case of a taxpayer not described in subparagraph (A) or (B), \$75,000.

18 “(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term  
19 ‘modified adjusted gross income’ means adjusted gross income increased by any amount  
20 excluded from gross income under section 911, 931, or 933.

21 “(c) Definitions.—For purposes of this section—

22 “(1) PREVIOUSLY-OWNED CLEAN VEHICLE.—The term ‘previously-owned clean vehicle’  
23 means, with respect to a taxpayer, a motor vehicle—

24 “(A) the model year of which is at least 2 years earlier than the calendar year in  
25 which the taxpayer acquires such vehicle,

26 “(B) the original use of which commences with a person other than the taxpayer,

27 “(C) which is acquired by the taxpayer in a qualified sale, and

28 “(D) which—

29 “(i) meets the requirements of subparagraphs (C), (D), (E), (F), and (H) (except  
30 for clause (iv) thereof) of section 30D(d)(1), or

31 “(ii) is a motor vehicle which—

32 “(I) satisfies the requirements under subparagraphs (A) and (B) of section  
33 30B(b)(3), and

34 “(II) has a gross vehicle weight rating of less than 14,000 pounds.

35 “(2) QUALIFIED SALE.—The term ‘qualified sale’ means a sale of a motor vehicle—

36 “(A) by a dealer (as defined in section 30D(g)(8)),

1 “(B) for a sale price which does not exceed \$25,000, and

2 “(C) which is the first transfer since the date of the enactment of this section to a  
3 qualified buyer other than the person with whom the original use of such vehicle  
4 commenced.

5 “(3) QUALIFIED BUYER.—The term ‘qualified buyer’ means, with respect to a sale of a  
6 motor vehicle, a taxpayer—

7 “(A) who is an individual,

8 “(B) who purchases such vehicle for use and not for resale,

9 “(C) with respect to whom no deduction is allowable with respect to another  
10 taxpayer under section 151, and

11 “(D) who has not been allowed a credit under this section for any sale during the 3-  
12 year period ending on the date of the sale of such vehicle.

13 “(4) MOTOR VEHICLE; CAPACITY.—The terms ‘motor vehicle’ and ‘capacity’ have the  
14 meaning given such terms in paragraphs (2) and (4) of section 30D(d), respectively.

15 “(d) VIN Number Requirement.—No credit shall be allowed under subsection (a) with respect  
16 to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on  
17 the return of tax for the taxable year.

18 “(e) Application of Certain Rules.—For purposes of this section, rules similar to the rules of  
19 section 30D(f) (without regard to paragraph (10) or (11) thereof) shall apply for purposes of this  
20 section.

21 “(f) Termination.—No credit shall be allowed under this section with respect to any vehicle  
22 acquired after December 31, 2032.”.

23 (b) Transfer of Credit.—Section 25E, as added by subsection (a), is amended—

24 (1) by redesignating subsection (f) as subsection (g), and

25 (2) by inserting after subsection (e) the following:

26 “(f) Transfer of Credit.—Rules similar to the rules of section 30D(g) shall apply.”.

27 (c) Conforming Amendments.—Section 6213(g)(2), as amended by the preceding provisions  
28 of this Act, is amended—

29 (1) in subparagraph (S), by striking “and” at the end,

30 (2) in subparagraph (T), by striking the period at the end and inserting “, and”, and

31 (3) by inserting after subparagraph (T) the following:

32 “(U) an omission of a correct vehicle identification number required under section  
33 25E(d) (relating to credit for previously-owned clean vehicles) to be included on a  
34 return.”.

35 (d) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of  
36 chapter 1 is amended by inserting after the item relating to section 25D the following new item:

37 “Sec.25E.Previously-owned clean vehicles.”.

1 (e) Effective Date.—

2 (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this  
3 section shall apply to vehicles acquired after December 31, 2022.

4 (2) TRANSFER OF CREDIT.—The amendments made by subsection (b) shall apply to  
5 vehicles acquired after December 31, 2023.

## 6 SEC. 13403. QUALIFIED COMMERCIAL CLEAN 7 VEHICLES.

8 (a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the  
9 preceding provisions of this Act, is amended by adding at the end the following new section:

### 10 “SEC. 45W. CREDIT FOR QUALIFIED COMMERCIAL 11 CLEAN VEHICLES.

12 “(a) In General.—For purposes of section 38, the qualified commercial clean vehicle credit for  
13 any taxable year is an amount equal to the sum of the credit amounts determined under  
14 subsection (b) with respect to each qualified commercial clean vehicle placed in service by the  
15 taxpayer during the taxable year.

16 “(b) Per Vehicle Amount.—

17 “(1) IN GENERAL.—Subject to paragraph (4), the amount determined under this  
18 subsection with respect to any qualified commercial clean vehicle shall be equal to the  
19 lesser of—

20 “(A) 15 percent of the basis of such vehicle (30 percent in the case of a vehicle not  
21 powered by a gasoline or diesel internal combustion engine), or

22 “(B) the incremental cost of such vehicle.

23 “(2) INCREMENTAL COST.—For purposes of paragraph (1)(B), the incremental cost of any  
24 qualified commercial clean vehicle is an amount equal to the excess of the purchase price  
25 for such vehicle over such price of a comparable vehicle.

26 “(3) COMPARABLE VEHICLE.—For purposes of this subsection, the term ‘comparable  
27 vehicle’ means, with respect to any qualified commercial clean vehicle, any vehicle which  
28 is powered solely by a gasoline or diesel internal combustion engine and which is  
29 comparable in size and use to such vehicle.

30 “(4) LIMITATION.—The amount determined under this subsection with respect to any  
31 qualified commercial clean vehicle shall not exceed—

32 “(A) in the case of a vehicle which has a gross vehicle weight rating of less than  
33 14,000 pounds, \$7,500, and

34 “(B) in the case of a vehicle not described in subparagraph (A), \$40,000.

35 “(c) Qualified Commercial Clean Vehicle.—For purposes of this section, the term ‘qualified  
36 commercial clean vehicle’ means any vehicle which—

37 “(1) meets the requirements of section 30D(d)(1)(C) and is acquired for use or lease by

1 the taxpayer and not for resale,

2 “(2) either—

3 “(A) meets the requirements of subparagraph (D) of section 30D(d)(1) and is  
4 manufactured primarily for use on public streets, roads, and highways (not including a  
5 vehicle operated exclusively on a rail or rails), or

6 “(B) is mobile machinery, as defined in section 4053(8) (including vehicles that are  
7 not designed to perform a function of transporting a load over the public highways),

8 “(3) either—

9 “(A) is propelled to a significant extent by an electric motor which draws electricity  
10 from a battery which has a capacity of not less than 15 kilowatt hours (or, in the case  
11 of a vehicle which has a gross vehicle weight rating of less than 14,000 pounds, 7  
12 kilowatt hours) and is capable of being recharged from an external source of  
13 electricity, or

14 “(B) is a motor vehicle which satisfies the requirements under subparagraphs (A)  
15 and (B) of section 30B(b)(3), and

16 “(4) is of a character subject to the allowance for depreciation.

17 “(d) Special Rules.—

18 “(1) IN ~~GENERAL.—SUBJECT TO PARAGRAPH (2), RULES~~ **GENERAL.—Rules** similar to the  
19 rules under subsection (f) of section 30D **(without regard to paragraph (10) or (11)**  
20 **thereof)** shall apply for purposes of this section.

21

22 ~~“(2) Recapture.—The Secretary shall, by regulations or other guidance, provide for~~  
23 ~~recapturing the benefit of any credit allowed under subsection (a) with respect to any~~  
24 ~~property which ceases to be property eligible for such credit.~~

25 ~~“(3)“(2) VEHICLES PLACED IN SERVICE BY TAX-EXEMPT ENTITIES.—Subsection (c)(4)~~  
26 ~~shall not apply to any vehicle which is not subject to a lease and which is placed in service~~  
27 ~~by a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2)(A).~~

28 ~~“(4)“(3) NO DOUBLE BENEFIT.—No credit shall be allowed under this section with~~  
29 ~~respect to any vehicle for which a credit was allowed under section 30D.~~

30 “(e) VIN Number Requirement.—No credit shall be determined under subsection (a) with  
31 respect to any vehicle unless the taxpayer includes the vehicle identification number of such  
32 vehicle on the return of tax for the taxable year.

33 “(f) Regulations and Guidance.—The Secretary shall issue such regulations or other guidance  
34 as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this section,  
35 including regulations or other guidance relating to determination of the incremental cost of any  
36 qualified commercial clean vehicle.

37 “(g) Termination.—No credit shall be determined under this section with respect to any  
38 vehicle acquired after December 31, 2032.”.

39 (b) Conforming Amendments.—

1 (1) Section 38(b), as amended by the preceding provisions of this Act, is amended—

2 (A) in paragraph (35), by striking “plus” at the end,

3 (B) in paragraph (36), by striking the period at the end and inserting “, plus”, and

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

5 “(37) the qualified commercial clean vehicle credit determined under section 45W.”.

6 (2) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended

7 —  
8 (A) in subparagraph (T), by striking “and” at the end,

9 (B) in subparagraph (U), by striking the period at the end and inserting “, and”, and

10 (C) by inserting after subparagraph (U) the following:

11 “(V) an omission of a correct vehicle identification number required under section  
12 45W(e) (relating to commercial clean vehicle credit) to be included on a return.”.

13 (3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as  
14 amended by the preceding provisions of this Act, is amended by adding at the end the  
15 following new item:

16 “Sec.45W.Qualified commercial clean vehicle credit.”.

17 (c) Effective Date.—The amendments made by this section shall apply to vehicles acquired  
18 after December 31, 2022.

## 19 SEC. 13404. ALTERNATIVE FUEL REFUELING 20 PROPERTY CREDIT.

21 (a) In General.—Section 30C(g) is amended by striking “December 31, 2021” and inserting  
22 “December 31, 2032”.

23 (b) Credit for Property of a Character Subject to Depreciation.—

24 (1) IN GENERAL.—Section 30C(a) is amended by inserting “(6 percent in the case of  
25 property of a character subject to depreciation)” after “30 percent”.

26 (2) MODIFICATION OF CREDIT LIMITATION.—Subsection (b) of section 30C is amended—

27 (A) in the matter preceding paragraph (1)—

28 (i) by striking “with respect to all” and inserting “with respect to any single  
29 item of”, and

30 (ii) by striking “at a location”, and

31 (B) in paragraph (1), by striking “\$30,000 in the case of a property” and inserting  
32 “\$100,000 in the case of any such item of property”.

33 (3) BIDIRECTIONAL CHARGING EQUIPMENT INCLUDED AS QUALIFIED ALTERNATIVE FUEL  
34 VEHICLE REFUELING PROPERTY.—Section 30C(c) is amended to read as follows:

35 “(c) Qualified Alternative Fuel Vehicle Refueling Property.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘qualified alternative fuel vehicle refueling property’ has  
2 the same meaning as the term ‘qualified clean-fuel vehicle refueling property’ would have  
3 under section 179A if—

4 “(A) paragraph (1) of section 179A(d) did not apply to property installed on  
5 property which is used as the principal residence (within the meaning of section 121)  
6 of the taxpayer, and

7 “(B) only the following were treated as clean-burning fuels for purposes of section  
8 179A(d):

9 “(i) Any fuel at least 85 percent of the volume of which consists of one or more  
10 of the following: ethanol, natural gas, compressed natural gas, liquified natural  
11 gas, liquefied petroleum gas, or hydrogen.

12 “(ii) Any mixture—

13 “(I) which consists of two or more of the following: biodiesel (as defined  
14 in section 40A(d)(1)), diesel fuel (as defined in section 4083(a)(3)), or  
15 kerosene, and

16 “(II) at least 20 percent of the volume of which consists of biodiesel (as so  
17 defined) determined without regard to any kerosene in such mixture.

18 “(iii) Electricity.

19 “(2) BIDIRECTIONAL CHARGING EQUIPMENT.—Property shall not fail to be treated as  
20 qualified alternative fuel vehicle refueling property solely because such property—

21 “(A) is capable of charging the battery of a motor vehicle propelled by electricity,  
22 and

23 “(B) allows discharging electricity from such battery to an electric load external to  
24 such motor vehicle.”.

25 (c) Certain Electric Charging Stations Included as Qualified Alternative Fuel Vehicle  
26 Refueling Property.—Section 30C is amended by redesignating subsections (f) and (g) as  
27 subsections (g) and (h), respectively, and by inserting after subsection (e) the following:

28 “(f) Special Rule for Electric Charging Stations for Certain Vehicles With 2 or 3 Wheels.—  
29 For purposes of this section—

30 “(1) IN GENERAL.—The term ‘qualified alternative fuel vehicle refueling property’  
31 includes any property described in subsection (c) for the recharging of a motor vehicle  
32 described in paragraph (2), but only if such property—

33 “(A) meets the requirements of subsection (a)(2), and

34 “(B) is of a character subject to depreciation.

35 “(2) MOTOR VEHICLE.—A motor vehicle is described in this paragraph if the motor  
36 vehicle—

37 “(A) is manufactured primarily for use on public streets, roads, or highways (not  
38 including a vehicle operated exclusively on a rail or rails),

39 “(B) has **at least 2, but not more than 3, 2 or 3** wheels, and

1 “(C) is propelled by electricity.”

2 (d) Wage and Apprenticeship Requirements.—Section 30C, as amended by this section, is  
3 further amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by  
4 inserting after subsection (f) the following new subsection:

5 “(g) Wage and Apprenticeship Requirements.—

6 “(1) INCREASED CREDIT AMOUNT.—

7 “(A) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling  
8 project which satisfies the requirements of subparagraph (C), the amount of the credit  
9 determined under subsection (a) for any qualified alternative fuel vehicle refueling  
10 property of a character subject to an allowance for depreciation which is part of such  
11 project shall be equal to such amount (determined without regard to this sentence)  
12 multiplied by 5.

13 “(B) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROJECT.—For purposes  
14 of this subsection, the term ‘qualified alternative fuel vehicle refueling project’ means  
15 a project consisting of one or more properties that are part of a single project.

16 “(C) PROJECT REQUIREMENTS.—A project meets the requirements of this  
17 subparagraph if it is one of the following:

18 “(i) A project the construction of which begins prior to the date that is 60 days  
19 after the Secretary publishes guidance with respect to the requirements of  
20 paragraphs (2)(A) and (3).

21 “(ii) A project which satisfies the requirements of paragraphs (2)(A) and (3).

22 “(2) PREVAILING WAGE REQUIREMENTS.—

23 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
24 any qualified alternative fuel vehicle refueling project are that the taxpayer shall ensure  
25 that any laborers and mechanics employed by **contractors and subcontractors the**  
26 **taxpayer or any contractor or subcontractor** in the construction of any qualified  
27 alternative fuel vehicle refueling property which is part of such project shall be paid  
28 wages at rates not less than the prevailing rates for construction, alteration, or repair of  
29 a similar character in the locality in which such project is located as most recently  
30 determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31  
31 of title 40, United States Code.

32 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
33 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

34 “(3) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
35 shall apply.

36 “(4) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other  
37 guidance as the Secretary determines necessary **or appropriate** to carry out the purposes of  
38 this subsection, including regulations or other guidance which provides for requirements for  
39 recordkeeping or information reporting for purposes of administering the requirements of  
40 this subsection.”



1 (e) Eligible Census Tracts.—Subsection (c) of section 30C, as amended by subsection (b)(3),  
2 is amended by adding at the end the following:

3 “(3) PROPERTY REQUIRED TO BE LOCATED IN ELIGIBLE CENSUS TRACTS.—

4 “(A) IN GENERAL.—Property shall not be treated as qualified alternative fuel vehicle  
5 refueling property unless such property is placed in service in an eligible census tract.

6 “(B) ELIGIBLE CENSUS TRACT.—

7 “(i) IN GENERAL.—For purposes of this paragraph, the term ‘eligible census  
8 tract’ means any population census tract which—

9 “(I) is described in section 45D(e), or

10 “(II) is not an urban area.

11 “(ii) URBAN AREA.—For purposes of clause (i)(II), the term ‘urban area’ means  
12 a census tract (as defined by the Bureau of the Census) which, according to the  
13 most recent decennial census, has been designated as an urban area by the  
14 Secretary of Commerce.”.

15 (f) Effective Date.—

16 (1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this  
17 section shall apply to property placed in service after December 31, 2022.

18 (2) EXTENSION.—The amendments made by subsection (a) shall apply to property placed  
19 in service after December 31, 2021.

20 PART 5—INVESTMENT IN CLEAN ENERGY  
21 MANUFACTURING AND ENERGY SECURITY

22 SEC. 13501. EXTENSION OF THE ADVANCED ENERGY  
23 PROJECT CREDIT.

24 (a) Extension of Credit.—Section 48C is amended by redesignating subsection (e) as  
25 subsection (f) and by inserting after subsection (d) the following new subsection:

26 “(e) Additional Allocations.—

27 “(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection,  
28 the Secretary shall establish a program to consider and award certifications for qualified  
29 investments eligible for credits under this section to qualifying advanced energy project  
30 sponsors.

31 “(2) **LIMITATION.—The Limitation.—**

32 **“(A) In general.—The** total amount of credits which may be allocated under the program  
33 established under paragraph (1) shall not exceed \$10,000,000,000, of which not greater than  
34 \$6,000,000,000 may be allocated to qualified investments which are not located within  
35 **energy communities a census tract which—**

36 **“(A) is** described in clause (iii) of section 45(b)(11)(B), **and-**

1 ~~“(B) No prior certification and allocation.—No credits may be allocated under the~~  
2 ~~program established under paragraph (1) for any project which is located in a census~~  
3 ~~tract which;“(B) prior to the date of enactment of this subsection, had no project~~  
4 ~~which~~ received a certification and allocation of credits under subsection (d).

5 “(3) CERTIFICATIONS.—

6 “(A) APPLICATION REQUIREMENT.—Each applicant for certification under this  
7 subsection shall submit an application at such time and containing such information as  
8 the Secretary may require.

9 “(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification  
10 shall have 2 years from the date of acceptance by the Secretary of the application  
11 during which to provide to the Secretary evidence that the requirements of the  
12 certification have been met.

13 “(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 2  
14 years from the date of issuance of the certification in order to place the project in  
15 service and to notify the Secretary that such project has been so placed in service, and  
16 if such project is not placed in service by that time period, then the certification shall  
17 no longer be valid. If any certification is revoked under this subparagraph, the amount  
18 of the limitation under paragraph (2) shall be increased by the amount of the credit  
19 with respect to such revoked certification.

20 “(D) LOCATION OF PROJECT.—In the case of an applicant which receives a  
21 certification, if the Secretary determines that the project has been placed in service at a  
22 location which is materially different than the location specified in the application for  
23 such project, the certification shall no longer be valid.

24 “(4) CREDIT RATE CONDITIONED UPON WAGE AND APPRENTICESHIP REQUIREMENTS.—

25 “(A) BASE RATE.—For purposes of allocations under this subsection, the amount of  
26 the credit determined under subsection (a) shall be determined by substituting ‘6  
27 percent’ for ‘30 percent’.

28 “(B) ALTERNATIVE RATE.—In the case of any project which satisfies the  
29 requirements of paragraphs (5)(A) and (6), subparagraph (A) shall not apply.

30 “(5) PREVAILING WAGE REQUIREMENTS.—

31 “(A) IN GENERAL.—The requirements described in this subparagraph with respect to  
32 a project are that the taxpayer shall ensure that any laborers and mechanics employed  
33 by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor**  
34 in the re-equipping, expansion, or establishment of a manufacturing facility shall be  
35 paid wages at rates not less than the prevailing rates for construction, alteration, or  
36 repair of a similar character in the locality in which such project is located as most  
37 recently determined by the Secretary of Labor, in accordance with subchapter IV of  
38 chapter 31 of title 40, United States Code.

39 “(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE  
40 REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

41 “(6) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)

1 shall apply.

2 “(7) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification  
3 under this subsection, publicly disclose the identity of the applicant and the amount of the  
4 credit with respect to such applicant.”.

5 (b) Modification of Qualifying Advanced Energy Projects.—Section 48C(c)(1)(A) is amended  
6 —

7 (1) by inserting “, any portion of the qualified investment of which is certified by the  
8 Secretary under subsection (e) as eligible for a credit under this section” after “means a  
9 project”,

10 (2) in clause (i)—

11 (A) by striking “a manufacturing facility for the production of” and inserting “an  
12 industrial or manufacturing facility for the production or recycling of”,

13 (B) in clause (I), by inserting “water,” after “sun,”,

14 (C) in clause (II), by striking “an energy storage system for use with electric or  
15 hybrid-electric motor vehicles” and inserting “energy storage systems and  
16 components”,

17 (D) in clause (III), by striking “grids to support the transmission of intermittent  
18 sources of renewable energy, including storage of such energy” and inserting “grid  
19 modernization equipment or components”,

20 (E) in subclause (IV), by striking “and sequester carbon dioxide emissions” and  
21 inserting “, remove, use, or sequester carbon oxide emissions”,

22 (F) by striking subclause (V) and inserting the following:

23 “(V) equipment designed to refine, electrolyze, or blend any fuel,  
24 chemical, or product which is—

25 “(aa) renewable, or

26 “(bb) low-carbon and low-emission,”,

27 (G) by striking subclause (VI),

28 (H) by redesignating subclause (VII) as subclause (IX),

29 (I) by inserting after subclause (V) the following new subclauses:

30 “(VI) property designed to produce energy conservation technologies  
31 (including residential, commercial, and industrial applications),

32 “(VII) light-, medium-, or heavy-duty electric or fuel cell vehicles, as well  
33 as—

34 “(aa) technologies, components, or materials for such vehicles, and

35 “(bb) associated charging or refueling infrastructure,

36 “(VIII) hybrid vehicles with a gross vehicle weight rating of not less than  
37 14,000 pounds, as well as technologies, components, or materials for such

1 vehicles, or”, and

2 (J) in subclause (IX), as so redesignated, by striking “and” at the end, and

3 (3) by striking clause (ii) and inserting the following:

4 “(ii) which re-equips an industrial or manufacturing facility with equipment  
5 designed to reduce greenhouse gas emissions by at least 20 percent through the  
6 installation of—

7 “(I) low- or zero-carbon process heat systems,

8 “(II) carbon capture, transport, utilization and storage systems,

9 “(III) energy efficiency and reduction in waste from industrial processes,

10 or

11 “(IV) any other industrial technology designed to reduce greenhouse gas  
12 emissions, as determined by the Secretary, or

13 “(iii) which re-equips, expands, or establishes an industrial facility for the  
14 processing, refining, or recycling of critical materials (as defined in section  
15 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).”.

16 (c) Conforming Amendment.—Subparagraph (A) of section 48C(c)(2) is amended to read as  
17 follows:

18 “(A) which is necessary for—

19 “(i) the production or recycling of property described in clause (i) of paragraph  
20 (1)(A),

21 “(ii) re-equipping an industrial or manufacturing facility described in clause (ii)  
22 of such paragraph, or

23 “(iii) re-equipping, expanding, or establishing an industrial facility described in  
24 clause (iii) of such paragraph.”.

25 (d) Denial of Double Benefit.—48C(f), as redesignated by this section, is amended by striking  
26 “or 48B” and inserting “48B, 48D 48E, 45Q, or 45V”.

27 (e) Effective Date.—The amendments made by this section shall take effect on January 1,  
28 2023.

## 29 SEC. 13502. ADVANCED MANUFACTURING 30 PRODUCTION CREDIT.

31 (a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the  
32 preceding provisions of this Act, is amended by adding at the end the following new section:

### 33 “SEC. 45X. ADVANCED MANUFACTURING 34 PRODUCTION CREDIT.

35 “(a) In General.—

36 “(1) ALLOWANCE OF CREDIT.—For purposes of section 38, the advanced manufacturing

1 production credit for any taxable year is an amount equal to the sum of the credit amounts  
2 determined under subsection (b) with respect to each eligible component which is—

3 “(A) produced by the taxpayer, and

4 “(B) during the taxable year, sold by such taxpayer to an unrelated person.

5 “(2) PRODUCTION AND SALE MUST BE IN TRADE OR BUSINESS.—Any eligible component  
6 produced and sold by the taxpayer shall be taken into account only if the production and  
7 sale described in paragraph (1) is in a trade or business of the taxpayer.

8 “(3) UNRELATED ~~PERSON.~~—~~FOR PERSON.~~—

9 “(A) IN GENERAL.—~~For~~ purposes of this subsection, a taxpayer shall be treated as  
10 selling components to an unrelated person if such component is sold to such person by  
11 a person related to the taxpayer.

12 “(B) ELECTION.—

13 “(i) IN GENERAL.—~~At the election of the taxpayer (in such form and~~  
14 ~~manner as the Secretary may prescribe), a sale of components by such~~  
15 ~~taxpayer to a related person shall be deemed to have been made to an~~  
16 ~~unrelated person.~~

17 “(ii) REQUIREMENT.—~~As a condition of, and prior to, any election~~  
18 ~~described in clause (i), the Secretary may require such information or~~  
19 ~~registration as the Secretary deems necessary for purposes of preventing~~  
20 ~~duplication, fraud, or any improper or excessive amount determined under~~  
21 ~~paragraph (1).~~

22 “(b) Credit Amount.—

23 “(1) IN GENERAL.—Subject to paragraph (3), the amount determined under this  
24 subsection with respect to any eligible component, including any eligible component it  
25 incorporates, shall be equal to—

26 “(A) in the case of a thin film photovoltaic cell or a crystalline photovoltaic cell, an  
27 amount equal to the product of—

28 “(i) 4 cents, multiplied by

29 “(ii) the capacity of such cell (expressed on a per direct current watt basis),

30 “(B) in the case of a photovoltaic wafer, \$12 per square meter,

31 “(C) in the case of solar grade polysilicon, \$3 per kilogram,

32 “(D) in the case of a polymeric backsheet, 40 cents per square meter,

33 “(E) in the case of a solar module, an amount equal to the product of—

34 “(i) 7 cents, multiplied by

35 “(ii) the capacity of such module (expressed on a per direct current watt basis),

36 “(F) in the case of a wind energy component—

37 “(i) if such component is a related offshore wind vessel, an amount equal to 10

1 percent of the sales price of such vessel, and

2 “(ii) if such component is not described in clause (i), an amount equal to the  
3 product of—

4 “(I) the applicable amount with respect to such component (as determined  
5 under paragraph (2)(A)), multiplied by

6 “(II) the total rated capacity (expressed on a per watt basis) of the  
7 completed wind turbine for which such component is designed,

8 “(G) in the case of a torque tube, 87 cents per kilogram,

9 “(H) in the case of a structural fastener, \$2.28 per kilogram,

10 “(I) in the case of an inverter, an amount equal to the product of—

11 “(i) the applicable amount with respect to such inverter (as determined under  
12 paragraph (2)(B)), multiplied by

13 “(ii) the capacity of such inverter (expressed on a per alternating current watt  
14 basis),

15 “(J) in the case of electrode active materials, an amount equal to 10 percent of the  
16 costs incurred by the taxpayer with respect to production of such materials,

17 “(K) in the case of a battery cell, an amount equal to the product of—

18 “(i) \$35, multiplied by

19 “(ii) subject to paragraph (4), the capacity of such battery cell (expressed on a  
20 kilowatt-hour basis),

21 “(L) in the case of a battery module, an amount equal to the product of—

22 “(i) \$10 (or, in the case of a battery module which does not use battery cells,  
23 \$45), multiplied by

24 “(ii) subject to paragraph (4), the capacity of such battery module (expressed on  
25 a kilowatt-hour basis), and

26 “(M) in the case of any applicable critical mineral, an amount equal to 10 percent of  
27 the costs incurred by the taxpayer with respect to production of such mineral.

28 “(2) APPLICABLE AMOUNTS.—

29 “(A) WIND ENERGY COMPONENTS.—For purposes of paragraph (1)(F)(ii), the  
30 applicable amount with respect to any wind energy component shall be—

31 “(i) in the case of a blade, 2 cents,

32 “(ii) in the case of a nacelle, 5 cents,

33 “(iii) in the case of a tower, 3 cents, and

34 “(iv) in the case of an offshore wind foundation—

35 “(I) which uses a fixed platform, 2 cents, or

36 “(II) which uses a floating platform, 4 cents.

1 “(B) INVERTERS.—For purposes of paragraph (1)(I), the applicable amount with  
2 respect to any inverter shall be—

3 “(i) in the case of a central inverter, 0.25 cents,

4 “(ii) in the case of a utility inverter, 1.5 cents,

5 “(iii) in the case of a commercial inverter, 2 cents,

6 “(iv) in the case of a residential inverter, 6.5 cents, and

7 “(v) in the case of a microinverter or a distributed wind inverter, 11 cents.

8 “(3) PHASE OUT.—

9 “(A) IN GENERAL.—Subject to subparagraph (C), in the case of any eligible  
10 component sold after December 31, 2029, the amount determined under this subsection  
11 with respect to such component shall be equal to the product of—

12 “(i) the amount determined under paragraph (1) with respect to such  
13 component, as determined without regard to this paragraph, multiplied by

14 “(ii) the phase out percentage under subparagraph (B).

15 “(B) PHASE OUT PERCENTAGE.—The phase out percentage under this subparagraph  
16 is equal to—

17 “(i) in the case of an eligible component sold during calendar year 2030, 75  
18 percent,

19 “(ii) in the case of an eligible component sold during calendar year 2031, 50  
20 percent,

21 “(iii) in the case of an eligible component sold during calendar year 2032, 25  
22 percent,

23 “(iv) in the case of an eligible component sold after December 31, 2032, 0  
24 percent.

25 “(C) EXCEPTION.—For purposes of determining the amount under this subsection  
26 with respect to any applicable critical mineral, this paragraph shall not apply.

27 “(4) LIMITATION ON CAPACITY OF BATTERY CELLS AND BATTERY MODULES.—

28 “(A) IN GENERAL.—For purposes of subparagraph (K)(ii) or (L)(ii) of paragraph (1),  
29 the capacity determined under either subparagraph with respect to a battery cell or  
30 battery module shall not exceed a capacity-to-power ratio of 100:1.

31 “(B) CAPACITY-TO-POWER RATIO.—For purposes of this paragraph, the term  
32 ‘capacity-to-power ratio’ means, with respect to a battery cell or battery module, the  
33 ratio of the capacity of such cell or module to the maximum discharge amount of such  
34 cell or module.

35 “(c) Definitions.—For purposes of this section—

36 “(1) ELIGIBLE COMPONENT.—

37 “(A) IN GENERAL.—The term ‘eligible component’ means—

- 1 “(i) any solar energy component,
- 2 “(ii) any wind energy component,
- 3 “(iii) any inverter described in subparagraphs (B) through (G) of paragraph (2),
- 4 “(iv) any qualifying battery component, and
- 5 “(v) any applicable critical mineral.

6 “(B) APPLICATION WITH OTHER CREDITS.—The term ‘eligible component’ shall not  
7 include any property which is produced at a facility if the basis of any property which  
8 is part of such facility is taken into account for purposes of the credit allowed under  
9 section 48C after the date of the enactment of this section.

10 “(2) INVERTERS.—

11 “(A) IN GENERAL.—The term ‘inverter’ means an end product which is suitable to  
12 convert direct current electricity from 1 or more solar modules or certified distributed  
13 wind energy systems into alternating current electricity.

14 “(B) CENTRAL INVERTER.—The term ‘central inverter’ means an inverter which is  
15 suitable for large utility-scale systems and has a capacity which is greater than 1,000  
16 kilowatts (expressed on a per alternating current watt basis).

17 “(C) COMMERCIAL INVERTER.—The term ‘commercial inverter’ means an inverter  
18 which—

- 19 “(i) is suitable for commercial or utility-scale applications,
- 20 “(ii) has a rated output of 208, 480, 600, or 800 volt three-phase power, and
- 21 “(iii) has a capacity which is not less than 20 kilowatts and not greater than 125  
22 kilowatts (expressed on a per alternating current watt basis).

23 “(D) DISTRIBUTED WIND INVERTER.—

24 “(i) IN GENERAL.—The term ‘distributed wind inverter’ means an inverter  
25 which—

26 “(I) is used in a residential or non-residential system which utilizes 1 or  
27 more certified distributed wind energy systems, and

28 “(II) has a rated output of not greater than 150 kilowatts.

29 “(ii) CERTIFIED DISTRIBUTED WIND ENERGY SYSTEM.—The term ‘certified  
30 distributed wind energy system’ means a wind energy system which is certified  
31 by an accredited certification agency to meet Standard 9.1-2009 of the American  
32 Wind Energy Association (including any subsequent revisions to or modifications  
33 of such Standard which have been approved by the American National Standards  
34 Institute).

35 “(E) MICROINVERTER.—The term ‘microinverter’ means an inverter which—

- 36 “(i) is suitable to connect with one solar module,
- 37 “(ii) has a rated output of—



1 “(I) 120 or 240 volt single-phase power, or

2 “(II) 208 or 480 volt three-phase power, and

3 “(iii) has a capacity which is not greater than 650 watts (expressed on a per  
4 alternating current watt basis).

5 “(F) RESIDENTIAL INVERTER.—The term ‘residential inverter’ means an inverter  
6 which—

7 “(i) is suitable for a residence,

8 “(ii) has a rated output of 120 or 240 volt single-phase power, and

9 “(iii) has a capacity which is not greater than 20 kilowatts (expressed on a per  
10 alternating current watt basis).

11 “(G) UTILITY INVERTER.—The term ‘utility inverter’ means an inverter which—

12 “(i) is suitable for commercial or utility-scale systems,

13 “(ii) has a rated output of not less than 600 volt three-phase power, and

14 “(iii) has a capacity which is greater than 125 kilowatts and not greater than  
15 1000 kilowatts (expressed on a per alternating current watt basis)

16 “(3) SOLAR ENERGY COMPONENT.—

17 “(A) IN GENERAL.—The term ‘solar energy component’ means any of the following:

18 “(i) Solar modules.

19 “(ii) Photovoltaic cells.

20 “(iii) Photovoltaic wafers.

21 “(iv) Solar grade polysilicon.

22 “(v) Torque tubes or structural fasteners.

23 “(vi) Polymeric backsheets.

24 “(B) ASSOCIATED DEFINITIONS.—

25 “(i) PHOTOVOLTAIC CELL.—The term ‘photovoltaic cell’ means the smallest  
26 semiconductor element of a solar module which performs the immediate  
27 conversion of light into electricity.

28 “(ii) PHOTOVOLTAIC WAFER.—The term ‘photovoltaic wafer’ means a thin  
29 slice, sheet, or layer of semiconductor material of at least 240 square centimeters  
30 —

31 “(I) produced by a single manufacturer either—

32 “(aa) directly from molten or evaporated solar grade polysilicon or  
33 deposition of solar grade thin film semiconductor photon absorber layer,  
34 or

35 “(bb) through formation of an ingot from molten polysilicon and  
36 subsequent slicing, and

1 “(II) which comprises the substrate or absorber layer of one or more  
2 photovoltaic cells.

3 “(iii) POLYMERIC BACKSHEET.—The term ‘polymeric backsheet’ means a sheet  
4 on the back of a solar module which acts as an electric insulator and protects the  
5 inner components of such module from the surrounding environment.

6 “(iv) SOLAR GRADE POLYSILICON.—The term ‘solar grade polysilicon’ means  
7 silicon which is—

8 “(I) suitable for use in photovoltaic manufacturing, and

9 “(II) purified to a minimum purity of 99.999999 percent silicon by mass.

10 “(v) SOLAR MODULE.—The term ‘solar module’ means the connection and  
11 lamination of photovoltaic cells into an environmentally protected final assembly  
12 which is—

13 “(I) suitable to generate electricity when exposed to sunlight, and

14 “(II) ready for installation without an additional manufacturing process.

15 “(vi) SOLAR TRACKER.—The term ‘solar tracker’ means a mechanical system  
16 that moves solar modules according to the position of the sun and to increase  
17 energy output.

18 “(vii) SOLAR TRACKER COMPONENTS.—

19 “(I) TORQUE TUBE.—The term ‘torque tube’ means a structural steel  
20 support element (including longitudinal purlins) which—

21 “(aa) is part of a solar tracker,

22 “(bb) is of any cross-sectional shape,

23 “(cc) may be assembled from individually manufactured segments,

24 “(dd) spans longitudinally between foundation posts,

25 “(ee) supports solar panels and is connected to a mounting attachment  
26 for solar panels (with or without separate module interface rails), and

27 “(ff) is rotated by means of a drive system.

28 “(II) STRUCTURAL FASTENER.—The term ‘structural fastener’ means a  
29 component which is used—

30 “(aa) to connect the mechanical and drive system components of a  
31 solar tracker to the foundation of such solar tracker,

32 “(bb) to connect torque tubes to drive assemblies, or

33 “(cc) to connect segments of torque tubes to one another.

34 “(4) WIND ENERGY COMPONENT.—

35 “(A) IN GENERAL.—The term ‘wind energy component’ means any of the following:

36 “(i) Blades.

1 “(ii) Nacelles.

2 “(iii) Towers.

3 “(iv) Offshore wind foundations.

4 “(v) Related offshore wind vessels.

5 “(B) ASSOCIATED DEFINITIONS.—

6 “(i) BLADE.—The term ‘blade’ means an airfoil-shaped blade which is  
7 responsible for converting wind energy to low-speed rotational energy.

8 “(ii) OFFSHORE WIND FOUNDATION.—The term ‘offshore wind foundation’  
9 means the component (including transition piece) which secures an offshore wind  
10 tower and any above-water turbine components to the seafloor using—

11 “(I) fixed platforms, such as offshore wind monopiles, jackets, or gravity-  
12 based foundations, or

13 “(II) floating platforms and associated mooring systems.

14 “(iii) NACELLE.—The term ‘nacelle’ means the assembly of the drivetrain and  
15 other tower-top components of a wind turbine (with the exception of the blades  
16 and the hub) within their cover housing.

17 “(iv) RELATED OFFSHORE WIND VESSEL.—The term ‘related offshore wind  
18 vessel’ means any vessel which is purpose-built or retrofitted for purposes of the  
19 development, transport, installation, operation, or maintenance of offshore wind  
20 energy components.

21 “(v) TOWER.—The term ‘tower’ means a tubular or lattice structure which  
22 supports the nacelle and rotor of a wind turbine.

23 “(5) QUALIFYING BATTERY COMPONENT.—

24 “(A) IN GENERAL.—The term ‘qualifying battery component’ means any of the  
25 following:

26 “(i) Electrode active materials.

27 “(ii) Battery cells.

28 “(iii) Battery modules.

29 “(B) ASSOCIATED DEFINITIONS.—

30 “(i) ELECTRODE ACTIVE MATERIAL.—The term ‘electrode active material’  
31 means cathode materials, anode materials, anode foils, and electrochemically  
32 active materials, including solvents, additives, and electrolyte salts that contribute  
33 to the electrochemical processes necessary for energy storage .

34 “(ii) BATTERY CELL.—The term ‘battery cell’ means an electrochemical cell—

35 “(I) comprised of 1 or more positive electrodes and 1 or more negative  
36 electrodes,

37 “(II) with an energy density of not less than 100 watt-hours per liter, and

1 “(III) capable of storing at least **20 12** watt-hours of energy.

2 “(iii) BATTERY MODULE.—The term ‘battery module’ means a module—

3 “(I)(aa) in the case of a module using battery cells, with 2 or more battery  
4 cells which are configured electrically, in series or parallel, to create voltage  
5 or current, as appropriate, to a specified end use, or

6 “(bb) with no battery cells, and

7 “(II) with an aggregate capacity of not less than 7 kilowatt-hours (or, in  
8 the case of a module for a hydrogen fuel cell vehicle, not less than 1  
9 kilowatt-hour).

10 “(6) APPLICABLE CRITICAL MINERALS.—The term ‘applicable critical mineral’ means any  
11 of the following:

12 “(A) ALUMINUM.—Aluminum which is—

13 “(i) converted ~~to metallurgical grade bauxite~~ **from bauxite to a minimum**  
14 **purity of 99 percent alumina by mass**, or

15 “(ii) purified to a minimum purity of **99.99 99.9** percent aluminum by mass.

16 “(B) ANTIMONY.—Antimony which is—

17 “(i) converted to antimony trisulfide **concentrate with a minimum purity of**  
18 **90 percent antimony trisulfide by mass**, or

19 “(ii) purified to a minimum purity of **99 99.65** percent antimony by mass.

20 “(C) BARITE.—Barite which ~~is is—~~

21 ~~“(i) converted to~~ barium sulfate, ~~or~~

22 ~~“(ii)~~ purified to a minimum purity of **99 80** percent barite by mass.

23 “(D) BERYLLIUM.—Beryllium which is—

24 “(i) converted to copper-beryllium master alloy, or

25 “(ii) purified to a minimum purity of 99 percent beryllium by mass.

26 “(E) CERIUM.—Cerium which is—

27 “(i) converted to cerium oxide which is purified to a minimum purity of 99.9  
28 percent cerium oxide by mass, or

29 “(ii) purified to a minimum purity of 99 percent cerium by mass.

30 “(F) CESIUM.—Cesium which is—

31 “(i) converted to cesium formate or cesium carbonate, or

32 “(ii) purified to a minimum purity of 99 percent cesium by mass.

33 “(G) CHROMIUM.—Chromium which is—

34 “(i) converted to ferrochromium consisting of not less than 60 percent  
35 chromium by mass, or

1 “(ii) purified to a minimum purity of 99 percent chromium by mass.

2 “(H) COBALT.—Cobalt which is—

3 “(i) converted to cobalt sulfate, or

4 “(ii) purified to a minimum purity of 99.6 percent cobalt by mass.

5 “(I) DYSPROSIUM.—Dysprosium which is—

6 “(i) converted to not less than 99 percent pure dysprosium iron alloy by mass,  
7 or

8 “(ii) purified to a minimum purity of 99 percent dysprosium by mass.

9 “(J) EUROPIUM.—Europium which is—

10 “(i) converted to europium oxide which is purified to a minimum purity of 99.9  
11 percent europium oxide by mass, or

12 “(ii) purified to a minimum purity of 99 percent by mass.

13 “(K) FLUORSPAR.—Fluorspar which is—

14 “(i) converted to acid-grade fluorspar which is purified to a minimum purity of  
15 97 percent calcium fluoride by mass, or

16 “(ii) purified to a minimum purity of 99 percent fluorspar by mass.

17 “(L) GADOLINIUM.—Gadolinium which is—

18 “(i) converted to gadolinium oxide which is purified to a minimum purity of  
19 99.9 percent gadolinium oxide by mass, or

20 “(ii) purified to a minimum purity of 99 percent gadolinium by mass.

21 “(M) GERMANIUM.—Germanium which is—

22 “(i) converted to germanium tetrachloride, or

23 “(ii) purified to a minimum purity of 99.99 percent germanium by mass.

24 “(N) GRAPHITE.—Graphite which is purified to a minimum purity of 99.9 percent  
25 graphitic carbon by mass.

26 “(O) INDIUM.—Indium which is—

27 “(i) converted to—

28 “(I) indium tin oxide, or

29 “(II) indium oxide which is purified to a minimum purity of 99.9 percent  
30 indium oxide by mass, or

31 “(ii) purified to a minimum purity of 99 percent indium by mass.

32 “(P) LITHIUM.—Lithium which is—

33 “(i) converted to lithium carbonate or lithium hydroxide, or

34 “(ii) purified to a minimum purity of 99.9 percent lithium by mass.

1 “(Q) MANGANESE.—Manganese which is—

2 “(i) converted to manganese sulphate, or

3 “(ii) purified to a minimum purity of 99.7 percent manganese by mass.

4 “(R) NEODYMIUM.—Neodymium which is—

5 “(i) converted to neodymium-praseodymium oxide, ~~or~~

6 ~~“(ii) which is purified to a minimum purity of 99 percent neodymium-~~  
7 ~~praseodymium oxide by mass,~~

8 ~~“(ii) converted to neodymium oxide which is purified to a minimum purity~~  
9 ~~of 99.5 percent neodymium oxide by mass~~

10 ~~“(iii) purified to a minimum purity of 99.99 percent neodymium by mass.~~

11 “(S) NICKEL.—Nickel which is—

12 “(i) converted to nickel sulphate, or

13 “(ii) purified to a minimum purity of 99 percent nickel by mass.

14 “(T) NIOBIUM.—Niobium which is—

15 “(i) converted to ferroniobium, or

16 “(ii) purified to a minimum purity of 99 percent niobium by mass.

17 “(U) TELLURIUM.—Tellurium which is—

18 “(i) converted to cadmium telluride, or

19 “(ii) purified to a minimum purity of 99 percent tellurium by mass.

20 “(V) TIN.—Tin which ~~is is—~~

21 ~~“(i) converted to indium tin oxide, or~~

22 ~~“(ii) purified to low alpha emitting tin which—~~

23 ~~“(i)“(i) has a purity of greater than 99.99 percent by mass, and~~

24 ~~“(ii)“(ii) possesses an alpha emission rate of not greater than 0.01 counts per~~  
25 ~~hour per centimeter square.~~

26 “(W) TUNGSTEN.—Tungsten which is converted to ammonium paratungstate or  
27 ferrotungsten.

28 “(X) VANADIUM.—Vanadium which is converted to ferrovandium or vanadium  
29 pentoxide.

30 “(Y) YTTRIUM.—Yttrium which is—

31 “(i) converted to yttrium oxide which is purified to a minimum purity of 99.9  
32 99.999 percent yttrium oxide by mass, or

33 “(ii) purified to a minimum purity of 99.999 percent yttrium by mass.

34 “(Z) OTHER MINERALS.—Any of the following minerals, provided that such mineral  
35 is purified to a minimum purity of 99 percent by mass:

- 1 “(i) Arsenic.
- 2 “(ii) Bismuth.
- 3 “(iii) Erbium.
- 4 “(iv) Gallium.
- 5 “(v) Hafnium.
- 6 “(vi) Holmium.
- 7 “(vii) Iridium.
- 8 “(viii) Lanthanum.
- 9 “(ix) Lutetium.
- 10 “(x) Magnesium.
- 11 “(xi) Palladium.
- 12 “(xii) Platinum.
- 13 “(xiii) Praseodymium.
- 14 “(xiv) Rhodium.
- 15 “(xv) Rubidium.
- 16 “(xvi) Ruthenium.
- 17 “(xvii) Samarium.
- 18 “(xviii) Scandium.
- 19 “(xix) Tantalum.
- 20 “(xx) Terbium.
- 21 “(xxi) Thulium.
- 22 “(xxii) Titanium.
- 23 “(xxiii) Ytterbium.
- 24 “(xxiv) Zinc.
- 25 “(xxv) Zirconium.

26 “(d) Special Rules.—In this section—

27 “(1) RELATED PERSONS.—Persons shall be treated as related to each other if such persons  
28 would be treated as a single employer under the regulations prescribed under section 52(b).

29 “(2) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be  
30 taken into account under this section only with respect to eligible components the  
31 production of which is within—

32 “(A) the United States (within the meaning of section 638(1)), or

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

1 “(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by  
2 the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

3 “(4) SALE OF INTEGRATED COMPONENTS.—For purposes of this section, a person shall be  
4 treated as having sold an eligible component to an unrelated person if such component is  
5 integrated, incorporated, or assembled into another eligible component which is sold to an  
6 unrelated person.”.

7 (b) Conforming Amendments.—

8 (1) Section 38(b) of the Internal Revenue Code of 1986, as amended by the preceding  
9 provisions of this Act, is amended—

10 (A) in paragraph (36), by striking “plus” at the end,

11 (B) in paragraph (37), by striking the period at the end and inserting “, plus”, and

12 (C) by adding at the end the following new paragraph:

13 “(38) the advanced manufacturing production credit determined under section 45X(a).”.

14 (2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as  
15 amended by the preceding provisions of this Act, is amended by adding at the end the  
16 following new item:

17 “Sec.45X.Advanced manufacturing production credit.”.

18 (c) Effective Date.—The amendments made by this section shall apply to components  
19 produced and sold after December 31, 2022.

20 **PART 6—SUPERFUND**

21 **SEC. 13601. REINSTATEMENT OF SUPERFUND.**

22 (a) Hazardous Substance Superfund Financing Rate.—

23 (1) EXTENSION.—Section 4611 is amended by striking subsection (e).

24 (2) ADJUSTMENT FOR INFLATION.—

25 (A) Section 4611(c)(2)(A) is amended by striking “9.7 cents” and inserting “16.4  
26 cents”.

27 (B) Section 4611(c) is amended by adding at the end the following:

28 “(3) ADJUSTMENT FOR INFLATION.—

29 “(A) IN GENERAL.—In the case of a year beginning after 2023, the amount in  
30 paragraph (2)(A) shall be increased by an amount equal to—

31 “(i) such amount, multiplied by

32 “(ii) the cost-of-living adjustment determined under section 1(f)(3) for the  
33 calendar year, determined by substituting ‘calendar year 2022’ for ‘calendar year  
34 2016’ in subparagraph (A)(ii) thereof.

35 “(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a  
36 multiple of \$0.01, such amount shall be rounded to the next lowest multiple of \$0.01.”.



1 (b) Authority for Advances.—Section 9507(d)(3)(B) is amended by striking “December 31,  
2 1995” and inserting “December 31, 2032”.

3 (c) Effective Date.—The amendments made by this section shall take effect on January 1,  
4 2023.

## 5 PART 7—INCENTIVES FOR CLEAN ELECTRICITY AND 6 CLEAN TRANSPORTATION

### 7 SEC. 13701. CLEAN ELECTRICITY PRODUCTION 8 CREDIT.

9 (a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the  
10 preceding provisions of this Act, is amended by adding at the end the following new section:

#### 11 “SEC. 45Y. CLEAN ELECTRICITY PRODUCTION CREDIT.

12 “(a) Amount of Credit.—

13 “(1) IN GENERAL.—For purposes of section 38, the clean electricity production credit for  
14 any taxable year is an amount equal to the product of—

15 “(A) the kilowatt hours of electricity—

16 “(i) produced by the taxpayer at a qualified facility, and

17 “(ii)(I) sold by the taxpayer to an unrelated person during the taxable year, or

18 “(II) in the case of a qualified facility which is equipped with a metering device  
19 which is owned and operated by an unrelated person, sold, consumed, or stored by  
20 the taxpayer during the taxable year, multiplied by

21 “(B) the applicable amount with respect to such qualified facility.

22 “(2) APPLICABLE AMOUNT.—

23 “(A) BASE AMOUNT.—Subject to subsection (g)(7), in the case of any qualified  
24 facility which is not described in clause (i) or (ii) of subparagraph (B) and does not  
25 satisfy the requirements described in clause (iii) of such subparagraph, the applicable  
26 amount shall be 0.3 cents.

27 “(B) ALTERNATIVE AMOUNT.—Subject to subsection (g)(7), in the case of any  
28 qualified facility—

29 “(i) with a maximum net output of less than 1 megawatt (as measured in  
30 alternating current),

31 “(ii) the construction of which begins prior to the date that is 60 days after the  
32 Secretary publishes guidance with respect to the requirements of paragraphs (9)  
33 and (10) of subsection (g), or

34 “(iii) which—

35 “(I) satisfies the requirements under paragraph (9) of subsection (g), and

1 “(II) with respect to the construction of such facility, satisfies the  
2 requirements under paragraph (10) of subsection (g),

3 the applicable amount shall be 1.5 cents.

4 “(b) Qualified Facility.—

5 “(1) IN GENERAL.—

6 “(A) DEFINITION.—Subject to subparagraphs (B), (C), and (D), the term ‘qualified  
7 facility’ means a facility owned by the taxpayer—

8 “(i) which is used for the generation of electricity,

9 “(ii) which is placed in service after December 31, 2024, and

10 “(iii) for which the greenhouse gas emissions rate (as determined under  
11 paragraph (2)) is not greater than zero.

12 “(B) 10-YEAR PRODUCTION CREDIT.—For purposes of this section, a facility shall  
13 only be treated as a qualified facility during the 10-year period beginning on the date  
14 the facility was originally placed in service.

15 “(C) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.—The term ‘qualified  
16 facility’ shall include either of the following in connection with a facility described in  
17 subparagraph (A) (without regard to clause (ii) of such subparagraph) which was  
18 placed in service before January 1, 2025, but only to the extent of the increased amount  
19 of electricity produced at the facility by reason of the following:

20 “(i) A new unit which is placed in service after December 31, 2024.

21 “(ii) Any additions of capacity which are placed in service after December 31,  
22 2024.

23 “(D) COORDINATION WITH OTHER CREDITS.—The term ‘qualified facility’ shall not  
24 include any facility for which a credit determined under section 45, 45J, 45Q, 45U, 48,  
25 48A, or **48D 48E** is allowed under section 38 for the taxable year or any prior taxable  
26 year.

27 “(2) GREENHOUSE GAS EMISSIONS RATE.—

28 “(A) IN GENERAL.—For purposes of this section, the term ‘greenhouse gas  
29 emissions rate’ means the amount of greenhouse gases emitted into the atmosphere by  
30 a facility in the production of electricity, expressed as grams of CO<sub>2</sub>e per KWh.

31 “(B) FUEL COMBUSTION AND GASIFICATION.—In the case of a facility which  
32 produces electricity through combustion or gasification, the greenhouse gas emissions  
33 rate for such facility shall be equal to the net rate of greenhouse gases emitted into the  
34 atmosphere by such facility (taking into account lifecycle greenhouse gas emissions, as  
35 described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H))) in  
36 the production of electricity, expressed as grams of CO<sub>2</sub>e per KWh.

37 “(C) ESTABLISHMENT OF EMISSIONS RATES FOR FACILITIES.—

38 “(i) PUBLISHING EMISSIONS RATES.—The Secretary shall annually publish a  
39 table that sets forth the greenhouse gas emissions rates for types or categories of

1 facilities, which a taxpayer shall use for purposes of this section.

2 “(ii) PROVISIONAL EMISSIONS RATE.—In the case of any facility for which an  
3 emissions rate has not been established by the Secretary, a taxpayer which owns  
4 such facility may file a petition with the Secretary for determination of the  
5 emissions rate with respect to such facility.

6 “(D) CARBON CAPTURE AND SEQUESTRATION EQUIPMENT.—For purposes of this  
7 subsection, the amount of greenhouse gases emitted into the atmosphere by a facility in  
8 the production of electricity shall not include any qualified carbon dioxide that is  
9 captured by the taxpayer and—

10 “(i) pursuant to any regulations established under paragraph (2) of section  
11 45Q(f), disposed of by the taxpayer in secure geological storage, or

12 “(ii) utilized by the taxpayer in a manner described in paragraph (5) of such  
13 section.

14 “(c) Inflation Adjustment.—

15 “(1) IN GENERAL.—In the case of a calendar year beginning after 2024, the 0.3 cent  
16 amount in paragraph (2)(A) of subsection (a) and the 1.5 cent amount in paragraph (2)(B) of  
17 such subsection shall each be adjusted by multiplying such amount by the inflation  
18 adjustment factor for the calendar year in which the sale, consumption, or storage of the  
19 electricity occurs. If the 0.3 cent amount as increased under this paragraph is not a multiple  
20 of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05 cent. If the 1.5  
21 cent amount as increased under this paragraph is not a multiple of 0.1 cent, such amount  
22 shall be rounded to the nearest multiple of 0.1 cent.

23 “(2) ANNUAL COMPUTATION.—The Secretary shall, not later than April 1 of each  
24 calendar year, determine and publish in the Federal Register the inflation adjustment factor  
25 for such calendar year in accordance with this subsection.

26 “(3) INFLATION ADJUSTMENT FACTOR.—The term ‘inflation adjustment factor’ means,  
27 with respect to a calendar year, a fraction the numerator of which is the GDP implicit price  
28 deflator for the preceding calendar year and the denominator of which is the GDP implicit  
29 price deflator for the calendar year 1992. The term ‘GDP implicit price deflator’ means the  
30 most recent revision of the implicit price deflator for the gross domestic product as  
31 computed and published by the Department of Commerce before March 15 of the calendar  
32 year.

33 “(d) Credit Phase-out.—

34 “(1) IN GENERAL.—The amount of the clean electricity production credit under  
35 subsection (a) for any qualified facility the construction of which begins during a calendar  
36 year described in paragraph (2) shall be equal to the product of—

37 “(A) the amount of the credit determined under subsection (a) without regard to this  
38 subsection, multiplied by

39 “(B) the phase-out percentage under paragraph (2).

40 “(2) PHASE-OUT PERCENTAGE.—The phase-out percentage under this paragraph is equal  
41 to—

1 “(A) for a facility the construction of which begins during the first calendar year  
2 following the applicable year, 100 percent,

3 “(B) for a facility the construction of which begins during the second calendar year  
4 following the applicable year, 75 percent,

5 “(C) for a facility the construction of which begins during the third calendar year  
6 following the applicable year, 50 percent, and

7 “(D) for a facility the construction of which begins during any calendar year  
8 subsequent to the calendar year described in subparagraph (C), 0 percent.

9 “(3) APPLICABLE YEAR.—For purposes of this subsection, the term ‘applicable year’  
10 means the later of—

11 “(A) the calendar year in which the Secretary determines that the annual greenhouse  
12 gas emissions from the production of electricity in the United States are equal to or less  
13 than 25 percent of the annual greenhouse gas emissions from the production of  
14 electricity in the United States for calendar year 2022, or

15 “(B) 2032.

16 “(e) Definitions.—For purposes of this section:

17 “(1) CO<sub>2</sub>e PER KWH.—The term ‘CO<sub>2</sub>e per KWh’ means, with respect to any  
18 greenhouse gas, the equivalent carbon dioxide (as determined based on global warming  
19 potential) per kilowatt hour of electricity produced.

20 “(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the same meaning given such  
21 term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in  
22 effect on the date of the enactment of this section.

23 “(3) QUALIFIED CARBON DIOXIDE.—The term ‘qualified carbon dioxide’ means carbon  
24 dioxide captured from an industrial source which—

25 “(A) would otherwise be released into the atmosphere as industrial emission of  
26 greenhouse gas,

27 “(B) is measured at the source of capture and verified at the point of disposal or  
28 utilization, and

29 “(C) is captured and disposed or utilized within the United States (within the  
30 meaning of section 638(1)) or a possession of the United States (within the meaning of  
31 section 638(2)).

32 “(f) Guidance.—Not later than January 1, 2025, the Secretary shall issue guidance regarding  
33 implementation of this section, including calculation of greenhouse gas emission rates for  
34 qualified facilities and determination of clean electricity production credits under this section.

35 “(g) Special Rules.—

36 “(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Consumption,  
37 sales, or storage shall be taken into account under this section only with respect to  
38 electricity the production of which is within—

39 “(A) the United States (within the meaning of section 638(1)), or

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

2 “(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

3 “(A) IN GENERAL.—For purposes of subsection (a)—

4 “(i) the kilowatt hours of electricity produced by a taxpayer at a qualified  
5 facility shall include any production in the form of useful thermal energy by any  
6 combined heat and power system property within such facility, and

7 “(ii) the amount of greenhouse gases emitted into the atmosphere by such  
8 facility in the production of such useful thermal energy shall be included for  
9 purposes of determining the greenhouse gas emissions rate for such facility.

10 “(B) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this  
11 paragraph, the term ‘combined heat and power system property’ has the same meaning  
12 given such term by section 48(c)(3) (without regard to subparagraphs (A)(iv), (B), and  
13 (D) thereof).

14 “(C) CONVERSION FROM BTU TO KWH.—

15 “(i) IN GENERAL.—For purposes of subparagraph (A)(i), the amount of kilowatt  
16 hours of electricity produced in the form of useful thermal energy shall be equal  
17 to the quotient of—

18 “(I) the total useful thermal energy produced by the combined heat and  
19 power system property within the qualified facility, divided by

20 “(II) the heat rate for such facility.

21 “(ii) HEAT RATE.—For purposes of this subparagraph, the term ‘heat rate’  
22 means the amount of energy used by the qualified facility to generate 1 kilowatt  
23 hour of electricity, expressed as British thermal units per net kilowatt hour  
24 generated.

25 “(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified facility  
26 in which more than 1 person has an ownership interest, except to the extent provided in  
27 regulations prescribed by the Secretary, production from the facility shall be allocated  
28 among such persons in proportion to their respective ownership interests in the gross sales  
29 from such facility.

30 “(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons  
31 would be treated as a single employer under the regulations prescribed under section 52(b).  
32 In the case of a corporation which is a member of an affiliated group of corporations filing a  
33 consolidated return, such corporation shall be treated as selling electricity to an unrelated  
34 person if such electricity is sold to such a person by another member of such group.

35 “(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by  
36 the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

37 “(6) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

38 “(A) ELECTION TO ALLOCATE.—

39 “(i) IN GENERAL.—In the case of an eligible cooperative organization, any  
40 portion of the credit determined under subsection (a) for the taxable year may, at

1 the election of the organization, be apportioned among patrons of the organization  
2 on the basis of the amount of business done by the patrons during the taxable  
3 year.

4 “(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any  
5 taxable year shall be made on a timely filed return for such year. Such election,  
6 once made, shall be irrevocable for such taxable year. Such election shall not take  
7 effect unless the organization designates the apportionment as such in a written  
8 notice mailed to its patrons during the payment period described in section  
9 1382(d).

10 “(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit  
11 apportioned to any patrons under subparagraph (A)—

12 “(i) shall not be included in the amount determined under subsection (a) with  
13 respect to the organization for the taxable year, and

14 “(ii) shall be included in the amount determined under subsection (a) for the  
15 first taxable year of each patron ending on or after the last day of the payment  
16 period (as defined in section 1382(d)) for the taxable year of the organization or,  
17 if earlier, for the taxable year of each patron ending on or after the date on which  
18 the patron receives notice from the cooperative of the apportionment.

19 “(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount  
20 of the credit of a cooperative organization determined under subsection (a) for a  
21 taxable year is less than the amount of such credit shown on the return of the  
22 cooperative organization for such year, an amount equal to the excess of—

23 “(i) such reduction, over

24 “(ii) the amount not apportioned to such patrons under subparagraph (A) for the  
25 taxable year,

26 shall be treated as an increase in tax imposed by this chapter on the organization. Such  
27 increase shall not be treated as tax imposed by this chapter for purposes of determining  
28 the amount of any credit under this chapter.

29 “(D) ELIGIBLE COOPERATIVE DEFINED.—For purposes of this section, the term  
30 ‘eligible cooperative’ means a cooperative organization described in section 1381(a)  
31 which is owned more than 50 percent by agricultural producers or by entities owned by  
32 agricultural producers. For this purpose an entity owned by an agricultural producer is  
33 one that is more than 50 percent owned by agricultural producers.

34 “(7) INCREASE IN CREDIT IN ENERGY COMMUNITIES.—In the case of any qualified facility  
35 which is located in an energy community (as defined in section 45(b)(11)(B)), for purposes  
36 of determining the amount of the credit under subsection (a) with respect to any electricity  
37 produced by the taxpayer at such facility during the taxable year, the applicable amount  
38 under paragraph (2) of such subsection shall be increased by an amount equal to 10 percent  
39 of the amount otherwise in effect under such paragraph (without application of subparagraph  
40 (B)).

41 “(8) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Rules similar to the rules of section  
42 45(b)(3) shall apply.

1 “(9) WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7) shall apply.

2 “(10) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
3 shall apply.

4 “(11) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

5 “(A) IN GENERAL.—In the case of any qualified facility which satisfies the  
6 requirement under subparagraph (B)(i), the amount of the credit determined under  
7 subsection (a) shall be increased by an amount equal to 10 percent of the amount so  
8 determined **(as determined without application of paragraph (7)).**

9 “(B) REQUIREMENT.—

10 “(i) IN GENERAL.—The requirement described in this subclause is satisfied with  
11 respect to any qualified facility if the taxpayer certifies to the Secretary (at such  
12 time, and in such form and manner, as the Secretary may prescribe) that any steel,  
13 iron, or manufactured product which is a component of such facility (upon  
14 completion of construction) was produced in the United States (as determined  
15 under section 661 of title 49, Code of Federal Regulations).

16 “(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in  
17 a manner consistent with section 661.5 of title 49, Code of Federal Regulations.

18 “(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), the manufactured  
19 products which are components of a qualified facility upon completion of  
20 construction shall be deemed to have been produced in the United States if not  
21 less than the adjusted percentage (as determined under subparagraph (C)) of the  
22 total costs of all such manufactured products of such facility are attributable to  
23 manufactured products (including components) which are mined, produced, or  
24 manufactured in the United States.

25 “(C) ADJUSTED PERCENTAGE.—

26 “(i) IN GENERAL.—Subject to subclause (ii), for purposes of subparagraph (B)  
27 (iii), the adjusted percentage shall be—

28 **“(I) in the case of a facility the construction of which begins before**  
29 **January 1, 2025, 40 percent,**

30 **“(II) in the case of a facility the construction of which begins after**  
31 **December 31, 2024, and before January 1, 2026, 45 percent,**

32 **“(III) in the case of a facility the construction of which begins after**  
33 **December 31, 2025, and before January 1, 2027, 50 percent, and**

34 **“(IV) in the case of a facility the construction of which begins after**  
35 **December 31, 2026, 55 percent.**

36 “(ii) OFFSHORE WIND FACILITY.—For purposes of subparagraph (B)(iii), in the  
37 case of a qualified facility which is an offshore wind facility, the adjusted  
38 percentage shall be—

39 **“(I) in the case of a facility the construction of which begins before**  
40 **January 1, 2025, 20 percent,**

1 **“(II)** in the case of a facility the construction of which begins after  
2 December 31, 2024, and before January 1, 2026, 27.5 percent,

3 ~~“(II)”~~**“(III)** in the case of a facility the construction of which begins after  
4 December 31, 2025, and before January 1, 2027, 35 percent,

5 ~~“(III)”~~**“(IV)** in the case of a facility the construction of which begins after  
6 December 31, 2026, and before January 1, 2028, 45 percent, and

7 ~~“(IV)”~~**“(V)** in the case of a facility the construction of which begins after  
8 December 31, 2027, 55 percent.

9 **“(12) PHASEOUT FOR ELECTIVE PAYMENT.—**

10 **“(A) IN GENERAL.—**In the case of a taxpayer making an election under section 6417  
11 with respect to a credit under this section, the amount of such credit shall be replaced  
12 with—

13 **“(i)** the value of such credit (determined without regard to this paragraph),  
14 multiplied by

15 **“(ii)** the applicable percentage.

16 **“(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN QUALIFIED FACILITIES.—**  
17 In the case of any qualified facility—

18 **“(i)** which satisfies the requirements under paragraph (11)(B) **with respect to**  
19 **the construction of such facility,** or

20 **“(ii)** with a maximum net output of less than 1 megawatt (as measured in  
21 alternating current),

22 the applicable percentage shall be 100 percent.

23 **“(C) PHASED DOMESTIC CONTENT REQUIREMENT.—**Subject to subparagraph (D), in  
24 the case of any qualified facility which is not described in subparagraph (B), the  
25 applicable percentage shall be—

26 **“(i) if construction of such facility began before January 1, 2024, 100**  
27 **percent,**

28 **“(ii) if construction of such facility began in calendar year 2024, 90**  
29 **percent,**

30 **“(iii)** if construction of such facility began in calendar year 2025, 85 percent,  
31 and

32 ~~“(ii)”~~**“(iv)** if construction of such facility began after December 31, 2025, 0  
33 percent.

34 **“(D) EXCEPTION.—**

35 **“(i) IN GENERAL.—**For purposes of this paragraph, the Secretary shall provide  
36 exceptions to the requirements under this paragraph **for the construction of**  
37 **qualified facilities** if—

38 **“(I)** the inclusion of steel, iron, or manufactured products which are



1 produced in the United States increases the overall costs of construction of  
2 qualified facilities by more than 25 percent, or

3 “(II) relevant steel, iron, or manufactured products are not produced in the  
4 United States in sufficient and reasonably available quantities or of a  
5 satisfactory quality.

6 “(ii) APPLICABLE PERCENTAGE.—In any case in which the Secretary provides  
7 an exception pursuant to clause (i), the applicable percentage shall be 100  
8 percent.”.

9 (b) Conforming Amendments.—

10 (1) Section 38(b), as amended by the preceding provisions of this Act, is amended—

11 (A) in paragraph (37), by striking “plus” at the end,

12 (B) in paragraph (38), by striking the period at the end and inserting “, plus”, and

13 (C) by adding at the end the following new paragraph:

14 “(39) the clean electricity production credit determined under section 45Y(a).”.

15 (2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as  
16 amended by the preceding provisions of this Act, is amended by adding at the end the  
17 following new item:

18 “Sec.45Y.Clean electricity production credit.”.

19 (c) Effective Date.—The amendments made by this section shall apply to facilities placed in  
20 service after December 31, 2024.

## 21 SEC. 13702. CLEAN ELECTRICITY INVESTMENT 22 CREDIT.

23 (a) In General.—Subpart E of part IV of subchapter A of chapter 1, **as amended by section**  
24 **107(a) of the CHIPS Act of 2022**, is amended by inserting after section **48C 48D** the following  
25 new section:

## 26 “SEC. **48D 48E**. CLEAN ELECTRICITY INVESTMENT 27 CREDIT.

28 “(a) Investment Credit for Qualified Property.—

29 “(1) IN GENERAL.—For purposes of section 46, the clean electricity investment credit for  
30 any taxable year is an amount equal to the applicable percentage of the qualified investment  
31 for such taxable year with respect to—

32 “(A) any qualified facility, and

33 “(B) any energy storage technology.

34 “(2) APPLICABLE PERCENTAGE.—

35 “(A) QUALIFIED FACILITIES.—Subject to paragraph (3)—

1 “(i) BASE RATE.—In the case of any qualified facility which is not described in  
2 subclause (I) or (II) of clause (ii) and does not satisfy the requirements described  
3 in subclause (III) of such clause, the applicable percentage shall be 6 percent.

4 “(ii) ALTERNATIVE RATE.—In the case of any qualified facility—

5 “(I) with a maximum net output of less than 1 megawatt (as measured in  
6 alternating current),

7 “(II) the construction of which begins prior to the date that is 60 days after  
8 the Secretary publishes guidance with respect to the requirements of  
9 paragraphs (3) and (4) of subsection (d), or

10 “(III) which—

11 “(aa) satisfies the requirements of subsection (d)(3), and

12 “(bb) with respect to the construction of such facility, satisfies the  
13 requirements of subsection (d)(4),

14 the applicable percentage shall be 30 percent.

15 “(B) ENERGY STORAGE TECHNOLOGY.—Subject to paragraph (3)—

16 “(i) BASE RATE.—In the case of any energy storage technology which is not  
17 described in subclause (I) or (II) of clause (ii) and does not satisfy the  
18 requirements described in subclause (III) of such clause, the applicable percentage  
19 shall be 6 percent.

20 “(ii) ALTERNATIVE RATE.—In the case of any energy storage technology—

21 “(I) with a capacity of less than 1 megawatt,

22 “(II) the construction of which begins prior to the date that is 60 days after  
23 the Secretary publishes guidance with respect to the requirements of  
24 paragraphs (3) and (4) of subsection (d), or

25 “(III) which—

26 “(aa) satisfies the requirements of subsection (d)(3), and

27 “(bb) with respect to the construction of such property, satisfies the  
28 requirements of subsection (d)(4),

29 the applicable percentage shall be 30 percent.

30 “(3) INCREASE IN CREDIT RATE IN CERTAIN CASES.—

31 “(A) ENERGY COMMUNITIES.—

32 “(i) IN GENERAL.—In the case of any qualified investment with respect to a  
33 qualified facility or with respect to energy storage technology which is placed in  
34 service within an energy community (as defined in section 45(b)(11)(B)), for  
35 purposes of applying paragraph (2) with respect to such property or investment,  
36 the applicable percentage shall be increased by the applicable credit rate increase.

37 “(ii) APPLICABLE CREDIT RATE INCREASE.—For purposes of clause (i), the  
38 applicable credit rate increase shall be an amount equal to—

1 “(I) in the case of any qualified investment with respect to a qualified  
2 facility described in paragraph (2)(A)(i) or with respect to energy storage  
3 technology described in paragraph (2)(B)(i), 2 percentage points, and

4 “(II) in the case of any qualified investment with respect to a qualified  
5 facility described in paragraph (2)(A)(ii) or with respect to energy storage  
6 technology described in paragraph (2)(B)(ii), 10 percentage points.

7 “(B) DOMESTIC CONTENT.—Rules similar to the rules of section 48(a)(12) shall  
8 apply.

9 “(b) Qualified Investment With Respect to a Qualified Facility.—

10 “(1) IN GENERAL.—For purposes of subsection (a), the qualified investment with respect  
11 to any qualified facility for any taxable year is the sum of—

12 “(A) the basis of any qualified property placed in service by the taxpayer during  
13 such taxable year which is part of a qualified facility, plus

14 “(B) the amount of any expenditures which are—

15 “(i) paid or incurred by the taxpayer for qualified interconnection property—

16 “(I) in connection with a qualified facility which has a maximum net  
17 output of not greater than 5 megawatts (as measured in alternating current),  
18 and

19 “(II) placed in service during the taxable year of the taxpayer, and

20 “(ii) properly chargeable to capital account of the taxpayer.

21 “(2) QUALIFIED PROPERTY.—For purposes of this section, the term ‘qualified property’  
22 means property—

23 “(A) which is—

24 “(i) tangible personal property, or

25 “(ii) other tangible property (not including a building or its structural  
26 components), but only if such property is used as an integral part of the qualified  
27 facility,

28 “(B) with respect to which depreciation (or amortization in lieu of depreciation) is  
29 allowable, and

30 “(C)(i) the construction, reconstruction, or erection of which is completed by the  
31 taxpayer, or

32 “(ii) which is acquired by the taxpayer if the original use of such property  
33 commences with the taxpayer.

34 “(3) QUALIFIED FACILITY.—

35 “(A) IN GENERAL.—For purposes of this section, the term ‘qualified facility’ means  
36 a facility—

37 “(i) which is used for the generation of electricity,

1 “(ii) which is placed in service after December 31, 2024, and  
2 “(iii) for which the anticipated greenhouse gas emissions rate (as determined  
3 under subparagraph (B)(ii)) is not greater than zero.

4 “(B) ADDITIONAL RULES.—

5 “(i) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.—Rules similar to  
6 the rules of section 45Y(b)(1)(C) shall apply for purposes of this paragraph.

7 “(ii) GREENHOUSE GAS EMISSIONS RATE.—Rules similar to the rules of section  
8 45Y(b)(2) shall apply for purposes of this paragraph.

9 “(C) EXCLUSION.—The term ‘qualified facility’ shall not include any facility for  
10 which—

11 “(i) a renewable electricity production credit determined under section 45,

12 “(ii) an advanced nuclear power facility production credit determined under  
13 section 45J,

14 “(iii) a carbon oxide sequestration credit determined under section 45Q,

15 “(iv) a zero-emission nuclear power production credit determined under section  
16 45U,

17 “(v) a clean electricity production credit determined under section 45Y,

18 “(vi) an energy credit determined under section 48, or

19 “(vii) a qualifying advanced coal project credit under section 48A,

20 is allowed under section 38 for the taxable year or any prior taxable year.

21 “(4) QUALIFIED INTERCONNECTION PROPERTY.—For purposes of this paragraph, the term  
22 ‘qualified interconnection property’ has the meaning given such term in section 48(a)(8)(B).

23 “(5) COORDINATION WITH REHABILITATION CREDIT.—The qualified investment with  
24 respect to any qualified facility for any taxable year shall not include that portion of the  
25 basis of any property which is attributable to qualified rehabilitation expenditures (as  
26 defined in section 47(c)(2)).

27 “(6) DEFINITIONS.—For purposes of this subsection, the terms ‘CO<sub>2</sub>e per KWh’ and  
28 ‘greenhouse gas emissions rate’ have the same meaning given such terms under section  
29 45Y.

30 “(c) Qualified Investment With Respect to Energy Storage Technology.—

31 “(1) QUALIFIED INVESTMENT.—For purposes of subsection (a), the qualified investment  
32 with respect to energy storage technology for any taxable year is the basis of any energy  
33 storage technology placed in service by the taxpayer during such taxable year.

34 “(2) ENERGY STORAGE TECHNOLOGY.—For purposes of this section, the term ‘energy  
35 storage technology’ has the meaning given such term in section 48(c)(6) (except that  
36 subparagraph (D) of such section shall not apply).

37 “(d) Special Rules.—

1 “(1) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the  
2 rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of  
3 the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of  
4 subsection (a).

5 “(2) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR  
6 PRIVATE ACTIVITY BONDS.—Rules similar to the rules of section 45(b)(3) shall apply.

7 “(3) PREVAILING WAGE REQUIREMENTS.—Rules similar to the rules of section 48(a)(10)  
8 shall apply.

9 “(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
10 shall apply.

11 “(5) DOMESTIC CONTENT REQUIREMENT FOR ELECTIVE PAYMENT.—In the case of a  
12 taxpayer making an election under section 6417 with respect to a credit under this section,  
13 rules similar to the rules of section 45(b)(10) 45Y(g)(12) shall apply.

14 “(e) Credit Phase-Out.—

15 “(1) IN GENERAL.—The amount of the clean electricity investment credit under  
16 subsection (a) for any qualified investment with respect to any qualified facility or energy  
17 storage technology the construction of which begins during a calendar year described in  
18 paragraph (2) shall be equal to the product of—

19 “(A) the amount of the credit determined under subsection (a) without regard to this  
20 subsection, multiplied by

21 “(B) the phase-out percentage under paragraph (2).

22 “(2) PHASE-OUT PERCENTAGE.—The phase-out percentage under this paragraph is equal  
23 to—

24 “(A) for any qualified investment with respect to any qualified facility or energy  
25 storage technology the construction of which begins during the first calendar year  
26 following the applicable year, 100 percent,

27 “(B) for any qualified investment with respect to any qualified facility or energy  
28 storage technology the construction of which begins during the second calendar year  
29 following the applicable year, 75 percent,

30 “(C) for any qualified investment with respect to any qualified facility or energy  
31 storage technology the construction of which begins during the third calendar year  
32 following the applicable year, 50 percent, and

33 “(D) for any qualified investment with respect to any qualified facility or energy  
34 storage technology the construction of which begins during any calendar year  
35 subsequent to the calendar year described in subparagraph (C), 0 percent.

36 “(3) APPLICABLE YEAR.—For purposes of this subsection, the term ‘applicable year’ has  
37 the same meaning given such term in section 45Y(d)(3).

38 “(f) Greenhouse Gas.—In this section, the term ‘greenhouse gas’ has the same meaning given  
39 such term under section 45Y(e)(2).

40 “(g) Recapture of Credit.—For purposes of section 50, if the Secretary determines that the

1 greenhouse gas emissions rate for a qualified facility is greater than 10 grams of CO<sub>2</sub>e per KWh,  
2 any property for which a credit was allowed under this section with respect to such facility shall  
3 cease to be investment credit property in the taxable year in which the determination is made.

4 “(h) Special Rules for Certain Facilities Placed in Service in Connection With Low-income  
5 Communities.—

6 “(1) IN GENERAL.—In the case of any applicable facility with respect to which the  
7 Secretary makes an allocation of environmental justice capacity limitation under paragraph  
8 (4)—

9 “(A) the applicable percentage otherwise determined under subsection (a)(2) with  
10 respect to any eligible property which is part of such facility shall be increased by—

11 “(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii)  
12 and not described in subclause (II) of such paragraph, 10 percentage points, and

13 “(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii),  
14 20 percentage points, and

15 “(B) the increase in the credit determined under subsection (a) by reason of this  
16 subsection for any taxable year with respect to all property which is part of such  
17 facility shall not exceed the amount which bears the same ratio to the amount of such  
18 increase (determined without regard to this subparagraph) as—

19 “(i) the environmental justice capacity limitation allocated to such facility,  
20 bears to

21 “(ii) the total megawatt nameplate capacity of such facility, as measured in  
22 direct current.

23 “(2) APPLICABLE FACILITY.—For purposes of this subsection—

24 “(A) IN GENERAL.—The term ‘applicable facility’ means any qualified facility—

25 “(i) which is not described in section 45Y(b)(2)(B),

26 “(ii) which has a maximum net output of less than 5 megawatts (as measured in  
27 alternating current), and

28 “(iii) which—

29 “(I) is located in a low-income community (as defined in section 45D(e))  
30 or on Indian land (as defined in section 2601(2) of the Energy Policy Act of  
31 1992 (25 U.S.C. 3501(2))), or

32 “(II) is part of a qualified low-income residential building project or a  
33 qualified low-income economic benefit project.

34 “(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.—A facility shall be  
35 treated as part of a qualified low-income residential building project if—

36 “(i) such facility is installed on a residential rental building which participates  
37 in a covered housing program (as defined in section 41411(a) of the Violence  
38 Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a housing assistance  
39 program administered by the Department of Agriculture under title V of the

1 Housing Act of 1949, a housing program administered by a tribally designated  
2 housing entity (as defined in section 4(22) of the Native American Housing  
3 Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))) or such  
4 other affordable housing programs as the Secretary may provide, and

5 “(ii) the financial benefits of the electricity produced by such facility are  
6 allocated equitably among the occupants of the dwelling units of such building.

7 “(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.—A facility shall be  
8 treated as part of a qualified low-income economic benefit project if at least 50 percent  
9 of the financial benefits of the electricity produced by such facility are provided to  
10 households with income of—

11 “(i) less than 200 percent of the poverty line (as defined in section 36B(d)(3)  
12 (A)) applicable to a family of the size involved, or

13 “(ii) less than 80 percent of area median gross income (as determined under  
14 section 142(d)(2)(B)).

15 “(D) FINANCIAL BENEFIT.—For purposes of subparagraphs (B) and (C), electricity  
16 acquired at a below-market rate shall not fail to be taken into account as a financial  
17 benefit.

18 “(3) ELIGIBLE PROPERTY.—For purposes of this subsection, the term ‘eligible property’  
19 means a qualified investment with respect to any applicable facility.

20 “(4) ALLOCATIONS.—

21 “(A) IN GENERAL.—Not later than January 1, 2025, the Secretary shall establish a  
22 program to allocate amounts of environmental justice capacity limitation to applicable  
23 facilities. In establishing such program and to carry out the purposes of this subsection,  
24 the Secretary shall provide procedures to allow for an efficient allocation process,  
25 including, when determined appropriate, consideration of multiple projects in a single  
26 application if such projects will be placed in service by a single taxpayer.

27 “(B) LIMITATION.—The amount of environmental justice capacity limitation  
28 allocated by the Secretary under subparagraph (A) during any calendar year shall not  
29 exceed the annual capacity limitation with respect to such year.

30 “(C) ANNUAL CAPACITY LIMITATION.—For purposes of this paragraph, the term  
31 ‘annual capacity limitation’ means 1.8 gigawatts of direct current capacity for each  
32 calendar year during the period beginning on January 1, 2025, and ending on  
33 December 31 of the applicable year (as defined in section 45Y(d)(3)), and zero  
34 thereafter.

35 “(D) CARRYOVER OF UNUSED LIMITATION.—

36 “(i) IN GENERAL.—If the annual capacity limitation for any calendar year  
37 exceeds the aggregate amount allocated for such year under this paragraph, such  
38 limitation for the succeeding calendar year shall be increased by the amount of  
39 such excess. No amount may be carried under the preceding sentence to any  
40 calendar year after the third calendar year following the applicable year (as  
41 defined in section 45Y(d)(3)).

1 “(ii) CARRYOVER FROM SECTION 48 FOR CALENDAR YEAR 2025.—If the annual  
2 capacity limitation for calendar year 2024 under section 48(e)(4)(D) exceeds the  
3 aggregate amount allocated for such year under such section, such excess amount  
4 may be carried over and applied to the annual capacity limitation under this  
5 subsection for calendar year 2025. The annual capacity limitation for calendar  
6 year 2025 shall be increased by the amount of such excess.

7 “(E) PLACED IN SERVICE DEADLINE.—

8 “(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any property  
9 which is placed in service after the date that is 4 years after the date of the  
10 allocation with respect to the facility of which such property is a part.

11 “(ii) APPLICATION OF CARRYOVER.—Any amount of environmental justice  
12 capacity limitation which expires under clause (i) during any calendar year shall  
13 be taken into account as an excess described in subparagraph (D)(i) (or as an  
14 increase in such excess) for such calendar year, subject to the limitation imposed  
15 by the last sentence of such subparagraph.

16 “(5) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide for  
17 recapturing the benefit of any increase in the credit allowed under subsection (a) by reason  
18 of this subsection with respect to any property which ceases to be property eligible for such  
19 increase (but which does not cease to be investment credit property within the meaning of  
20 section 50(a)). The period and percentage of such recapture shall be determined under rules  
21 similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture  
22 may not apply with respect to any property if, within 12 months after the date the taxpayer  
23 becomes aware (or reasonably should have become aware) of such property ceasing to be  
24 property eligible for such increase, the eligibility of such property for such increase is  
25 restored. The preceding sentence shall not apply more than once with respect to any facility.

26 “(i) Guidance.—Not later than January 1, 2025, the Secretary shall issue guidance regarding  
27 implementation of this section.”.

28 (b) Conforming Amendments.—

29 (1) Paragraph (6) of section 46 is amended to read as follows: **Section 46, as amended**  
30 **by section 107(d) of the CHIPS Act of 2022, is amended—**

31 **(A) in paragraph (5), by striking “and” at the end,**

32 **\*\* 10 (2)(B) in clause (vii) paragraph (6), by striking the period at the end and**  
33 **inserting “; and”;** and

34 **(C) by adding at the end the following:**

35 **“(7)“(6) the clean electricity investment credit.”.**

36 (2) Section 49(a)(1)(C), **as amended by section 107(d) of the CHIPS Act of 2022,** is  
37 amended—

38 (A) by striking “and” at the end of clause ~~(iv)~~(v),

39 (B) by striking the period at the end of clause ~~(v)~~(vi) and inserting a comma, and

40 (C) by adding at the end the following new clauses:



1 “(vi)“(vii) the basis of any qualified property which is part of a qualified  
2 facility under section ~~48D~~, ~~48E~~, and

3 “(vii)“(viii) the basis of any energy storage technology under section ~~48D~~.”  
4 ~~48E~~.”.

5 (3) Section 50(a)(2)(E), as amended by section 107(d) of the CHIPS Act of 2022, is  
6 amended by striking “or ~~48C(b)(2)~~” ~~48D(b)(5)~~” and inserting “~~48C(b)(2)~~,”~~48D(b)(5)~~, or  
7 ~~48D(e)~~” ~~48E(e)~~”.

8 (4) Section 50(c)(3) is amended by inserting “or clean electricity investment credit” after  
9 “In the case of any energy credit”.

10 (5) The table of sections for subpart E of part IV of subchapter A of chapter 1, as  
11 amended by section 107(d) of the CHIPS Act of 2022, is amended by inserting after the  
12 item relating to section ~~48C~~ ~~48D~~ the following new item:

13 “~~48D~~“48E. Clean electricity investment credit.”.

14 (c) Effective Date.—The amendments made by this section shall apply to property placed in  
15 service after December 31, 2024.

## 16 SEC. 13703. COST RECOVERY FOR QUALIFIED 17 FACILITIES, QUALIFIED PROPERTY, AND ENERGY 18 STORAGE TECHNOLOGY.

19 (a) In General.—Section 168(e)(3)(B) is amended—

20 (1) in clause (vi)(III), by striking “and” at the end,

21 (2) in clause (vii), by striking the period at the end and inserting “, and”, and

22 (3) by inserting after clause (vii) the following:

23 “(viii) any qualified facility (as defined in section 45Y(b)(1)(A)), any qualified  
24 property (as defined in subsection (b)(2) of section ~~48D~~ ~~48E~~) which is a qualified  
25 investment (as defined in subsection (b)(1) of such section), or any energy storage  
26 technology (as defined in subsection (c)(2) of such section).”.

27 (b) Effective Date.—The amendments made by this section shall apply to facilities and  
28 property placed in service after December 31, 2024.

## 29 SEC. 13704. CLEAN FUEL PRODUCTION CREDIT.

30 (a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the  
31 preceding provisions of this Act, is amended by adding at the end the following new section:

### 32 “SEC. 45Z. CLEAN FUEL PRODUCTION CREDIT.

33 “(a) Amount of Credit.—

34 “(1) IN GENERAL.—For purposes of section 38, the clean fuel production credit for any  
35 taxable year is an amount equal to the product of—

36 “(A) the applicable amount per gallon (or gallon equivalent) with respect to any

1 transportation fuel which is—

2 “(i) produced by the taxpayer at a qualified facility, and

3 “(ii) sold by the taxpayer in a manner described in paragraph (4) during the  
4 taxable year, and

5 “(B) the emissions factor for such fuel (as determined under subsection (b)).

6 “(2) APPLICABLE AMOUNT.—

7 “(A) BASE AMOUNT.—In the case of any transportation fuel produced at a qualified  
8 facility which does not satisfy the requirements described in subparagraph (B), the  
9 applicable amount shall be 20 cents.

10 “(B) ALTERNATIVE AMOUNT.—In the case of any transportation fuel produced at a  
11 qualified facility which satisfies the requirements under paragraphs (6) and (7) of  
12 subsection (f), the applicable amount shall be \$1.00.

13 “(3) SPECIAL RATE FOR SUSTAINABLE AVIATION FUEL.—

14 “(A) IN GENERAL.—In the case of a transportation fuel which is sustainable aviation  
15 fuel, paragraph (2) shall be applied—

16 “(i) in the case of fuel produced at a qualified facility described in paragraph  
17 (2)(A), by substituting ‘35 cents’ for ‘20 cents’, and

18 “(ii) in the case of fuel produced at a qualified facility described in paragraph  
19 (2)(B), by substituting ‘\$1.75’ for ‘\$1.00’.

20 “(B) SUSTAINABLE AVIATION FUEL.—For purposes of this subparagraph (A), the  
21 term ‘sustainable aviation fuel’ means liquid fuel, **the portion of which is not**  
22 **kerosene**, which is sold for use in an aircraft and which—

23 “(i) meets the requirements of—

24 “(I) ASTM International Standard D7566, or

25 “(II) the Fischer Tropsch provisions of ASTM International Standard  
26 D1655, Annex A1, and

27 “(ii) is not derived from palm fatty acid distillates or petroleum.

28 “(4) SALE.—For purposes of paragraph (1), the transportation fuel is sold in a manner  
29 described in this paragraph if such fuel is sold by the taxpayer to an unrelated person—

30 “(A) for use by such person in the production of a fuel mixture,

31 “(B) for use by such person in a trade or business, or

32 “(C) who sells such fuel at retail to another person and places such fuel in the fuel  
33 tank of such other person.

34 “(5) ROUNDING.—If any amount determined under paragraph (1) is not a multiple of 1  
35 cent, such amount shall be rounded to the nearest cent.

36 “(b) Emissions Factors.—

37 “(1) EMISSIONS FACTOR.—

1 “(A) CALCULATION.—

2 “(i) IN GENERAL.—The emissions factor of a transportation fuel shall be an  
3 amount equal to the quotient of—

4 “(I) an amount equal to—

5 “(aa) 50 kilograms of CO<sub>2</sub>e per mmBTU, minus

6 “(bb) the emissions rate for such fuel, divided by

7 “(II) 50 kilograms of CO<sub>2</sub>e per mmBTU.

8 “(B) ESTABLISHMENT OF EMISSIONS RATE.—

9 “(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall annually  
10 publish a table which sets forth the emissions rate for similar types and categories  
11 of transportation fuels based on the amount of lifecycle greenhouse gas emissions  
12 (as described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)  
13 (H)), as in effect on the date of the enactment of this section) for such fuels,  
14 expressed as kilograms of CO<sub>2</sub>e per mmBTU, which a taxpayer shall use for  
15 purposes of this section.

16 “(ii) NON-AVIATION FUEL.—In the case of any transportation fuel which is not  
17 a sustainable aviation fuel, the lifecycle greenhouse gas emissions of such fuel  
18 shall be based on the most recent determinations under the Greenhouse gases,  
19 Regulated Emissions, and Energy use in Transportation model developed by  
20 Argonne National Laboratory, or a successor model (as determined by the  
21 Secretary).

22 “(iii) AVIATION FUEL.—In the case of any transportation fuel which is a  
23 sustainable aviation fuel, the lifecycle greenhouse gas emissions of such fuel shall  
24 be determined in accordance with—

25 “(I) the most recent Carbon Offsetting and Reduction Scheme for  
26 International Aviation which has been adopted by the International Civil  
27 Aviation Organization with the agreement of the United States, or

28 “(II) any similar methodology which satisfies the criteria under section  
29 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on  
30 the date of enactment of this section.

31 “(C) ROUNDING OF EMISSIONS RATE.—

32 “(i) IN GENERAL.—Subject to clause (ii), the Secretary may round the emissions  
33 rates under subparagraph (B) to the nearest multiple of 5 kilograms of CO<sub>2</sub>e per  
34 mmBTU.

35 “(ii) EXCEPTION.—In the case of an emissions rate that is between 2.5  
36 kilograms of CO<sub>2</sub>e per mmBTU and -2.5 kilograms of CO<sub>2</sub>e per mmBTU, the  
37 Secretary may round such rate to zero.

38 “(D) PROVISIONAL EMISSIONS RATE.—In the case of any transportation fuel for  
39 which an emissions rate has not been established under subparagraph (B), a taxpayer  
40 producing such fuel may file a petition with the Secretary for determination of the

1 emissions rate with respect to such fuel.

2 “(2) ROUNDING.—If any amount determined under paragraph (1)(A) is not a multiple of  
3 0.1, such amount shall be rounded to the nearest multiple of 0.1.

4 “(c) Inflation Adjustment.—

5 “(1) IN GENERAL.—In the case of calendar years beginning after 2024, the 20 cent  
6 amount in subsection (a)(2)(A), the \$1.00 amount in subsection (a)(2)(B), the 35 cent  
7 amount in subsection (a)(3)(A)(i), and the \$1.75 amount in subsection (a)(3)(A)(ii) shall  
8 each be adjusted by multiplying such amount by the inflation adjustment factor for the  
9 calendar year in which the sale of the transportation fuel occurs. If any amount as increased  
10 under the preceding sentence is not a multiple of 1 cent, such amount shall be rounded to  
11 the nearest multiple of 1 cent.

12 “(2) INFLATION ADJUSTMENT FACTOR.—For purposes of paragraph (1), the inflation  
13 adjustment factor shall be the inflation adjustment factor determined and published by the  
14 Secretary pursuant to section 45Y(c), determined by substituting ‘calendar year 2022’ for  
15 ‘calendar year 1992’ in paragraph (3) thereof.

16 “(d) Definitions.—In this section:

17 “(1) MMBTU.—The term ‘mmBTU’ means 1,000,000 British thermal units.

18 “(2) CO<sub>2</sub>E.—The term ‘CO<sub>2</sub>e’ means, with respect to any greenhouse gas, the equivalent  
19 carbon dioxide (as determined based on relative global warming potential).

20 “(3) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the same meaning given that  
21 term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in  
22 effect on the date of the enactment of this section.

23 “(4) QUALIFIED FACILITY.—The term ‘qualified facility’—

24 “(A) means a facility used for the production of transportation fuels, and

25 “(B) does not include any facility for which one of the following credits is allowed  
26 under section 38 for the taxable year:

27 “(i) The credit for production of clean hydrogen under section 45V.

28 “(ii) The credit determined under section 46 to the extent that such credit is  
29 attributable to the energy credit determined under section 48 with respect to any  
30 specified clean hydrogen production facility for which an election is made under  
31 subsection ~~(a)(16)(a)(15)~~ of such section.

32 “(iii) The credit for carbon oxide sequestration under section 45Q.

33 “(5) TRANSPORTATION FUEL.—

34 “(A) IN GENERAL.—The term ‘transportation fuel’ means a fuel which—

35 “(i) is suitable for use as a fuel in a highway vehicle or aircraft,

36 “(ii) has an emissions rate which is not greater than 50 kilograms of CO<sub>2</sub>e per  
37 mmBTU, and

38 “(iii) is not derived from coprocessing an applicable material (or materials

1 derived from an applicable material) with a feedstock which is not biomass.

2 “(B) DEFINITIONS.—In this paragraph—

3 “(i) APPLICABLE MATERIAL.—The term ‘applicable material’ means—

4 “(I) monoglycerides, diglycerides, and triglycerides,

5 “(II) free fatty acids, and

6 “(III) fatty acid esters.

7 “(ii) BIOMASS.—The term ‘biomass’ has the same meaning given such term in  
8 section 45K(c)(3).

9 “(e) Guidance.—Not later than January 1, 2025, the Secretary shall issue guidance regarding  
10 implementation of this section, including calculation of emissions factors for transportation fuel,  
11 the table described in subsection (b)(1)(B)(i), and the determination of clean fuel production  
12 credits under this section.

13 “(f) Special Rules.—

14 “(1) ONLY REGISTERED PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—

15 “(A) IN GENERAL.—No clean fuel production credit shall be determined under  
16 subsection (a) with respect to any transportation fuel unless—

17 “(i) the taxpayer—

18 “(I) is registered as a producer of clean fuel under section 4101 at the time  
19 of production, and

20 “(II) in the case of any transportation fuel which is a sustainable aviation  
21 fuel, provides—

22 “(aa) certification (in such form and manner as the Secretary shall  
23 prescribe) from an unrelated party demonstrating compliance with—

24 “(AA) any general requirements, supply chain traceability  
25 requirements, and information transmission requirements established  
26 under the Carbon Offsetting and Reduction Scheme for International  
27 Aviation described in subclause (I) of subsection (b)(1)(B)(iii), or

28 “(BB) in the case of any methodology described in subclause (II)  
29 of such subsection, requirements similar to the requirements  
30 described in subitem (AA), and

31 “(bb) such other information with respect to such fuel as the  
32 Secretary may require for purposes of carrying out this section, and

33 “(ii) such fuel is produced in the United States.

34 “(B) UNITED STATES.—For purposes of this paragraph, the term ‘United States’  
35 includes any possession of the United States.

36 “(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which  
37 more than 1 person has an ownership interest, except to the extent provided in regulations  
38 prescribed by the Secretary, production from the facility shall be allocated among such

1 persons in proportion to their respective ownership interests in the gross sales from such  
2 facility.

3 “(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons  
4 would be treated as a single employer under the regulations prescribed under section 52(b).  
5 In the case of a corporation which is a member of an affiliated group of corporations filing a  
6 consolidated return, such corporation shall be treated as selling fuel to an unrelated person if  
7 such fuel is sold to such a person by another member of such group.

8 “(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by  
9 the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

10 “(5) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—Rules  
11 similar to the rules of section 45Y(g)(6) shall apply.

12 “(6) PREVAILING WAGE REQUIREMENTS.—

13 “(A) IN GENERAL.—Subject to subparagraph (B), rules similar to the rules of section  
14 45(b)(7) shall apply.

15 “(B) SPECIAL RULE FOR FACILITIES PLACED IN SERVICE BEFORE JANUARY 1, 2025.—  
16 For purposes of subparagraph (A), in the case of any qualified facility placed in service  
17 before January 1, 2025—

18 “(i) clause (i) of section 45(b)(7)(A) shall not apply, and

19 “(ii) clause (ii) of such section shall be applied by substituting ‘with respect to  
20 any taxable year beginning after December 31, 2024, for which the credit is  
21 allowed under this section’ for ‘with respect to any taxable year, for any portion  
22 of such taxable year which is within the period described in subsection (a)(2)(A)  
23 (ii)’.

24 “(7) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)  
25 shall apply.

26 “(g) Termination.—This section shall not apply to transportation fuel sold after December 31,  
27 2027.”.

28 (b) Conforming Amendments.—

29 (1) Section 25C(d)(3), as amended by the preceding provisions of this Act, is amended—

30 (A) in subparagraph (A), by striking “and” at the end,

31 (B) in subparagraph (B), by striking the period at the end and inserting “, and”, and

32 (C) by adding at the end the following new subparagraph:

33 “(C) transportation fuel (as defined in section 45Z(d)(5)).”.

34 (2) Section 30C(c)(1)(B), as amended by the preceding provisions of this Act, is amended  
35 by adding at the end the following new clause:

36 “(iv) Any transportation fuel (as defined in section 45Z(d)(5)).”.

37 (3) Section 38(b), as amended by the preceding provisions of this Act, is amended—

38 (A) in paragraph (38), by striking “plus” at the end,

1 (B) in paragraph (39), by striking the period at the end and inserting “, plus”, and  
2 (C) by adding at the end the following new paragraph:

3 “(40) the clean fuel production credit determined under section 45Z(a).”.

4 (4) The table of sections for subpart D of part IV of subchapter A of chapter 1, as  
5 amended by the preceding provisions of this Act, is amended by adding at the end the  
6 following new item:

7 “Sec.45Z.Clean fuel production credit.”.

8 (5) Section 4101(a)(1), as amended by the preceding provisions of this Act, is amended  
9 by inserting “every person producing a fuel eligible for the clean fuel production credit  
10 (pursuant to section 45Z),” after “section 6426(k)(3),”.

11 (c) Effective Date.—The amendments made by this section shall apply to transportation fuel  
12 produced after December 31, 2024.

## 13 PART 8—CREDIT MONETIZATION AND 14 APPROPRIATIONS

### 15 SEC. 13801. ELECTIVE PAYMENT FOR ENERGY 16 PROPERTY AND ELECTRICITY PRODUCED FROM 17 CERTAIN RENEWABLE RESOURCES, ETC.

18 (a) In General.—Subchapter B of chapter 65 is amended by inserting after section 6416 the  
19 following new section:

#### 20 “SEC. 6417. ELECTIVE PAYMENT OF APPLICABLE 21 CREDITS.

22 “(a) In General.—In the case of an applicable entity making an election (at such time and in  
23 such manner as the Secretary may provide) under this section with respect to any applicable  
24 credit determined with respect to such entity, such entity shall be treated as making a payment  
25 against the tax imposed by subtitle A (for the taxable year with respect to which such credit was  
26 determined) equal to the amount of such credit.

27 “(b) Applicable Credit.—The term ‘applicable credit’ means each of the following:

28 “(1) So much of the credit for alternative fuel vehicle refueling property allowed under  
29 section 30C which, pursuant to subsection (d)(1) of such section, is treated as a credit listed  
30 in section 38(b).

31 “(2) So much of the renewable electricity production credit determined under section  
32 45(a) as is attributable to qualified facilities which are originally placed in service after  
33 December 31, 2022.

34 “(3) So much of the credit for carbon oxide sequestration determined under section  
35 45Q(a) as is attributable to carbon capture equipment which is originally placed in service  
36 after December 31, 2022.

1 “(4) The zero-emission nuclear power production credit determined under section  
2 45U(a).

3 “(5) So much of the credit for production of clean hydrogen determined under section  
4 45V(a) as is attributable to qualified clean hydrogen production facilities which are  
5 originally placed in service after December 31, 2012.

6 “(6) In the case of a tax-exempt entity described in clause (i), (ii), or (iv) of section  
7 168(h)(2)(A), the credit for qualified commercial vehicles determined under section 45W by  
8 reason of subsection (d)(3) thereof.

9 “(7) The credit for advanced manufacturing production under section 45X(a).

10 “(8) The clean electricity production credit determined under section 45Y(a).

11 “(9) The clean fuel production credit determined under section 45Z(a).

12 “(10) The energy credit determined under section 48.

13 “(11) The qualifying advanced energy project credit determined under section 48C.

14 “(12) The clean electricity investment credit determined under section ~~48D~~. **48E**.

15 **“(e)“(c) Application to Partnerships and S Corporations.—**

16 **“(1) IN GENERAL.—In the case of any applicable credit determined with respect to**  
17 **any facility or property held directly by a partnership or S corporation, any election**  
18 **under subsection (a) shall be made by such partnership or S corporation. If such**  
19 **partnership or S corporation makes an election under such subsection (in such**  
20 **manner as the Secretary may provide) with respect to such credit—**

21 **“(A) the Secretary shall make a payment to such partnership or S corporation**  
22 **equal to the amount of such credit,**

23 **“(B) subsection (e) shall be applied with respect to such credit before**  
24 **determining any partner’s distributive share, or shareholder’s pro rata share, of**  
25 **such credit,**

26 **“(C) any amount with respect to which the election in subsection (a) is made**  
27 **shall be treated as tax exempt income for purposes of sections 705 and 1366, and**

28 **“(D) a partner’s distributive share of such tax exempt income shall be based on**  
29 **such partner’s distributive share of the otherwise applicable credit for each**  
30 **taxable year.**

31 **“(2) COORDINATION WITH APPLICATION AT PARTNER OR SHAREHOLDER LEVEL.—In**  
32 **the case of any facility or property held directly by a partnership or S corporation, no**  
33 **election by any partner or shareholder shall be allowed under subsection (a) with**  
34 **respect to any applicable credit determined with respect to such facility or property.**

35 **“(3) TREATMENT OF PAYMENTS TO PARTNERSHIPS AND S CORPORATIONS.—For**  
36 **purposes of section 1324 of title 31, United States Code, the payments under**  
37 **paragraph (1)(A) shall be treated in the same manner as a refund due from a credit**  
38 **provision referred to in subsection (b)(2) of such section.**

39 **“(d) Special Rules.—For purposes of this section—**



1 “(1) APPLICABLE ENTITY.—

2 “(A) IN GENERAL.—The term ‘applicable entity’ **means means—**

3 **“(i)** any organization exempt from the tax imposed by subtitle A,

4 **“(ii)** any State or **local government (or** political subdivision thereof),

5 **“(iii)** the Tennessee Valley Authority,

6 **“(iv)** an Indian tribal government (as defined in section 30D(g)(9)),

7 **or** **“(v)** any Alaska Native Corporation (as defined in section 3 of the Alaska  
8 Native Claims Settlement Act (43 U.S.C. 1602(m)), **or**

9 **“(vi) any corporation operating on a cooperative basis which is engaged in**  
10 **furnishing electric energy to persons in rural areas.**

11 “(B) ELECTION WITH RESPECT TO CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.—  
12 If a taxpayer other than an entity described in subparagraph (A) makes an election  
13 under this subparagraph with respect to any taxable year in which such taxpayer has  
14 placed in service a qualified clean hydrogen production facility (as defined in section  
15 45V(c)(3)), such taxpayer shall be treated as an applicable entity for purposes of this  
16 section for such taxable year, but only with respect to the credit described in subsection  
17 (b)(5).

18 “(C) ELECTION WITH RESPECT TO CREDIT FOR CARBON OXIDE SEQUESTRATION.—If  
19 a taxpayer other than an entity described in subparagraph (A) makes an election under  
20 this subparagraph with respect to any taxable year in which such taxpayer has, after  
21 December 31, 2022, placed in service carbon capture equipment at a qualified facility  
22 (as defined in section 45Q(d)), such taxpayer shall be treated as an applicable entity for  
23 purposes of this section for such taxable year, but only with respect to the credit  
24 described in subsection (b)(3).

25 “(D) ELECTION WITH RESPECT TO ADVANCED MANUFACTURING PRODUCTION  
26 CREDIT.—

27 “(i) IN GENERAL.—If a taxpayer other than an entity described in subparagraph  
28 (A) makes an election under this subparagraph with respect to any taxable year in  
29 which such taxpayer has, after December 31, 2022, produced eligible components  
30 (as defined in section 45X(c)(1)), such taxpayer shall be treated as an applicable  
31 entity for purposes of this section for such taxable year, but only with respect to  
32 the credit described in subsection (b)(7).

33 “(ii) LIMITATION.—

34 “(I) IN GENERAL.—Except as provided in subclause (II), if a taxpayer  
35 makes an election under this subparagraph with respect to any taxable year,  
36 such taxpayer shall be treated as having made such election for each of the 4  
37 succeeding taxable years ending before January 1, 2033.

38 “(II) EXCEPTION.—A taxpayer may elect to revoke the application of the  
39 election made under this subparagraph to any taxable year described in  
40 subclause (I). Any such election, if made, shall apply to the applicable year

1 specified in such election and each subsequent taxable year within the period  
2 described in subclause (I). Any election under this subclause may not be  
3 subsequently revoked.

4 **“(iii) PROHIBITION ON TRANSFER.—For any taxable year described in**  
5 **clause (ii)(I), no election may be made by the taxpayer under section 6418(a)**  
6 **for such taxable year with respect to eligible components for purposes of the**  
7 **credit described in subsection (b)(7).**

8 “(E) OTHER RULES.—

9 “(i) IN GENERAL.—An election made under subparagraph (B), (C), or (D) shall  
10 be made at such time and in such manner as the Secretary may provide.

11 “(ii) LIMITATION.—No election may be made under subparagraph (B), (C), or  
12 (D) with respect to any taxable year beginning after December 31, 2032.

13 “(2) APPLICATION.—In the case of any applicable entity which makes the election  
14 described in subsection (a), any applicable credit shall be determined—

15 “(A) without regard to paragraphs (3) and (4)(A)(i) of section 50(b), and

16 “(B) by treating any property with respect to which such credit is determined as used  
17 in a trade or business of the applicable entity.

18 “(3) ELECTIONS.—

19 “(A) IN GENERAL.—

20 “(i) DUE DATE.—Any election under subsection (a) shall be made not later than  
21 —

22 “(I) in the case of any government, or political subdivision, described in  
23 paragraph (1) and for which no return is required under section 6011 or  
24 6033(a), such date as is determined appropriate by the Secretary, or

25 “(II) in any other case, the due date (including extensions of time) for the  
26 return of tax for the taxable year for which the election is made, but in no  
27 event earlier than 180 days after the date of the enactment of this section.

28 “(ii) ADDITIONAL RULES.—Any election under subsection (a), once made, shall  
29 be irrevocable and shall apply (except as otherwise provided in this paragraph)  
30 with respect to any credit for the taxable year for which the election is made.

31 “(B) RENEWABLE ELECTRICITY PRODUCTION CREDIT.—In the case of the credit  
32 described in subsection (b)(2), any election under subsection (a) shall—

33 “(i) apply separately with respect to each qualified facility,

34 “(ii) be made for the taxable year in which such qualified facility is originally  
35 placed in service, and

36 “(iii) shall apply to such taxable year and to any subsequent taxable year which  
37 is within the period described in subsection (a)(2)(A)(ii) of section 45 with respect  
38 to such qualified facility.

39 “(C) CREDIT FOR CARBON OXIDE SEQUESTRATION.—

1 “(i) IN GENERAL.—In the case of the credit described in subsection (b)(3), any  
2 election under subsection (a) shall—

3 “(I) apply separately with respect to the carbon capture equipment  
4 originally placed in service by the applicable entity during a taxable year,  
5 and

6 “(II)(aa) in the case of a taxpayer who makes an election described in  
7 paragraph (1)(C), apply to the taxable year in which such equipment is  
8 placed in service and the 4 subsequent taxable years with respect to such  
9 equipment which end before January 1, 2033, and

10 “(bb) in any other case, apply to such taxable year and to any subsequent  
11 taxable year which is within the period described in paragraph (3)(A) or (4)  
12 (A) of section 45Q(a) with respect to such equipment.

13 “(ii) PROHIBITION ON TRANSFER.—For any taxable year described in clause (i)  
14 (II)(aa) with respect to carbon capture equipment, no election may be made by the  
15 taxpayer under section 6418(a) for such taxable year with respect to such  
16 equipment for purposes of the credit described in subsection (b)(3).

17 “(iii) REVOCATION OF ELECTION.—In the case of a taxpayer who makes an  
18 election described in paragraph (1)(C) with respect to carbon capture equipment,  
19 such taxpayer may, at any time during the period described in clause (i)(II)(aa),  
20 revoke the application of such election with respect to such equipment for any  
21 subsequent taxable years during such period. Any such election, if made, shall  
22 apply to the applicable year specified in such election and each subsequent  
23 taxable year within the period described in clause (i)(II)(aa). Any election under  
24 this subclause may not be subsequently revoked.

25 “(D) CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.—

26 “(i) IN GENERAL.—In the case of the credit described in subsection (b)(5), any  
27 election under subsection (a) shall—

28 “(I) apply separately with respect to each qualified clean hydrogen  
29 production facility,

30 “(II) be made for the taxable year in which such facility is placed in  
31 service (or within the 1-year period subsequent to the date of enactment of  
32 this section in the case of facilities placed in service before December 31,  
33 2022), and

34 “(III)(aa) in the case of a taxpayer who makes an election described in  
35 paragraph (1)(B), apply to such taxable year and the 4 subsequent taxable  
36 years with respect to such facility which end before January 1, 2033, and

37 “(bb) in any other case, apply to such taxable year and all subsequent  
38 taxable years with respect to such facility.

39 “(ii) PROHIBITION ON TRANSFER.—For any taxable year described in clause (i)  
40 (III)(aa) with respect to a qualified clean hydrogen production facility, no election  
41 may be made by the taxpayer under section 6418(a) for such taxable year with

1 respect to such facility for purposes of the credit described in subsection (b)(5).

2 “(iii) REVOCATION OF ELECTION.—In the case of a taxpayer who makes an  
3 election described in paragraph (1)(B) with respect to a qualified clean hydrogen  
4 production facility, such taxpayer may, at any time during the period described in  
5 clause (i)(III)(aa), revoke the application of such election with respect to such  
6 facility for any subsequent taxable years during such period. Any such election, if  
7 made, shall apply to the applicable year specified in such election and each  
8 subsequent taxable year within the period described in clause (i)(II)(aa). Any  
9 election under this subclause may not be subsequently revoked.

10 “(E) CLEAN ELECTRICITY PRODUCTION CREDIT.—In the case of the credit described  
11 in subsection (b)(8), any election under subsection (a) shall—

12 “(i) apply separately with respect to each qualified facility,

13 “(ii) be made for the taxable year in which such facility is placed in service, and

14 “(iii) shall apply to such taxable year and to any subsequent taxable year which  
15 is within the period described in subsection (b)(1)(B) of section 45Y with respect  
16 to such facility.

17 “(4) TIMING.—The payment described in subsection (a) shall be treated as made on—

18 “(A) in the case of any government, or political subdivision, described in paragraph  
19 (1) and for which no return is required under section 6011 or 6033(a), the later of the  
20 date that a return would be due under section 6033(a) if such government or  
21 subdivision were described in that section or the date on which such government or  
22 subdivision submits a claim for credit or refund (at such time and in such manner as  
23 the Secretary shall provide), and

24 “(B) in any other case, the later of the due date (determined without regard to  
25 extensions) of the return of tax for the taxable year or the date on which such return is  
26 filed.

27 “(5) ADDITIONAL INFORMATION.—As a condition of, and prior to, any amount being  
28 treated as a payment which is made by an applicable entity under subsection (a), the  
29 Secretary may require such information or registration as the Secretary deems necessary **or**  
30 **appropriate** for purposes of preventing duplication, fraud, improper payments, or excessive  
31 payments under this section.

32 “(6) EXCESSIVE PAYMENT.—

33 “(A) IN GENERAL.—In the case of any amount treated as a payment which is made  
34 by the applicable entity under subsection (a), **or the amount of the payment made**  
35 **pursuant to subsection (c)**, which the Secretary determines constitutes an excessive  
36 payment, the tax imposed on such entity by chapter 1 (regardless of whether such  
37 entity would otherwise be subject to tax under such chapter) for the taxable year in  
38 which such determination is made shall be increased by an amount equal to the sum of  
39 —

40 “(i) the amount of such excessive payment, plus

41 “(ii) an amount equal to 20 percent of such excessive payment.

1 “(B) REASONABLE CAUSE.—Subparagraph (A)(ii) shall not apply if the applicable  
2 entity demonstrates to the satisfaction of the Secretary that the excessive payment  
3 resulted from reasonable cause.

4 “(C) EXCESSIVE PAYMENT DEFINED.—For purposes of this paragraph, the term  
5 ‘excessive payment’ means, with respect to a facility or property for which an election  
6 is made under this section for any taxable year, an amount equal to the excess of—

7 “(i) the amount treated as a payment which is made by the applicable entity  
8 under subsection (a), **or the amount of the payment made pursuant to**  
9 **subsection (c)**, with respect to such facility or property for such taxable year, over

10 “(ii) the amount of the credit which, without application of this section, would  
11 be otherwise allowable (as determined pursuant to paragraph (2) and without  
12 regard to section 38(c)) under this title with respect to such facility or property for  
13 such taxable year.

14 ~~“(d)“(e)~~ Denial of Double Benefit.—In the case of an applicable entity making an election  
15 under this section with respect to an applicable credit, such credit shall be reduced to zero and  
16 shall, for any other purposes under this title, be deemed to have been allowed to such entity for  
17 such taxable year.

18 ~~“(e)“(f)~~ Mirror Code Possessions.—In the case of any possession of the United States with a  
19 mirror code tax system (as defined in section 24(k)), this section shall not be treated as part of  
20 the income tax laws of the United States for purposes of determining the income tax law of such  
21 possession unless such possession elects to have this section be so treated.

22 ~~“(f)“(g)~~ Basis Reduction and Recapture.—Except as otherwise provided in subsection (c)(2)  
23 (A), rules similar to the rules of section 50 shall apply for purposes of this section.

24 ~~“(g)“(h)~~ Regulations.—The Secretary shall issue such regulations or other guidance as may be  
25 necessary **or appropriate** to carry out the purposes of this section, including guidance to ensure  
26 that the amount of the payment or deemed payment made under this section is commensurate  
27 with the amount of the credit that would be otherwise allowable (determined without regard to  
28 section 38(c)).”.

29 (b) Transfer of Certain Credits.—Subchapter B of chapter 65, as amended by subsection (a), is  
30 amended by inserting after section 6417 the following new section:

## 31 “SEC. 6418. TRANSFER OF CERTAIN CREDITS.

32 “(a) In General.—In the case of an eligible taxpayer which elects to transfer all (or any portion  
33 specified in the election) of an eligible credit determined with respect to such taxpayer for any  
34 taxable year to a taxpayer (referred to in this section as the ‘transferee taxpayer’) which is not  
35 related (within the meaning of section 267(b) or 707(b)(1)) to the eligible taxpayer, the transferee  
36 taxpayer specified in such election (and not the eligible taxpayer) shall be treated as the taxpayer  
37 for purposes of this title with respect to such credit (or such portion thereof).

38 “(b) Treatment of Payments Made in Connection With Transfer.—With respect to any amount  
39 paid by a transferee taxpayer to an eligible taxpayer as consideration for a transfer described in  
40 subsection (a), such consideration—

41 “(1) shall be required to be paid in cash,

1 “(2) shall not be includible in gross income of the eligible taxpayer, and

2 “(3) with respect to the transferee taxpayer, shall not be deductible under this title.

3 “(c) Application to Partnerships and S Corporations.—

4 “(1) IN GENERAL.—In the case of any eligible credit determined with respect to any  
5 facility or property held directly by a partnership or S corporation, if such partnership or S  
6 corporation makes an election under subsection (a) (in such manner as the Secretary may  
7 provide) with respect to such credit—

8 “(A) any amount received as consideration for a transfer described in such  
9 subsection shall be treated as tax exempt income for purposes of sections 705 and  
10 1366, and

11 “(B) a partner’s distributive share of such tax exempt income shall be based on such  
12 partner’s distributive share of the otherwise eligible credit for each taxable year.

13 “(2) COORDINATION WITH APPLICATION AT PARTNER OR SHAREHOLDER LEVEL.—In the  
14 case of any facility or property held directly by a partnership or S corporation, no election  
15 by any partner or shareholder shall be allowed under subsection (a) with respect to any  
16 eligible credit determined with respect to such facility or property.

17 “(d) Taxable Year in Which Credit Taken Into Account.—In the case of any credit (or portion  
18 thereof) with respect to which an election is made under subsection (a), such credit shall be taken  
19 into account in the first taxable year of the transferee taxpayer ending with, or after, the taxable  
20 year of the eligible taxpayer with respect to which the credit was determined.

21 “(e) Limitations on Election.—

22 “(1) TIME FOR ELECTION.—An election under subsection (a) to transfer any portion of an  
23 eligible credit shall be made not later than the due date (including extensions of time) for  
24 the return of tax for the taxable year for which the credit is determined, but in no event  
25 earlier than 180 days after the date of the enactment of this section. Any such election, once  
26 made, shall be irrevocable.

27 “(2) NO ADDITIONAL TRANSFERS.—No election may be made under subsection (a) by a  
28 transferee taxpayer with respect to any portion of an eligible credit which has been  
29 previously transferred to such taxpayer pursuant to this section.

30 “(f) Definitions.—For purposes of this section—

31 “(1) ELIGIBLE CREDIT.—

32 “(A) IN GENERAL.—The term ‘eligible credit’ means each of the following:

33 “(i) So much of the credit for alternative fuel vehicle refueling property allowed  
34 under section 30C which, pursuant to subsection (d)(1) of such section, is treated  
35 as a credit listed in section 38(b).

36 “(ii) The renewable electricity production credit determined under section  
37 45(a).

38 “(iii) The credit for carbon oxide sequestration determined under section  
39 45Q(a).

1 “(iv) The zero-emission nuclear power production credit determined under  
2 section 45U(a).

3 “(v) The clean hydrogen production credit determined under section 45V(a).

4 “(vi) The advanced manufacturing production credit determined under section  
5 45X(a).

6 “(vii) The clean electricity production credit determined under section 45Y(a).

7 “(viii) The clean fuel production credit determined under section 45Z(a).

8 “(ix) The energy credit determined under section 48.

9 “(x) The qualifying advanced energy project credit determined under section  
10 48C.

11 “(xi) The clean electricity investment credit determined under section ~~48D~~ **48E**.

12 “(B) ELECTION FOR CERTAIN CREDITS.—In the case of any eligible credit described  
13 in clause (ii), (iii), (v), or (vii) of subparagraph (A), an election under subsection (a)  
14 shall be made—

15 “(i) separately with respect to each facility for which such credit is determined,  
16 and

17 “(ii) for each taxable year during the 10-year period beginning on the date such  
18 facility was originally placed in service (or, in the case of the credit described in  
19 clause (iii), for each year during the 12-year period beginning on the date the  
20 carbon capture equipment was originally placed in service at such facility).

21 “(C) EXCEPTION FOR BUSINESS CREDIT CARRYFORWARDS OR CARRYBACKS.—The  
22 term ‘eligible credit’ shall not include any business credit carryforward or business  
23 credit carryback determined under section 39.

24 “(2) ELIGIBLE TAXPAYER.—The term ‘eligible taxpayer’ means any taxpayer which is not  
25 described in section ~~6417(c)(1)(A)~~ **6417(d)(1)(A)**.

26 “(g) Special Rules.—For purposes of this section—

27 “(1) ADDITIONAL INFORMATION.—As a condition of, and prior to, any transfer of any  
28 portion of an eligible credit pursuant to subsection (a), the Secretary may require such  
29 information (including, in such form or manner as is determined appropriate by the  
30 Secretary, such information returns) or registration as the Secretary deems necessary ~~or~~  
31 **appropriate** for purposes of preventing duplication, fraud, improper payments, or excessive  
32 payments under this section.

33 “(2) EXCESSIVE ~~PAYMENT.~~ **CREDIT TRANSFER.**—

34 “(A) IN GENERAL.—In the case of any portion of an eligible credit which is  
35 transferred to a transferee taxpayer pursuant to subsection (a) which the Secretary  
36 determines constitutes an excessive ~~payment~~ **credit transfer**, the tax imposed on the  
37 transferee taxpayer by chapter 1 (regardless of whether such entity would otherwise be  
38 subject to tax under such chapter) for the taxable year in which such determination is  
39 made shall be increased by an amount equal to the sum of—

1 “(i) the amount of such excessive **payment credit transfer**, plus  
2 “(ii) an amount equal to 20 percent of such excessive **payment credit transfer**.

3 “(B) REASONABLE CAUSE.—Subparagraph (A)(ii) shall not apply if the transferee  
4 taxpayer demonstrates to the satisfaction of the Secretary that the excessive **payment**  
5 **credit transfer** resulted from reasonable cause.

6 “(C) EXCESSIVE **PAYMENT CREDIT TRANSFER** DEFINED.—For purposes of this  
7 paragraph, the term ‘excessive **payment credit transfer**’ means, with respect to a  
8 facility or property for which an election is made under subsection (a) for any taxable  
9 year, an amount equal to the excess of—

10 “(i) the amount of the eligible credit claimed by the transferee taxpayer with  
11 respect to such facility or property for such taxable year, over

12 “(ii) the amount of such credit which, without application of this section, would  
13 be otherwise allowable ~~(determined without regard to section 38(c))~~ under this  
14 title with respect to such facility or property for such taxable year.

15 “(3) BASIS ~~REDUCTION.—IN~~ **REDUCTION; NOTIFICATION OF RECAPTURE.—In** the case  
16 of any election under subsection (a) with respect to any portion of an eligible credit  
17 described in clauses (ix) through (xi) of subsection ~~(f)(1)(A); (f)(1)(A)—~~

18 **“(A) subsection (c) of section 50 shall apply to the applicable investment credit**  
19 **property (as defined in subsection (a)(5) of such section) as if such eligible credit was**  
20 **allowed to the eligible taxpayer, and**

21 **“(B) if, during any taxable year, the applicable investment credit property (as**  
22 **defined in subsection (a)(5) of section 50) is disposed of, or otherwise ceases to be**  
23 **investment credit property with respect to the eligible taxpayer, before the close**  
24 **of the recapture period (as described in subsection (a)(1) of such section)—**

25 **“(i) such eligible taxpayer shall provide notice of such occurrence to the**  
26 **transferee taxpayer (in such form and manner as the Secretary shall**  
27 **prescribe), and**

28 **“(ii) the transferee taxpayer shall provide notice of the recapture amount**  
29 **(as defined in subsection (c)(2) of such section), if any, to the eligible taxpayer**  
30 **(in such form and manner as the Secretary shall prescribe).**

31 “(4) PROHIBITION ON ELECTION OR TRANSFER WITH RESPECT TO PROGRESS  
32 EXPENDITURES.—This section shall not apply with respect to any amount of an eligible  
33 credit which is allowed pursuant to rules similar to the rules of subsections (c)(4) and (d) of  
34 section 46 (as in effect on the day before the date of the enactment of the Revenue  
35 Reconciliation Act of 1990).

36 “(h) Regulations.—The Secretary shall issue such regulations or other guidance as may be  
37 necessary ~~or appropriate~~ to carry out the purposes of this section, including regulations or other  
38 guidance providing rules for determining a partner’s distributive share of the tax exempt income  
39 described in subsection (c)(1).”.

40 (c) Real Estate Investment Trusts.—Section 50(d) is amended by adding at the end the  
41 following: “In the case of a real estate investment trust making an election under section 6418,



1 paragraphs (1)(B) and (2)(B) of the section 46(e) referred to in paragraph (1) of this subsection  
2 shall not apply to any investment credit property of such real estate investment trust to which  
3 such election applies.”.

4 (d) 3-year Carryback for Applicable Credits.—Section 39(a) is amended by adding at the end  
5 the following:

6 “(4) 3-YEAR CARRYBACK FOR APPLICABLE CREDITS.—Notwithstanding subsection (d), in  
7 the case of any applicable credit (as defined in section 6417(b))—

8 “(A) this section shall be applied separately from the business credit (other than the  
9 applicable credit),

10 “(B) paragraph (1) shall be applied by substituting ‘each of the 3 taxable years’ for  
11 ‘the taxable year’ in subparagraph (A) thereof, and

12 “(C) paragraph (2) shall be applied—

13 “(i) by substituting ‘23 taxable years’ for ‘21 taxable years’ in subparagraph  
14 (A) thereof, and

15 “(ii) by substituting ‘22 taxable years’ for ‘20 taxable years’ in subparagraph  
16 (B) thereof.”.

17 (e) Clerical Amendment.—The table of sections for subchapter B of chapter 65 is amended by  
18 inserting after the item relating to section 6416 the following new items:

19 “Sec.6417.Elective payment of applicable credits.

20 “Sec.6418.Transfer of certain credits.”.

21 (f) **Gross-up of Direct Spending.—Beginning in fiscal year 2023 and each fiscal year**  
22 **thereafter, the portion of any payment made to a taxpayer pursuant to an election under**  
23 **section 6417 of the Internal Revenue Code of 1986, or any amount treated as a payment**  
24 **which is made by the taxpayer under subsection (a) of such section, that is direct spending**  
25 **shall be increased by 6.0445 percent.**

26 (g) Effective Date.—The amendments made by this section shall apply to taxable years  
27 beginning after December 31, 2022.

## 28 SEC. 13802. APPROPRIATIONS.

29 Immediately upon the enactment of this Act, in addition to amounts otherwise available, there  
30 are appropriated for fiscal year 2022, out of any money in the Treasury not otherwise  
31 appropriated, \$500,000,000 to remain available until September 30, 2031, for necessary expenses  
32 for the Internal Revenue Service to carry out this subtitle (and the amendments made by this  
33 subtitle), which shall supplement and not supplant any other appropriations that may be available  
34 for this purpose.

## 35 PART ~~IX—OTHER~~ **9—OTHER** PROVISIONS

### 36 SEC. 13901. PERMANENT EXTENSION OF TAX RATE TO 37 FUND BLACK LUNG DISABILITY TRUST FUND.

1 (a) In General.—Section 4121 is amended by striking subsection (e).

2 (b) Effective Date.—The amendment made by this section shall apply to sales in calendar  
3 quarters beginning after the date of the enactment of this Act.

## 4 SEC. 13902. INCREASE IN RESEARCH CREDIT AGAINST 5 PAYROLL TAX FOR SMALL BUSINESSES.

6 (a) In General.—Clause (i) of section 41(h)(4)(B) is amended—

7 (1) by striking “AMOUNT.—The amount” and inserting “AMOUNT.—

8 “(I) IN GENERAL.—The amount”, and

9 (2) by adding at the end the following new subclause:

10 “(II) INCREASE.—In the case of taxable years beginning after December  
11 31, 2022, the amount in subclause (I) shall be increased by \$250,000.”.

12 (b) Allowance of Credit.—

13 (1) IN GENERAL.—Paragraph (1) of section 3111(f) is amended—

14 (A) by striking “for a taxable year, there shall be allowed” and inserting “for a  
15 taxable year—

16 “(A) there shall be allowed”,

17 (B) by striking “equal to the” and inserting “equal to so much of the”,

18 (C) by striking the period at the end and inserting “as does not exceed the limitation  
19 of subclause (I) of section 41(h)(4)(B)(i) (applied without regard to subclause (II)  
20 thereof), and”, and

21 (D) by adding at the end the following new subparagraph:

22 “(B) there shall be allowed as a credit against the tax imposed by subsection (b) for  
23 the first calendar quarter which begins after the date on which the taxpayer files the  
24 return specified in section 41(h)(4)(A)(ii) an amount equal to so much of the payroll  
25 tax credit portion determined under section 41(h)(2) as is not allowed as a credit under  
26 subparagraph (A).”.

27 (2) LIMITATION.—Paragraph (2) of section 3111(f) is amended—

28 (A) by striking “paragraph (1)” and inserting “paragraph (1)(A)”, and

29 (B) by inserting “, and the credit allowed by paragraph (1)(B) shall not exceed the  
30 tax imposed by subsection (b) for any calendar quarter,” after “calendar quarter”.

31 (3) CARRYOVER.—Paragraph (3) of section 3111(f) is amended by striking “the credit”  
32 and inserting “any credit”.

33 (4) DEDUCTION ALLOWED.—Paragraph (4) of section 3111(f) is amended—

34 (A) by striking “credit” and inserting “credits”, and

35 (B) by striking “subsection (a)” and inserting “subsection (a) or (b)”.

1 (c) Aggregation Rules.—Clause (ii) of section 41(h)(5)(B) is amended by striking “the  
2 \$250,000 amount” and inserting “each of the \$250,000 amounts”.

3 (d) Effective Date.—The amendments made by this section shall apply to taxable years  
4 beginning after December 31, 2022.

## 5 **SEC. 13903. TAX TREATMENT OF CERTAIN** 6 **ASSISTANCE TO FARMERS, ETC.**

7 **For purposes of the Internal Revenue Code of 1986, in the case of any payment described**  
8 **in section 1006(e) of the American Rescue Plan Act of 2021 (as amended by section 22007 of**  
9 **this Act) or section 22006 of this Act—**

10 **(1) such payment shall not be included in the gross income of the person on whose**  
11 **behalf, or to whom, such payment is made,**

12 **(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis**  
13 **increase shall be denied, by reason of the exclusion from gross income provided by**  
14 **paragraph (1), and**

15 **(3) in the case of a partnership or S corporation on whose behalf, or to whom, such a**  
16 **payment is made—**

17 **(A) any amount excluded from income by reason of paragraph (1) shall be**  
18 **treated as tax exempt income for purposes of sections 705 and 1366 of such Code,**  
19 **and**

20 **(B) except as provided by the Secretary of the Treasury (or the Secretary’s**  
21 **delegate), any increase in the adjusted basis of a partner’s interest in a**  
22 **partnership under section 705 of such Code with respect to any amount described**  
23 **in subparagraph (A) shall equal the partner’s distributive share of deductions**  
24 **resulting from interest that is part of such payment and the partner’s share, as**  
25 **determined under section 752 of such Code, of principal that is part of such**  
26 **payment.**

## 27 **TITLE II—COMMITTEE ON AGRICULTURE, NUTRITION,** 28 **AND FORESTRY**

### 29 **Subtitle A—General Provisions**

#### 30 **SEC. 20001. DEFINITION OF SECRETARY.**

31 In this title, the term “Secretary” means the Secretary of Agriculture.

### 32 **Subtitle B—Conservation**

#### 33 **SEC. 21001. ADDITIONAL AGRICULTURAL** 34 **CONSERVATION INVESTMENTS.**

35 (a) Appropriations.—In addition to amounts otherwise available (and subject to subsection

1 (b)), there are appropriated to the Secretary, out of any money in the Treasury not otherwise  
2 appropriated, to remain available until September 30, 2031 (subject to the condition that no such  
3 funds may be disbursed after September 30, 2031)—

4 (1) to carry out, using the facilities and authorities of the Commodity Credit Corporation,  
5 the environmental quality incentives program under subchapter A of chapter 4 of subtitle D  
6 of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa through 3839aa-8)—

7 (A)(i) \$250,000,000 for fiscal year 2023;

8 (ii) \$1,750,000,000 for fiscal year 2024;

9 (iii) \$3,000,000,000 for fiscal year 2025; and

10 (iv) \$3,450,000,000 for fiscal year 2026; and

11 (B) subject to the conditions on the use of the funds that—

12 (i) section 1240B(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa-  
13 2(f)(1)) shall not apply;

14 (ii) section 1240H(c)(2) of the Food Security Act of 1985 (16 U.S.C. 3839aa-  
15 8(c)(2)) shall be applied—

16 (I) by substituting “\$50,000,000” for “\$25,000,000”; and

17 (II) with the Secretary prioritizing proposals that utilize diet and feed  
18 management to reduce enteric methane emissions from ruminants; **and**

19 (iii) the funds shall be available for 1 or more agricultural conservation  
20 practices or enhancements that the Secretary determines directly improve soil  
21 carbon **or**, reduce nitrogen losses **or** greenhouse gas emissions, **or** capture **or**  
22 sequester greenhouse gas, **or reduce, capture, avoid, or sequester carbon**  
23 **dioxide, methane, or nitrous oxide** emissions, associated with agricultural  
24 production; **and**

25 (iv) ~~the Secretary shall prioritize projects and activities that mitigate or address~~  
26 ~~climate change through the management of agricultural production, including by~~  
27 ~~reducing or avoiding greenhouse gas emissions;~~

28 (2) to carry out, using the facilities and authorities of the Commodity Credit Corporation,  
29 the conservation stewardship program under subchapter B of that chapter (16 U.S.C.  
30 3839aa-21 through 3839aa-25)—

31 (A)(i) \$250,000,000 for fiscal year 2023;

32 (ii) \$500,000,000 for fiscal year 2024;

33 (iii) \$1,000,000,000 for fiscal year 2025; and

34 (iv) \$1,500,000,000 for fiscal year 2026; and

35 (B) subject to the **conditions condition** on the use of the funds **that that—**

36 **(i)** the funds shall only be available **for for—**

37 **(i)** 1 or more agricultural conservation practices **or**, enhancements, **or bundles** that  
38 the Secretary determines directly improve soil carbon **or**, reduce nitrogen losses **or**

1 greenhouse gas emissions, or capture or sequester greenhouse gas, **or reduce, capture,**  
2 **avoid, or sequester carbon dioxide, methane, or nitrous oxide** emissions, associated  
3 with agricultural production; ~~or~~

4 ~~(H) State-specific or region-specific groupings or bundles of agricultural~~  
5 ~~conservation activities for climate change mitigation appropriate for cropland,~~  
6 ~~pastureland, rangeland, nonindustrial private forest land, and producers transitioning to~~  
7 ~~organic or perennial production systems; and~~

8 ~~(ii) the Secretary shall prioritize projects and activities that mitigate or address~~  
9 ~~climate change through the management of agricultural production, including by~~  
10 ~~reducing or avoiding greenhouse gas emissions;~~

11 (3) to carry out, using the facilities and authorities of the Commodity Credit Corporation,  
12 the agricultural conservation easement program under subtitle H of title XII of that Act (16  
13 U.S.C. 3865 through ~~3865d~~)— **3865d) for easements or interests in land that will most**  
14 **reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide**  
15 **emissions associated with land eligible for the program—**

16 ~~(A)(i)(A)~~ **(A)** \$100,000,000 for fiscal year 2023;

17 ~~(ii)(B)~~ **(B)** \$200,000,000 for fiscal year 2024;

18 ~~(iii)(C)~~ **(C)** \$500,000,000 for fiscal year 2025; and

19 ~~(iv)(D)~~ **(D)** \$600,000,000 for fiscal year 2026; and

20  
21 ~~(B) subject to the condition on the use of the funds that the Secretary shall prioritize~~  
22 ~~projects and activities that mitigate or address climate change through the management of~~  
23 ~~agricultural production, including by reducing or avoiding greenhouse gas emissions; and~~

24 (4) to carry out, using the facilities and authorities of the Commodity Credit Corporation,  
25 the regional conservation partnership program under subtitle I of title XII of that Act (16  
26 U.S.C. 3871 through 3871f)—

27 (A)(i) \$250,000,000 for fiscal year 2023;

28 (ii) ~~\$1,200,000,000~~ **\$800,000,000** for fiscal year 2024;

29 (iii) ~~\$2,250,000,000~~ **\$1,500,000,000** for fiscal year 2025; and

30 (iv) ~~\$3,050,000,000~~ **\$2,400,000,000** for fiscal year 2026; and

31 (B) subject to the conditions on the use of the funds ~~that the Secretary— that—~~

32 ~~(i) shall prioritize partnership agreements under section 1271C(d)(i) section~~  
33 ~~1271C(d)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3871c(d)(2)(B))~~  
34 ~~shall not apply; and~~

35 ~~(ii) the Secretary shall prioritize partnership agreements under section~~  
36 ~~1271C(d) of the Food Security Act of 1985 (16 U.S.C. 3871c(d)) that support~~  
37 ~~the implementation of conservation projects that assist agricultural producers and~~  
38 ~~nonindustrial private forestland owners in directly improving soil carbon ~~or,~~~~  
39 ~~reducing nitrogen losses ~~or greenhouse gas emissions, or, or reducing,~~ capturing,~~

1 ~~avoiding,~~ or sequestering ~~greenhouse gas~~ **carbon dioxide, methane, or nitrous**  
2 **oxide** emissions, associated with agricultural production;

3 (ii) ~~shall prioritize projects and activities that mitigate or address climate-~~  
4 ~~change through the management of agricultural production, including by reducing~~  
5 ~~or avoiding greenhouse gas emissions; and~~

6 (iii) ~~may prioritize projects that—~~

7 (I) ~~leverage corporate supply chain sustainability commitments; or~~

8 (II) ~~utilize models that pay for outcomes from targeting methane and nitrous-~~  
9 ~~oxide emissions associated with agricultural production systems.~~

10 (b) Conditions.—The funds made available under subsection (a) are subject to the conditions  
11 that the Secretary shall not—

12 (1) enter into any agreement—

13 (A) that is for a term extending beyond September 30, 2031; or

14 (B) under which any payment could be outlaid or funds disbursed after September  
15 30, 2031; or

16 (2) use any other funds available to the Secretary to satisfy obligations initially made  
17 under this section.

18 (c) Conforming Amendments.—

19 (1) Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended—

20 (A) in subsection (a), by striking “2023” and inserting “2031”; and

21 (B) in subsection (f)(2)(B)—

22 (i) in the subparagraph heading, by striking “2023” and inserting “2031”; and

23 (ii) by striking “2023” and inserting “2031”.

24 (2) Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended by  
25 striking “2023” each place it appears and inserting “2031”.

26 (3) Section 1240J(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–22(a)) is  
27 amended, in the matter preceding paragraph (1), by striking “2023” and inserting “2031”.

28 (4) Section 1240L(h)(2)(A) of the Food Security Act of 1985 (16 U.S.C. 3839aa–24(h)(2))  
29 (A) is amended by striking “2023” and inserting “2031”.

30 (5) Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended—

31 (A) in subsection (a)—

32 (i) in the matter preceding paragraph (1), by striking “2023” and inserting  
33 “2031”;

34 (ii) ~~in paragraph (1), by striking “2023” each place it appears and inserting-~~  
35 ~~“2031”;~~

36 (iii) in paragraph (2)(F), by striking “2023” and inserting “2031”; and

1 (iv)(iii) in paragraph (3), by striking “fiscal year 2023” each place it appears  
2 and inserting “each of fiscal years 2023 through 2031”;

3 (B) in subsection (b), by striking “2023” and inserting “2031”; and

4 (C) in subsection (h)—

5 (i) in paragraph (1)(B), in the subparagraph heading, by striking “2023” and  
6 inserting “2031”; and

7 (ii) by striking “2023” each place it appears and inserting “2031”.

8 (6) Section 1244(n)(3)(A) of the Food Security Act of 1985 (16 U.S.C. 3844(n)(3)(A)) is  
9 amended by striking “2023” and inserting “2031”.

10 (7) Section 1271D(a) of the Food Security Act of 1985 (16 U.S.C. 3871d(a)) is amended  
11 by striking “2023” and inserting “2031”.

## 12 SEC. 21002. CONSERVATION TECHNICAL ASSISTANCE.

13 (a) Appropriations.—In addition to amounts otherwise available (and subject to subsection  
14 (b)), there are appropriated to the Secretary for fiscal year 2022, out of any money in the  
15 Treasury not otherwise appropriated, to remain available until September 30, 2031 (subject to the  
16 condition that no such funds may be disbursed after September 30, 2031)—

17 (1) \$1,000,000,000 to provide conservation technical assistance through the Natural  
18 Resources Conservation Service; and

19 (2) \$300,000,000 to carry out a **program to quantify** carbon sequestration and  
20 ~~greenhouse gas emissions quantification program~~ **carbon dioxide, methane, and nitrous**  
21 **oxide emissions**, through which the Natural Resources Conservation Service, ~~including~~  
22 ~~through technical service providers and other partners~~, shall collect field-based data to  
23 assess the carbon sequestration and ~~greenhouse gas emissions reduction~~ **reduction in**  
24 **carbon dioxide, methane, and nitrous oxide emissions** outcomes associated with  
25 activities carried out pursuant to this section and use the data to monitor and track  
26 ~~greenhouse gas emissions and those~~ carbon sequestration **and emissions** trends through the  
27 Greenhouse Gas Inventory and Assessment Program of the Department of Agriculture.

28 (b) Conditions.—The funds made available under this section are subject to the conditions that  
29 the Secretary shall not—

30 (1) enter into any agreement—

31 (A) that is for a term extending beyond September 30, 2031; or

32 (B) under which any payment could be outlaid or funds disbursed after September  
33 30, 2031;

34 (2) use any other funds available to the Secretary to satisfy obligations initially made  
35 under this section; or

36 (3) interpret this section to authorize funds of the Commodity Credit Corporation for  
37 activities under this section if such funds are not expressly authorized or currently expended  
38 for such purposes.

39 (c) Administrative Costs.—In addition to amounts otherwise available, there is appropriated to

1 the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
2 \$100,000,000, to remain available until September 30, 2028, for administrative costs of the  
3 agencies and offices of the Department of Agriculture for costs related to implementing this  
4 section.

## 5 Subtitle C—Rural Development **and Agricultural Credit**

### 6 SEC. 22001. ADDITIONAL FUNDING FOR ELECTRIC 7 LOANS FOR RENEWABLE ENERGY.

8 Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) is  
9 amended by adding at the end the following:

10 “(h) Additional Funding for Electric Loans for Renewable Energy.—

11 “(1) APPROPRIATIONS.—Notwithstanding subsections (a) through (e), and (g), in addition  
12 to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022,  
13 out of any money in the Treasury not otherwise appropriated, \$1,000,000,000, to remain  
14 available until September 30, 2031, for the cost of loans under section 317 of the Rural  
15 Electrification Act of 1936 (7 U.S.C. 940g), including for projects that store electricity that  
16 support the types of eligible projects under that section, which shall be forgiven **in an**  
17 **amount that is not greater than 50 percent of the loan** based on how the borrower and  
18 the project meets the terms and conditions for loan forgiveness consistent with the purposes  
19 of that section established by the Secretary, **except as provided in paragraph (3).**

20 “(2) LIMITATION.—The Secretary shall not enter into any loan agreement pursuant this  
21 subsection that could result in disbursements after September 30, 2031.

22 “(3) ~~RESTRICTION.—A LOAN UNDER PARAGRAPH (1) SHALL BE FORGIVEN IN AN AMOUNT~~  
23 ~~THAT IS NOT GREATER THAN 50 PERCENT OF THE LOAN, UNLESS THE SECRETARY WAIVES~~  
24 ~~SUCH RESTRICTION.”.~~ **EXCEPTION.—The Secretary shall establish criteria for waiving**  
25 **the 50 percent limitation described in paragraph (1).”.**

### 26 SEC. 22002. RURAL ENERGY FOR AMERICA PROGRAM.

27 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
28 Secretary, out of any money in the Treasury not otherwise appropriated, for eligible projects  
29 under section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107), and  
30 notwithstanding section 9007(c)(3)(A) of that Act, the amount of a grant shall not exceed 50  
31 percent of the cost of the activity carried out using the grant funds—

32 (1) \$820,250,000 for fiscal year 2022, to remain available until September 30, 2031; and

33 (2) \$180,276,500 for each of fiscal years 2023 through 2027, to remain available until  
34 September 30, 2031.

35 (b) Underutilized Renewable Energy Technologies.—In addition to amounts otherwise  
36 available, there is appropriated to the Secretary, out of any money in the Treasury not otherwise  
37 appropriated, to provide grants and loans guaranteed by the Secretary (including the costs of  
38 such loans) under the program described in subsection (a) relating to underutilized renewable  
39 energy technologies, and to provide technical assistance for applying to the program described in



1 subsection (a), including for underutilized renewable energy technologies, notwithstanding  
2 section 9007(c)(3)(A) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(c)  
3 (3)(A)), the amount of a grant shall not exceed 50 percent of the cost of the activity carried out  
4 using the grant funds, and to the extent the following amounts remain available at the end of each  
5 fiscal year, the Secretary shall use such amounts in accordance with subsection (a)—

6 (1) \$144,750,000 for fiscal year 2022, to remain available until September 30, 2031; and

7 (2) \$31,813,500 for each of fiscal years 2023 through 2027, to remain available until  
8 September 30, 2031.

9 (c) Limitation.—The Secretary shall not enter into, pursuant to this section—

10 (1) any loan agreement that may result in a disbursement after September 30, 2031; or

11 (2) any grant agreement that may result in any outlay after September 30, 2031.

## 12 SEC. 22003. BIOFUEL INFRASTRUCTURE AND 13 AGRICULTURE PRODUCT MARKET EXPANSION.

14 Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) (as  
15 amended by section 22001) is amended by adding at the end the following:

16 “(i) Biofuel Infrastructure and Agriculture Product Market Expansion.—

17 “(1) APPROPRIATION.—Notwithstanding subsections (a) through (e) and subsection (g),  
18 in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
19 year 2022, out of any money in the Treasury not otherwise appropriated, \$500,000,000, to  
20 remain available until September 30, 2031, to carry out this subsection.

21 “(2) USE OF FUNDS.—The Secretary shall use the amounts made available by paragraph  
22 (1) to provide grants, for which the Federal share shall be not more than 75 percent of the  
23 total cost of carrying out a project for which the grant is provided, on a competitive basis, to  
24 increase the sale and use of agricultural commodity-based fuels through infrastructure  
25 improvements for blending, storing, supplying, or distributing biofuels, except for  
26 transportation infrastructure not on location where such biofuels are blended, stored,  
27 supplied, or distributed—

28 “(A) by installing, retrofitting, or otherwise upgrading fuel dispensers or pumps and  
29 related equipment, storage tank system components, and other infrastructure required  
30 at a location related to dispensing certain **biofuels biofuel** blends to ensure the  
31 increased sales of fuels with high levels of commodity-based ethanol and biodiesel that  
32 are at or greater than the levels required in the Notice of Funding Availability for the  
33 Higher Blends Infrastructure Incentive Program for Fiscal Year 2020, published in the  
34 Federal Register (85 Fed. Reg. 26656), as determined by the Secretary; and

35 “(B) by building and retrofitting home heating oil distribution centers or equivalent  
36 entities and distribution systems for ethanol and biodiesel **blends.**” **blends.**

37 **“(3) Limitation.—The Secretary may not limit the amount of funding an eligible**  
38 **entity may receive under this subsection provided that no eligible entity may receive**  
39 **more than 10 percent of the funds appropriated under paragraph (1) unless there are**  
40 **insufficient eligible applicants, as determined by the Secretary, to which to award those**

1 funds.”.

## 2 SEC. 22004. USDA ASSISTANCE FOR RURAL ELECTRIC 3 COOPERATIVES.

4 Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) (as  
5 amended by section 22003) is amended by adding at the end the following:

6 “(j) USDA Assistance for Rural Electric Cooperatives.—

7 “(1) APPROPRIATION.—Notwithstanding subsections (a) through (e) and (g), in addition  
8 to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022,  
9 out of any money in the Treasury not otherwise appropriated, \$9,700,000,000, to remain  
10 available until September 30, 2031, for the long-term resiliency, reliability, and  
11 affordability of rural electric systems ~~and for purposes described in section 310B(a)(2)(C)~~  
12 ~~of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(2)(C)) (provided~~  
13 ~~that the term renewable energy system in that paragraph has the meaning given that term in~~  
14 ~~section 9001), for zero-emission systems, or for carbon capture and storage systems,~~ by  
15 providing to an eligible entity (defined as an electric cooperative described in section 501(c)  
16 (12) or 1381(a)(2) of the Internal Revenue Code of 1986 and is or has been a Rural Utilities  
17 Service electric loan borrower pursuant to the Rural Electrification Act of 1936 or serving a  
18 predominantly rural area or a wholly or jointly owned subsidiary of such electric  
19 cooperative) ~~financial assistance, including loans and~~ **loans, modifications of loans,** the  
20 cost of loans and modifications ~~thereof, to purchase,~~ **and other financial assistance to**  
21 **achieve the greatest reduction in carbon dioxide, methane, and nitrous oxide emissions**  
22 **associated with rural electric systems through the purchase of** renewable energy,  
23 renewable energy systems, zero-emission systems, and carbon capture and storage systems,  
24 to deploy such systems, or to make energy efficiency improvements to electric generation  
25 and transmission systems of the eligible entity after the date of enactment of this subsection;  
26 ~~that will achieve the greatest reduction in greenhouse gas emissions associated with rural~~  
27 ~~electric systems using financial assistance provided under this subsection and that will~~  
28 ~~otherwise aid disadvantaged rural communities, as determined by the Secretary.~~

29 “(2) LIMITATION.—No eligible entity may receive an amount equal to more than 10  
30 percent of the total amount made available by this subsection.

31 “(3) REQUIREMENT.—The amount of a grant under this subsection shall be not more than  
32 25 percent of the total project costs of the eligible entity carrying out a project using a grant  
33 under this subsection.

34 “(4) PROHIBITION.—Nothing in this subsection shall be interpreted to authorize funds of  
35 the Commodity Credit Corporation for activities under this subsection if such funds are not  
36 expressly authorized or currently expended for such purposes.

37 “(5) DISBURSEMENTS.—The Secretary shall not enter into, pursuant to this subsection—

38 “(A) any loan agreement that may result in a disbursement after September 30,  
39 2031; or

40 “(B) any grant agreement that may result in any outlay after September 30, 2031.”.

1 SEC. 22005. ADDITIONAL USDA RURAL DEVELOPMENT  
2 ADMINISTRATIVE FUNDS.

3 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
4 year 2022, out of any money in the Treasury not otherwise appropriated, \$100,000,000, to  
5 remain available until September 30, 2031, for administrative costs and salaries and expenses for  
6 the Rural Development mission area and **expenses administrative costs** of the agencies and  
7 offices of the Department for costs related to implementing this subtitle.

8 **SEC. 22006. FARM LOAN IMMEDIATE RELIEF FOR**  
9 **BORROWERS WITH AT-RISK AGRICULTURAL**  
10 **OPERATIONS.**

11 In addition to amounts otherwise available, there is appropriated to the Secretary for  
12 fiscal year 2022, out of amounts in the Treasury not otherwise appropriated,  
13 \$3,100,000,000, to remain available until September 30, 2031, to provide payments to, for  
14 the cost of loans or loan modifications for, or to carry out section 331(b)(4) of the  
15 Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) with respect to  
16 distressed borrowers of direct or guaranteed loans administered by the Farm Service  
17 Agency under subtitle A, B, or C of that Act (7 U.S.C. 1922 through 1970). In carrying out  
18 this section, the Secretary shall provide relief to those borrowers whose agricultural  
19 operations are at financial risk as expeditiously as possible, as determined by the Secretary.

20 **SEC. 22007. USDA ASSISTANCE AND SUPPORT FOR**  
21 **UNDERSERVED FARMERS, RANCHERS, AND**  
22 **FORESTERS.**

23 Section 1006 of the American Rescue Plan Act of 2021 (7 U.S.C. 2279 note; Public Law  
24 117-2) is amended to read as follows:

25 **“SEC. 1006. USDA ASSISTANCE AND SUPPORT FOR**  
26 **UNDERSERVED FARMERS, RANCHERS, FORESTERS.**

27 **“(a) Technical and Other Assistance.—**In addition to amounts otherwise available, there  
28 is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available  
29 until September 30, 2031, out of any money in the Treasury not otherwise appropriated,  
30 \$125,000,000 to provide outreach, mediation, financial training, capacity building training,  
31 cooperative development and agricultural credit training and support, and other technical  
32 assistance on issues concerning food, agriculture, agricultural credit, agricultural  
33 extension, rural development, or nutrition to underserved farmers, ranchers, or forest  
34 landowners, including veterans, limited resource producers, beginning farmers and  
35 ranchers, and farmers, ranchers, and forest landowners living in high poverty areas.

36 **“(b) Land Loss Assistance.—**In addition to amounts otherwise available, there is  
37 appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until  
38 September 30, 2031, out of any money in the Treasury not otherwise appropriated,

1 \$250,000,000 to provide grants and loans to eligible entities, as determined by the  
2 Secretary, to improve land access (including heirs' property and fractionated land issues)  
3 for underserved farmers, ranchers, and forest landowners, including veterans, limited  
4 resource producers, beginning farmers and ranchers, and farmers, ranchers, and forest  
5 landowners living in high poverty areas.

6 “(c) Equity Commissions.—In addition to amounts otherwise available, there is  
7 appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until  
8 September 30, 2031, out of any money in the Treasury not otherwise appropriated,  
9 \$10,000,000 to fund the activities of one or more equity commissions that will address racial  
10 equity issues within the Department of Agriculture and the programs of the Department of  
11 Agriculture.

12 “(d) Research, Education, and Extension.—In addition to amounts otherwise available,  
13 there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain  
14 available until September 30, 2031, out of any money in the Treasury not otherwise  
15 appropriated, \$250,000,000 to support and supplement agricultural research, education,  
16 and extension, as well as scholarships and programs that provide internships and pathways  
17 to agricultural sector or Federal employment, for 1890 Institutions (as defined in section 2  
18 of the Agricultural, Research, Extension, and Education Reform Act of 1998 (7 U.S.C.  
19 7601)), 1994 Institutions (as defined in section 532 of the Equity in Educational Land-  
20 Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)), Alaska Native serving  
21 institutions and Native Hawaiian serving institutions eligible to receive grants under  
22 subsections (a) and (b), respectively, of section 1419B of the National Agricultural  
23 Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3156), Hispanic-serving  
24 institutions eligible to receive grants under section 1455 of the National Agricultural  
25 Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241), and the insular area  
26 institutions of higher education located in the territories of the United States, as referred to  
27 in section 1489 of the National Agricultural Research, Extension, and Teaching Policy Act  
28 of 1977 (7 U.S.C. 3361).

29 “(e) Discrimination Financial Assistance.—In addition to amounts otherwise available,  
30 there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain  
31 available until September 30, 2031, out of any money in the Treasury not otherwise  
32 appropriated, \$2,200,000,000 for a program to provide financial assistance, including the  
33 cost of any financial assistance, to farmers, ranchers, or forest landowners determined to  
34 have experienced discrimination prior to January 1, 2021, in Department of Agriculture  
35 farm lending programs, under which the amount of financial assistance provided to a  
36 recipient may be not more than \$500,000, as determined to be appropriate based on any  
37 consequences experienced from the discrimination, which program shall be administered  
38 through 1 or more qualified nongovernmental entities selected by the Secretary subject to  
39 standards set and enforced by the Secretary.

40 “(f) Administrative Costs.—In addition to amounts otherwise available, there is  
41 appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until  
42 September 30, 2031, out of any money in the Treasury not otherwise appropriated,  
43 \$24,000,000 for administrative costs, including training employees, of the agencies and  
44 offices of the Department of Agriculture to carry out this section.

1 **“(g) Limitation.—The funds made available under this section are subject to the**  
2 **condition that the Secretary shall not—**

3 **“(1) enter into any agreement under which any payment could be outlaid or funds**  
4 **disbursed after September 30, 2031; or**

5 **“(2) use any other funds available to the Secretary to satisfy obligations initially**  
6 **made under this section.”.**

## 7 **SEC. 22008. REPEAL OF FARM LOAN ASSISTANCE.**

8 **Section 1005 of the American Rescue Plan Act of 2021 (7 U.S.C. 1921 note; Public Law**  
9 **117–2) is repealed.**

### 10 Subtitle D—Forestry

## 11 **SEC. 23001. NATIONAL FOREST SYSTEM RESTORATION** 12 **AND FUELS REDUCTION PROJECTS.**

13 (a) Appropriations.—In addition to amounts otherwise available, there are appropriated to the  
14 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to  
15 remain available until September 30, 2031—

16 (1) \$1,800,000,000 for hazardous fuels reduction projects on National Forest System land  
17 within the wildland-urban interface;

18 (2) \$200,000,000 for vegetation management projects on National Forest System land  
19 carried out in accordance with a ~~water source management plan or a watershed protection~~  
20 ~~and restoration action plan;~~ **plan developed under section 303(d)(1) or 304(a)(3) of the**  
21 **Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542(d)(1) or 6543(a)(3));**

22 (3) \$100,000,000 to provide for ~~more efficient and more effective~~ environmental reviews  
23 by the Chief of the Forest Service in satisfying the obligations of the Chief of the Forest  
24 Service under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through  
25 4370m–12); and

26 (4) \$50,000,000 ~~to develop and carry out activities and tactics~~ for the protection of old-  
27 growth forests on National Forest System land and to complete an inventory of old-growth  
28 forests and mature forests within the National Forest System.

29 (b) ~~Priority for Funding.—For projects described in paragraphs (1) and (2) of subsection (a),~~  
30 ~~the Secretary shall prioritize for implementation projects—~~

31 ~~(1) for which an environmental assessment or an environmental impact statement required~~  
32 ~~under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4370m12) has~~  
33 ~~been completed;~~

34 ~~(2) that are collaboratively developed; or~~

35 ~~(3) that include opportunities to restore sustainable recreation infrastructure or access or~~  
36 ~~accomplish other recreation outcomes on National Forest System lands, if the opportunities are~~  
37 ~~compatible with the primary restoration purposes of the project.~~

38 (e) Restrictions.—None of the funds made available by ~~this section~~ **paragraph (1) or (2) of**

1 subsection (a) may be used for any activity—

- 2 (1) conducted in a wilderness area or wilderness study area;
- 3 (2) that includes the construction of a permanent road or motorized trail;
- 4 (3) that includes the construction of a temporary road, except in the case of a temporary  
5 road that is decommissioned by the Secretary not later than 3 years after the earlier of—
  - 6 (A) the date on which the temporary road is no longer needed; and
  - 7 (B) the date on which the project for which the temporary road was constructed is  
8 completed;
- 9 (4) inconsistent with the applicable land management plan;
- 10 (5) inconsistent with the prohibitions of the rule of the Forest Service entitled “Special  
11 Areas; Roadless Area Conservation” (66 Fed. Reg. 3244 (January 12, 2001)), as modified  
12 by subparts C and D of part 294 of title 36, Code of Federal Regulations; or
- 13 (6) carried out on any land that is not National Forest System land, including other  
14 forested land on Federal, State, Tribal, or private land.

15 ~~(d)~~(c) Limitations.—Nothing in this section shall be interpreted to authorize funds of the  
16 Commodity Credit Corporation for activities under this section if such funds are not expressly  
17 authorized or currently expended for such purposes.

18 ~~(e)~~(d) Cost-sharing Waiver.—

- 19 (1) IN GENERAL.—The non-Federal cost-share requirement of a project described in  
20 paragraph (2) may be waived at the discretion of the Secretary.
- 21 (2) PROJECT DESCRIBED.—A project referred to in paragraph (1) is a project that—
  - 22 (A) is carried out using funds made available under this section;
  - 23 (B) requires a partnership agreement, including a cooperative agreement or mutual  
24 interest agreement; and
  - 25 (C) is subject to a non-Federal cost-share requirement.

26 ~~(f)~~(e) Definitions.—In this section:

- 28 (1) Collaboratively developed.—The term “collaboratively developed” means, with  
29 respect to a project located exclusively on National Forest System land, that the project is  
30 developed and implemented through a collaborative process that—
  - 31 (A) includes multiple interested persons representing diverse interests, except such  
32 persons shall not be employed by the Federal Government or be representatives of foreign  
33 entities; and
  - 34 (B)(i) is transparent and nonexclusive; or  
35 (ii) meets the requirements for a resource advisory committee under subsections (c)  
36 through (f) of section 205 of the Secure Rural Schools and Community Self-Determination  
37 Act of 2000 (16 U.S.C. 7125);

1 ~~(2)~~(1) DECOMMISSION.—The term “decommission” means, with respect to a road—

2 (A) reestablishing native vegetation on the road;

3 (B) restoring any natural drainage, watershed function, or other ecological processes  
4 that were disrupted or adversely impacted by the road by removing or hydrologically  
5 disconnecting the road prism and reestablishing stable slope contours; and

6 (C) effectively blocking the road to vehicular traffic, where feasible.

7 ~~(3)~~(2) ECOLOGICAL INTEGRITY.—The term “ecological integrity” has the meaning given  
8 the term in section 219.19 of title 36, Code of Federal Regulations (as in effect on the date  
9 of enactment of this Act).

10 ~~(4)~~(3) HAZARDOUS FUELS REDUCTION PROJECT.—The term “hazardous fuels reduction  
11 project” means an activity, including the use of prescribed fire, to protect structures and  
12 communities from wildfire that is carried out on National Forest System land.

13 ~~(5)~~(4) RESTORATION.—The term “restoration” has the meaning given the term in section  
14 219.19 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this  
15 Act).

16 ~~(6)~~(5) VEGETATION MANAGEMENT PROJECT.—The term “vegetation management  
17 project” means an activity carried out on National Forest System land to enhance the  
18 ecological integrity and achieve the restoration of a forest ecosystem through the removal of  
19 vegetation, the use of prescribed fire, the restoration of aquatic habitat, or the  
20 decommissioning of an unauthorized, temporary, or system road.

21 ~~(7) Water source management plan.—The term “water source management plan” means a~~  
22 ~~plan developed under section 303(d)(1) of the Healthy Forests Restoration Act of 2003 (16~~  
23 ~~U.S.C. 6542(d)(1)).~~

24 ~~(8) Watershed protection and restoration action plan.—The term “watershed protection~~  
25 ~~and restoration action plan” means a plan developed under section 304(a)(3) of the Healthy~~  
26 ~~Forests Restoration Act of 2003 (16 U.S.C. 6543(a)(3)).~~

27 ~~(9)~~(6) WILDLAND-URBAN INTERFACE.—The term “wildland-urban interface” has the  
28 meaning given the term in section 101 of the Healthy Forests Restoration Act of 2003 (16  
29 U.S.C. 6511).

## 30 SEC. 23002. COMPETITIVE GRANTS FOR NON-FEDERAL 31 FOREST LANDOWNERS.

32 (a) Appropriations.—In addition to amounts otherwise available, there are appropriated to the  
33 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to  
34 remain available until September 30, 2031—

35 (1) \$150,000,000 for the competitive grant program under section 13A of the Cooperative  
36 Forestry Assistance Act of 1978 (16 U.S.C. 2109a) for providing through that program a  
37 cost share to carry out climate mitigation or forest resilience practices in the case of  
38 underserved forest landowners, subject to the condition that subsection (h) of that section  
39 shall not apply;

1 (2) \$150,000,000 for the competitive grant program under section 13A of the Cooperative  
2 Forestry Assistance Act of 1978 (16 U.S.C. 2109a) for providing through that program  
3 grants to support the participation of underserved forest landowners in emerging private  
4 markets for climate mitigation or forest resilience, subject to the condition that subsection  
5 (h) of that section shall not apply;

6 (3) \$100,000,000 for the competitive grant program under section 13A of the Cooperative  
7 Forestry Assistance Act of 1978 (16 U.S.C. 2109a) for providing through that program  
8 grants to support the participation of forest landowners who own less than 2,500 acres of  
9 forest land in emerging private markets for climate mitigation or forest resilience, subject to  
10 the condition that subsection (h) of that section shall not apply;

11 (4) \$50,000,000 for the competitive grant program under section 13A of the Cooperative  
12 Forestry Assistance Act of 1978 (16 U.S.C. 2109a) to provide grants to states and other  
13 eligible entities to provide payments to owners of private forest land for implementation of  
14 forestry practices on private forest land, that are determined by the Secretary, based on the  
15 best available science, to provide measurable increases in carbon sequestration and storage  
16 beyond customary practices on comparable land, subject to the conditions that—

17 (A) those payments shall not preclude landowners from participation in other public  
18 and private sector financial incentive programs; and

19 (B) subsection (h) of that section shall not apply; and

20 (5) \$100,000,000 to provide grants under the wood innovation grant program under  
21 section 8643 of the Agriculture Improvement Act of 2018 (7 U.S.C. 7655d), including for  
22 the construction of new facilities that advance the purposes of the program and for the  
23 hauling of material removed to reduce hazardous fuels to locations where that material can  
24 be utilized, subject to the conditions that—

25 (A) the amount of such a grant shall be not more than \$5,000,000; and

26 (B) notwithstanding subsection (d) of that section, a recipient of such a grant shall  
27 provide funds equal to not less than 50 percent of the amount received under the grant,  
28 to be derived from non-Federal sources; and

29 (C) a priority shall be placed on projects that create a financial model for addressing  
30 forest restoration needs on public or private forest land.

31 (b) Cost-sharing Requirement.—Any partnership agreements, including cooperative  
32 agreements and mutual interest agreements, using funds made available under this section shall  
33 be subject to a non-Federal cost-share requirement of not less than 20 percent of the project cost,  
34 which may be waived at the discretion of the Secretary.

35 (c) Limitations.—Nothing in this section shall be interpreted to authorize funds of the  
36 Commodity Credit Corporation for activities under this section if such funds are not expressly  
37 authorized or currently expended for such purposes.

## 38 SEC. 23003. STATE AND PRIVATE FORESTRY 39 CONSERVATION PROGRAMS.

40 (a) Appropriations.—In addition to amounts otherwise available, there are appropriated to the



1 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to  
2 remain available until September 30, 2031—

3 (1) \$700,000,000 to provide competitive grants to States through the Forest Legacy  
4 Program established under section 7 of the Cooperative Forestry Assistance Act of 1978 (16  
5 U.S.C. 2103c) ~~to acquire~~ **for projects for the acquisition of** land and interests in land, ~~with~~  
6 ~~priority given to grant applications that offer significant natural carbon sequestration~~  
7 ~~benefits or provide benefits to underserved populations;~~ and

8 (2) \$1,500,000,000 to provide multiyear, programmatic, competitive grants to a State  
9 agency, a local governmental entity, an agency or governmental entity of the District of  
10 Columbia, **an agency or governmental entity of an insular area (as defined in section**  
11 **1404 of the National Agricultural Research, Extension, and Teaching Policy Act of**  
12 **1977 (7 U.S.C. 3103)),** an Indian Tribe, or a nonprofit organization through the Urban and  
13 Community Forestry Assistance program established under section 9(c) of the Cooperative  
14 Forestry Assistance Act of 1978 (16 U.S.C. 2105(c)) for tree planting and related activities,  
15 ~~with a priority for projects that benefit underserved populations and areas.~~

16 (b) Waiver.—Any non-Federal cost-share requirement otherwise applicable to projects carried  
17 out under this section may be waived at the discretion of the Secretary.

## 18 SEC. 23004. LIMITATION.

19 The funds made available under this subtitle are subject to the condition that the Secretary  
20 shall not—

21 (1) enter into any agreement—

22 (A) that is for a term extending beyond September 30, 2031; or

23 (B) under which any payment could be outlaid or funds disbursed after September  
24 30, 2031; or

25 (2) use any other funds available to the Secretary to satisfy obligations initially made  
26 under this subtitle.

## 27 SEC. 23005. ADMINISTRATIVE COSTS.

28 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
29 year 2022, out of any money in the Treasury not otherwise appropriated, \$100,000,000 to remain  
30 available until September 30, 2031, for administrative costs of the agencies and offices of the  
31 Department of Agriculture for costs related to implementing this subtitle.

## 32 TITLE III—COMMITTEE ON BANKING, HOUSING, AND 33 URBAN AFFAIRS

### 34 SEC. 30001. ENHANCED USE OF DEFENSE PRODUCTION 35 ACT OF 1950.

36 In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of  
37 any money in the Treasury not otherwise appropriated, \$500,000,000, to remain available until

1 September 30, 2024, to carry out the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.).

2 **SEC. 30002. IMPROVING ENERGY EFFICIENCY OR**  
3 **WATER EFFICIENCY OR CLIMATE RESILIENCE OF**  
4 **AFFORDABLE HOUSING.**

5 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
6 Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) for  
7 fiscal year 2022, out of any money in the Treasury not otherwise appropriated—

8 (1) \$837,500,000, to remain available until September 30, 2028, for the cost of providing  
9 direct loans, **including** the costs of modifying such loans, and for grants, as provided for and  
10 subject to terms and conditions in subsection (b), including to subsidize gross obligations  
11 for the principal amount of **direct such** loans, not to exceed \$4,000,000,000, to fund projects  
12 that improve energy or water efficiency, **enhance** indoor air quality or sustainability,  
13 implement the use of **low-emission technologies, materials, or processes, including** zero-  
14 emission electricity generation, **low-emission building materials or processes,** energy  
15 storage, or building electrification **strategies,** or address climate resilience, of an eligible  
16 property;

17 (2) \$60,000,000, to remain available until September 30, 2030, for the costs to the  
18 Secretary **of administering and overseeing the implementation of this section, including for**  
19 **information technology, financial reporting, research and evaluation, other cross-program-**  
20 **costs in support of programs administered by the Secretary in this title, and other costs; and**  
21 **administering and overseeing the implementation of this section;**

22 (3) \$60,000,000, to remain available until September 30, 2029, for expenses of contracts  
23 **or cooperative agreements** administered by the Secretary, **including to carry out property**  
24 **climate risk, energy, or water assessments, due diligence, and underwriting functions for**  
25 **such grant and direct loan program;;** and

26 (4) \$42,500,000, to remain available until September 30, 2028, for energy and water  
27 benchmarking of properties eligible to receive grants or loans under this section, regardless  
28 of whether they actually received such grants **or loans,** along with associated data analysis  
29 and evaluation at the property and portfolio level, **including and** the development of  
30 information technology systems necessary for the collection, evaluation, and analysis of  
31 such data.

32 (b) Loan and Grant Terms and Conditions.—Amounts made available under this section shall  
33 be for direct loans, grants, and direct loans that can be converted to grants to eligible recipients  
34 that agree to an extended period of affordability for the property.

35 (c) Definitions.—As used in this section—

36 (1) the term “eligible recipient” means any owner or sponsor of an eligible property; and

37 (2) the term “eligible property” means a property assisted pursuant to—

38 (A) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

39 (B) section 202 of the Housing Act of 1959 (former 12 U.S.C. 1701q), as such  
40 section existed before the enactment of the Cranston-Gonzalez National Affordable

1 Housing Act;

2 (C) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42  
3 U.S.C. 8013);

4 (D) section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b));

5 (E) section 236 of the National Housing Act (12 U.S.C. 1715z–1); or

6 (F) a Housing Assistance Payments contract for Project-Based Rental Assistance in  
7 fiscal year 2021.

8 (d) Waiver.—The Secretary may waive or specify alternative requirements for any provision  
9 of subsection (c) or (bb) of section 8 of the United States Housing Act of 1937 (42 U.S.C.  
10 1437f(c), 1437f(bb)) upon a finding that the waiver or alternative requirement is necessary to  
11 facilitate the use of amounts made available under this section.

12 (e) Implementation.—The Secretary shall have the authority to establish by notice any  
13 requirements that the Secretary determines are necessary for timely and effective implementation  
14 of the program and expenditure of funds appropriated, which requirements shall take effect upon  
15 issuance.

## 16 TITLE IV—COMMITTEE ON COMMERCE, SCIENCE, 17 AND TRANSPORTATION

### 18 SEC. 40001. INVESTING IN COASTAL COMMUNITIES 19 AND CLIMATE RESILIENCE.

20 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
21 National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the  
22 Treasury not otherwise appropriated, \$2,600,000,000, to remain available until September 30,  
23 2026, to provide funding through direct expenditure, contracts, grants, cooperative agreements,  
24 or technical assistance to coastal states (as defined in paragraph (4) of section 304 of the Coastal  
25 Zone Management Act of 1972 (16 U.S.C. 1453(4))), the District of Columbia, Tribal  
26 Governments, nonprofit organizations, local governments, and institutions of higher education  
27 (as defined in subsection (a) of section 101 of the Higher Education Act of 1965 (20 U.S.C.  
28 1001(a))), for the conservation, restoration, and protection of coastal and marine habitats **and,**  
29 resources, **including Pacific salmon and other marine** fisheries, to enable coastal communities  
30 to prepare for extreme storms and other changing climate conditions, and for projects that  
31 support natural resources that sustain coastal and marine resource dependent communities,  
32 **marine fishery and marine mammal stock assessments,** and for related administrative  
33 expenses.

34 (b) Tribal Government Defined.—In this section, the term “Tribal Government” means the  
35 recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village,  
36 community, component band, or component reservation, individually identified (including  
37 parenthetically) in the list published most recently as of the date of enactment of this subsection  
38 pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C.  
39 5131).

1 SEC. 40002. FACILITIES OF THE NATIONAL OCEANIC  
2 AND ATMOSPHERIC ADMINISTRATION AND  
3 NATIONAL MARINE SANCTUARIES.

4 (a) National Oceanic and Atmospheric Administration Facilities.—In addition to amounts  
5 otherwise available, there is appropriated to the National Oceanic and Atmospheric  
6 Administration for fiscal year 2022, out of any money in the Treasury not otherwise  
7 appropriated, \$150,000,000, to remain available until September 30, 2026, for the construction of  
8 new facilities (including facilities in need of replacement) including piers, marine operations  
9 facilities, and fisheries laboratories.

10 (b) National Marine Sanctuaries Facilities.—In addition to amounts otherwise available, there  
11 is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out  
12 of any money in the Treasury not otherwise appropriated, \$50,000,000, to remain available until  
13 September 30, 2026, for the construction of facilities to support the National Marine Sanctuary  
14 System established under subsection (c) of section 301 of the National Marine Sanctuaries Act  
15 (16 U.S.C. 1431(c)).

16 SEC. 40003. NOAA EFFICIENT AND EFFECTIVE  
17 REVIEWS.

18 In addition to amounts otherwise available, there is appropriated to the National Oceanic and  
19 Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not  
20 otherwise appropriated, \$20,000,000, to remain available until September 30, 2026, to conduct  
21 more efficient, accurate, and timely reviews for planning, permitting and approval processes  
22 through the hiring and training of personnel, and the purchase of technical and scientific services  
23 and new equipment, and to improve agency transparency, accountability, and public  
24 engagement.

25 SEC. 40004. OCEANIC AND ATMOSPHERIC RESEARCH  
26 AND FORECASTING FOR WEATHER AND CLIMATE.

27 (a) Forecasting and Research.—In addition to amounts otherwise available, there is  
28 appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out  
29 of any money in the Treasury not otherwise appropriated, \$150,000,000, to remain available  
30 until September 30, 2026, to accelerate advances and improvements in research, observation  
31 systems, modeling, forecasting, assessments, and dissemination of information to the public as it  
32 pertains to ocean and atmospheric processes related to weather, coasts, oceans, and climate, and  
33 to carry out section 102(a) of the Weather Research and Forecasting Innovation Act of 2017 (15  
34 U.S.C. 8512(a)), and for related administrative expenses.

35 (b) Research Grants and Science Information, Products, and Services.—In addition to amounts  
36 otherwise available, there are appropriated to the National Oceanic and Atmospheric  
37 Administration for fiscal year 2022, out of any money in the Treasury not otherwise  
38 appropriated, to remain available until September 30, 2026, \$50,000,000 for competitive grants  
39 to fund climate research as it relates to weather, ocean, coastal, and atmospheric processes and  
40 conditions, and impacts to marine species and coastal habitat, and for related administrative

1 expenses.

## 2 SEC. 40005. COMPUTING CAPACITY AND RESEARCH 3 FOR WEATHER, OCEANS, AND CLIMATE.

4 In addition to amounts otherwise available, there is appropriated to the National Oceanic and  
5 Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not  
6 otherwise appropriated, \$190,000,000, to remain available until September 30, 2026, for the  
7 procurement of additional high-performance computing, data processing capacity, data  
8 management, and storage assets, to carry out section 204(a)(2) of the High-Performance  
9 Computing Act of 1991 (15 U.S.C. 5524(a)(2)), and for transaction agreements authorized under  
10 section 301(d)(1)(A) of the Weather Research and Forecasting Innovation Act of 2017 (15  
11 U.S.C. 8531(d)(1)(A)), and for related administrative expenses.

## 12 SEC. 40006. ACQUISITION OF HURRICANE 13 FORECASTING AIRCRAFT.

14 In addition to amounts otherwise available, there is appropriated to the National Oceanic and  
15 Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not  
16 otherwise appropriated, \$100,000,000, to remain available until September 30, 2026, for the  
17 acquisition of hurricane hunter aircraft under section 413(a) of the Weather Research and  
18 Forecasting Innovation Act of 2017 (15 U.S.C. 8549(a)).

## 19 SEC. 40007. ALTERNATIVE FUEL AND LOW-EMISSION 20 AVIATION TECHNOLOGY PROGRAM.

21 (a) Appropriation and Establishment.—For purposes of establishing a competitive grant  
22 program for eligible entities to carry out projects located in the United States that produce,  
23 transport, blend, or store sustainable aviation fuel, or develop, demonstrate, or apply low-  
24 emission aviation technologies, in addition to amounts otherwise available, there are  
25 appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not  
26 otherwise appropriated, to remain available until September 30, 2026—

27 (1) \$244,530,000 for projects relating to the production, transportation, blending, or  
28 storage of sustainable aviation fuel;

29 (2) \$46,530,000 for projects relating to low-emission aviation technologies; and

30 (3) \$5,940,000 to fund the award of grants under this section, and oversight of the  
31 program, by the Secretary.

32 (b) Considerations.—In carrying out subsection (a), the Secretary shall consider, with respect  
33 to a proposed project—

34 (1) the capacity for the eligible entity to increase the domestic production and  
35 deployment of sustainable aviation fuel or the use of low-emission aviation technologies  
36 among the United States commercial aviation and aerospace industry;

37 (2) the projected greenhouse gas emissions from such project, including emissions  
38 resulting from the development of the project, and the potential the project has to reduce or

1 displace, on a lifecycle basis, United States greenhouse gas emissions associated with air  
2 travel;

3 (3) the capacity to create new jobs and develop supply chain partnerships in the United  
4 States;

5 (4) for projects related to the production of sustainable aviation fuel, the projected  
6 lifecycle greenhouse gas emissions benefits from the proposed project, which shall include  
7 feedstock and fuel production and potential direct and indirect greenhouse gas emissions  
8 (including resulting from changes in land use); and

9 (5) the benefits of ensuring a diversity of feedstocks for sustainable aviation fuel,  
10 including the use of waste carbon oxides and direct air capture.

11 (c) Cost Share.—The Federal share of the cost of a project carried out using grant funds under  
12 subsection (a) shall be 75 percent of the total proposed cost of the project, except that such  
13 Federal share shall increase to 90 percent of the total proposed cost of the project if the eligible  
14 entity is a small hub airport or nonhub airport, as such terms are defined in section 47102 of title  
15 49, United States Code.

16 (d) Fuel Emissions Reduction Test.—For purposes of clause (ii) of subsection (e)(7)(E), the  
17 Secretary shall, not later than 2 years after the date of enactment of this section, adopt at least 1  
18 methodology for testing lifecycle greenhouse gas emissions that meets the requirements of such  
19 clause.

20 (e) Definitions.—In this section:

21 (1) ELIGIBLE ENTITY.—The term “eligible entity” means—

22 (A) a State or local government, including the District of Columbia, other than an  
23 airport sponsor;

24 (B) an air carrier;

25 (C) an airport sponsor;

26 (D) an accredited institution of higher education;

27 (E) a research institution;

28 (F) a person or entity engaged in the production, transportation, blending, or storage  
29 of sustainable aviation fuel in the United States or feedstocks in the United States that  
30 could be used to produce sustainable aviation fuel;

31 (G) a person or entity engaged in the development, demonstration, or application of  
32 low-emission aviation technologies; or

33 (H) nonprofit entities or nonprofit consortia with experience in sustainable aviation  
34 fuels, low-emission aviation technologies, or other clean transportation research  
35 programs.

36 (2) FEEDSTOCK.—The term “feedstock” means sources of hydrogen and carbon not  
37 originating from unrefined or refined petrochemicals.

38 (3) INDUCED LAND-USE CHANGE VALUES.—The term “induced land-use change values”  
39 means the greenhouse gas emissions resulting from the conversion of land to the production

1 of feedstocks and from the conversion of other land due to the displacement of crops or  
2 animals for which the original land was previously used.

3 (4) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term “lifecycle greenhouse gas  
4 emissions” means the combined greenhouse gas emissions from feedstock production,  
5 collection of feedstock, transportation of feedstock to fuel production facilities, conversion  
6 of feedstock to fuel, transportation and distribution of fuel, and fuel combustion in an  
7 aircraft engine, as well as from induced land-use change values.

8 (5) LOW-EMISSION AVIATION TECHNOLOGIES.—The term “low-emission aviation  
9 technologies” means technologies, produced in the United States, that significantly—

10 (A) improve aircraft fuel efficiency;

11 (B) increase utilization of sustainable aviation fuel; or

12 (C) reduce greenhouse gas emissions produced during operation of civil aircraft.

13 (6) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

14 (7) SUSTAINABLE AVIATION FUEL.—The term “sustainable aviation fuel” means liquid  
15 fuel, produced in the United States, that—

16 (A) consists of synthesized hydrocarbons;

17 (B) meets the requirements of—

18 (i) ASTM International Standard D7566; or

19 (ii) the co-processing provisions of ASTM International Standard D1655,  
20 Annex A1 (or such successor standard);

21 (C) is derived from biomass (in a similar manner as such term is defined in section  
22 45K(c)(3) of the Internal Revenue Code of 1986), waste streams, renewable energy  
23 sources, or gaseous carbon oxides;

24 (D) is not derived from palm fatty acid distillates; and

25 (E) achieves at least a 50 percent lifecycle greenhouse gas emissions reduction in  
26 comparison with petroleum-based jet fuel, as determined by a test that shows—

27 (i) the fuel production pathway achieves at least a 50 percent reduction of the  
28 aggregate attributional core lifecycle emissions and the induced land-use change  
29 values under a lifecycle methodology for sustainable aviation fuels similar to that  
30 adopted by the International Civil Aviation Organization with the agreement of  
31 the United States; or

32 (ii) the fuel production pathway achieves at least a 50 percent reduction of the  
33 aggregate attributional core lifecycle greenhouse gas emissions values and the  
34 induced land-use change values under another methodology that the Secretary  
35 determines is—

36 (I) reflective of the latest scientific understanding of lifecycle greenhouse  
37 gas emissions; and

38 (II) as stringent as the requirement under clause (i).

1 TITLE V—COMMITTEE ON ENERGY AND NATURAL  
2 RESOURCES

3 Subtitle A—Energy

4 PART 1—GENERAL PROVISIONS

5 SEC. 50111. DEFINITIONS.

6 In this subtitle:

7 (1) GREENHOUSE GAS.—The term “greenhouse gas” has the meaning given the term in  
8 section 1610(a) of the Energy Policy Act of 1992 (42 U.S.C. 13389(a)).

9 (2) SECRETARY.—The term “Secretary” means the Secretary of Energy.

10 (3) STATE.—The term “State” means a State, the District of Columbia, and a United  
11 States Insular Area (as that term is defined in section 50211).

12 (4) STATE ENERGY OFFICE.—The term “State energy office” has the meaning given the  
13 term in section 124(a) of the Energy Policy Act of 2005 (42 U.S.C. 15821(a)).

14 (5) STATE ENERGY PROGRAM.—The term “State Energy Program” means the State  
15 Energy Program established pursuant to part D of title III of the Energy Policy and  
16 Conservation Act (42 U.S.C. 6321 through 6326).

17 PART 2—RESIDENTIAL EFFICIENCY AND  
18 ELECTRIFICATION REBATES

19 SEC. 50121. HOME ENERGY PERFORMANCE-BASED,  
20 WHOLE-HOUSE REBATES.

21 (a) Appropriation.—

22 (1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the  
23 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
24 \$4,300,000,000, to remain available through September 30, 2031, to carry out a program to  
25 award grants to State energy offices to develop and implement a HOMES rebate program.

26 (2) ALLOCATION OF FUNDS.—

27 (A) IN GENERAL.—The Secretary shall reserve funds made available under  
28 paragraph (1) for each State energy office—

29 (i) in accordance with the allocation formula for the State Energy Program in  
30 effect on January 1, 2022; and

31 (ii) to be distributed to a State energy office if the application of the State  
32 energy office under subsection (b) is approved.

33 (B) ADDITIONAL FUNDS.—Not earlier than 2 years after the date of enactment of this  
34 Act, any money reserved under subparagraph (A) but not distributed under clause (ii)



1 of that subparagraph shall be redistributed to the State energy offices operating a  
2 HOMES rebate program using a grant received under this section in proportion to the  
3 amount distributed to those State energy offices under subparagraph (A)(ii).

4 (3) ADMINISTRATIVE EXPENSES.—Of the funds made available under paragraph (1), the  
5 Secretary shall use not more than 3 percent for—

6 (A) administrative purposes; and

7 (B) providing technical assistance relating to activities carried out under this section.

8 (b) Application.—A State energy office seeking a grant under this section shall submit to the  
9 Secretary an application that includes a plan to implement a HOMES rebate program, including a  
10 plan—

11 (1) to use procedures, as approved by the Secretary, for determining the reductions in  
12 home energy use resulting from the implementation of a home energy efficiency retrofit that  
13 is are calibrated to historical energy usage for a home consistent with BPI 2400, for  
14 purposes of modeled performance home rebates;

15 (2) to use open-source advanced measurement and verification software, as approved by  
16 the Secretary, for determining and documenting the monthly and hourly (if available)  
17 weather-normalized energy use of a home before and after the implementation of a home  
18 energy efficiency retrofit, for purposes of measured performance home rebates;

19 (3) to value savings based on time, location, or greenhouse gas emissions;

20 (4) for quality monitoring to ensure that each home energy efficiency retrofit for which a  
21 rebate is provided is documented in a certificate that—

22 (A) is provided by the contractor and certified by a third party to the homeowner;  
23 and

24 (B) details the work performed, the equipment and materials installed, and the  
25 projected energy savings or energy generation to support accurate valuation of the  
26 retrofit;

27 (5) to provide a contractor performing a home energy efficiency retrofit or an aggregator  
28 who has the right to claim a rebate \$200 for each home located in an underserved a  
29 disadvantaged community that receives a home energy efficiency retrofit for which a  
30 rebate is provided under the program; and

31 (6) to ensure that a homeowner or aggregator does not receive a rebate for the same  
32 upgrade through both a HOMES rebate program and any other Federal grant or rebate  
33 program, pursuant to subsection ~~(e)(8)(c)(7)~~.

34 (c) HOMES Rebate Program.—

35 (1) IN GENERAL.—A HOMES rebate program carried out by a State energy office  
36 receiving a grant pursuant to this section shall provide rebates to homeowners and  
37 aggregators for whole-house energy saving retrofits begun on or after the date of enactment  
38 of this Act and completed by not later than September 30, 2031.

39 (2) AMOUNT OF REBATE.—Subject to paragraph (3)(B), under a HOMES rebate program,  
40 the amount of a rebate shall not exceed—

1 (A) for individuals and aggregators carrying out energy efficiency upgrades of  
2 single-family homes—

3 (i) in the case of a retrofit that achieves modeled energy system savings of not  
4 less than 20 percent but less than 35 percent, the lesser of—

5 (I) \$2,000; and

6 (II) 50 percent of the project cost;

7 (ii) in the case of a retrofit that achieves modeled energy system savings of not  
8 less than 35 percent, the lesser of—

9 (I) \$4,000; and

10 (II) 50 percent of the project cost; and

11 (iii) for measured energy savings, in the case of a home or portfolio of homes  
12 that achieves energy savings of not less than 15 percent—

13 (I) a payment rate per kilowatt hour saved, or kilowatt hour-equivalent  
14 saved, equal to \$2,000 for a 20 percent reduction of energy use for the  
15 average home in the State; or

16 (II) 50 percent of the project cost;

17 (B) for multifamily building owners and aggregators carrying out energy efficiency  
18 upgrades of multifamily buildings—

19 (i) in the case of a retrofit that achieves modeled energy system savings of not  
20 less than 20 percent but less than 35 percent, \$2,000 per dwelling unit, with a  
21 maximum of \$200,000 per multifamily building;

22 (ii) in the case of a retrofit that achieves modeled energy system savings of not  
23 less than 35 percent, \$4,000 per dwelling unit, with a maximum of \$400,000 per  
24 multifamily building; or

25 (iii) for measured energy savings, in the case of a multifamily building or  
26 portfolio of multifamily buildings that achieves energy savings of not less than 15  
27 percent—

28 (I) a payment rate per kilowatt hour saved, or kilowatt hour-equivalent  
29 saved, equal to \$2,000 for a 20 percent reduction of energy use per dwelling  
30 unit for the average multifamily building in the State; or

31 (II) 50 percent of the project cost; and

32 (C) for individuals and aggregators carrying out energy efficiency upgrades of a  
33 single-family home occupied by a low- or moderate-income household or a  
34 multifamily building not less than 50 percent of the dwelling units of which are  
35 occupied by low- or moderate-income households—

36 (i) in the case of a retrofit that achieves modeled energy system savings of not  
37 less than 20 percent but less than 35 percent, the lesser of—

38 (I) \$4,000 per single-family home or dwelling unit; and

- 1 (II) 80 percent of the project cost;
- 2 (ii) in the case of a retrofit that achieves modeled energy system savings of not  
3 less than 35 percent, the lesser of—
- 4 (I) \$8,000 per single-family home or dwelling unit; and
- 5 (II) 80 percent of the project cost; and
- 6 (iii) for measured energy savings, in the case of a single-family home,  
7 multifamily building, or portfolio of single-family homes or multifamily buildings  
8 that achieves energy savings of not less than 15 percent—
- 9 (I) a payment rate per kilowatt hour saved, or kilowatt hour-equivalent  
10 saved, equal to \$4,000 for a 20 percent reduction of energy use per single-  
11 family home or dwelling unit, as applicable, for the average single-family  
12 home or multifamily building in the State; or
- 13 (II) 80 percent of the project cost.

14 (3) REBATES TO LOW- OR MODERATE-INCOME ~~HOUSEHOLDS.—On households.—~~

15 ~~(A) In general.—A State energy office carrying out a HOMES rebate program using a~~  
16 ~~grant awarded pursuant to this section is encouraged to provide rebates, to the maximum~~  
17 ~~extent practicable, to low- or moderate-income households.~~

18 ~~(B) Increase in rebate amount.—On~~ approval from the Secretary, notwithstanding  
19 paragraph (2), a State energy office carrying out a HOMES rebate program using a grant  
20 awarded pursuant to this section may increase rebate amounts for low- or moderate-income  
21 households.

22 (4) USE OF FUNDS.—A State energy office that receives a grant pursuant to this section  
23 may use not more than 20 percent of the grant amount for planning, administration, or  
24 technical assistance related to a HOMES rebate program.

25 (5) DATA ACCESS GUIDELINES.—The Secretary shall develop and publish guidelines for  
26 States relating to residential electric and natural gas energy data sharing.

27 ~~(6) Coordination.—In carrying out this section, the Secretary shall coordinate with State~~  
28 ~~energy offices to ensure that HOMES rebate programs for which grants are provided under~~  
29 ~~this section are developed to achieve maximum greenhouse gas emissions reductions and~~  
30 ~~household energy and costs savings regardless of source energy.~~

31 ~~(7) EXEMPTION.—~~Activities carried out by a State energy office using a grant awarded  
32 pursuant to this section shall not be subject to the expenditure prohibitions and limitations  
33 described in section 420.18 of title 10, Code of Federal Regulations.

34 ~~(8)(7) PROHIBITION ON COMBINING REBATES.—~~A rebate provided by a State energy  
35 office under a HOMES rebate program may not be combined with any other Federal grant  
36 or rebate, including a rebate provided under a high-efficiency electric home rebate program  
37 (as defined in section 50122(d)), for the same single upgrade.

38 (d) Definitions.—In this section:

39 (1) ~~DISADVANTAGED COMMUNITY.—~~The term “disadvantaged community” means a  
40 community that the Secretary determines, based on appropriate data, indices, and

1 screening tools, is economically, socially, or environmentally disadvantaged.

2 (2) HOMES REBATE PROGRAM.—The term “HOMES rebate program” means a Home  
3 Owner Managing Energy Savings rebate program established by a State energy office as  
4 part of an approved State energy conservation plan under the State Energy Program.

5 (2)(3) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term “low- or moderate-income  
6 household” means an individual or family the total annual income of which is less than 80  
7 percent of the median income of the area in which the individual or family resides, as  
8 reported by the Department of Housing and Urban Development, including an individual or  
9 family that has demonstrated eligibility for another Federal program with income  
10 restrictions equal to or below 80 percent of area median income.

11 (3) Underserved community.—The term “underserved  
12 community” means—

13 (A) a community located in a ZIP code that includes 1 or more  
14 census tracts that include—

15 (i) a low-income community; or

16 (ii) a community of racial or ethnic minority concentration; and

17 (B) any other community that the Secretary determines is  
18 disproportionately vulnerable to, or bears a disproportionate  
19 burden of, any combination of economic, social, and  
20 environmental stressors.

## 21 SEC. 50122. HIGH-EFFICIENCY ELECTRIC HOME 22 REBATE PROGRAM.

23 (a) Appropriations.—

24 (1) FUNDS TO STATE ENERGY OFFICES AND INDIAN TRIBES.—In addition to amounts  
25 otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any  
26 money in the Treasury not otherwise appropriated, to carry out a program—

27 (A) to award grants to State energy offices to develop and implement a high-  
28 efficiency electric home rebate program in accordance with subsection (c),  
29 \$4,275,000,000, to remain available through September 30, 2031; and

30 (B) to award grants to Indian Tribes to develop and implement a high-efficiency  
31 electric home rebate program in accordance with subsection (c), \$225,000,000, to  
32 remain available through September 30, 2031.

33 (2) ALLOCATION OF FUNDS.—

34 (A) STATE ENERGY OFFICES.—The Secretary shall reserve funds made available

1 under paragraph (1)(A) for each State energy office—

2 (i) in accordance with the allocation formula for the State Energy Program in  
3 effect on January 1, 2022; and

4 (ii) to be distributed to a State energy office if the application of the State  
5 energy office under subsection (b) is approved.

6 (B) INDIAN TRIBES.—The Secretary shall reserve funds made available under  
7 paragraph (1)(B)—

8 (i) in a manner determined appropriate by the Secretary; and

9 (ii) to be distributed to an Indian Tribe if the application of the Indian Tribe  
10 under subsection (b) is approved.

11 (C) ADDITIONAL FUNDS.—Not earlier than 2 years after the date of enactment of this  
12 Act, any money reserved under—

13 (i) subparagraph (A) but not distributed under clause (ii) of that subparagraph  
14 shall be redistributed to the State energy offices operating a high-efficiency  
15 electric home rebate program in proportion to the amount distributed to those  
16 State energy offices under that clause; and

17 (ii) subparagraph (B) but not distributed under clause (ii) of that subparagraph  
18 shall be redistributed to the Indian Tribes operating a high-efficiency electric  
19 home rebate program in proportion to the amount distributed to those Indian  
20 Tribes under that clause.

21 (3) ADMINISTRATIVE EXPENSES.—Of the funds made available under paragraph (1), the  
22 Secretary shall use not more than 3 percent for—

23 (A) administrative purposes; and

24 (B) providing technical assistance relating to activities carried out under this section.

25 (b) Application.—A State energy office or Indian Tribe seeking a grant under the program  
26 shall submit to the Secretary an application that includes a plan to implement a high-efficiency  
27 electric home rebate program, including—

28 (1) a plan to verify the income eligibility of eligible entities seeking a rebate for a  
29 qualified electrification project;

30 (2) a plan to allow rebates for qualified electrification projects at the point of sale in a  
31 manner that ensures that the income eligibility of an eligible entity seeking a rebate may be  
32 verified at the point of sale;

33 (3) a plan to ensure that an eligible entity does not receive a rebate for the same qualified  
34 electrification project through both a high-efficiency electric home rebate program and any  
35 other Federal grant or rebate program, pursuant to subsection (c)(8); and

36 (4) any additional information that the Secretary may require.

37 (c) High-efficiency Electric Home Rebate Program.—

38 (1) IN GENERAL.—Under the program, the Secretary shall award grants to State energy  
39 offices and Indian Tribes to establish a high-efficiency electric home rebate program under

1 which rebates shall be provided to eligible entities for qualified electrification projects.

2 (2) GUIDELINES.—The Secretary shall prescribe guidelines for high-efficiency electric  
3 home rebate programs, including guidelines for providing point of sale rebates in a manner  
4 consistent with the income eligibility requirements under this section.

5 (3) AMOUNT OF REBATE.—

6 (A) APPLIANCE UPGRADES.—The amount of a rebate provided under a high-  
7 efficiency electric home rebate program for the purchase of an appliance under a  
8 qualified electrification project shall be—

9 (i) not more than \$1,750 for a heat pump water heater;

10 (ii) not more than \$8,000 for a heat pump for space heating or cooling; and

11 (iii) not more than \$840 for—

12 (I) an electric stove, cooktop, range, or oven; or

13 (II) an electric heat pump clothes dryer.

14 (B) NONAPPLIANCE UPGRADES.—The amount of a rebate provided under a high-  
15 efficiency electric home rebate program for the purchase of a nonappliance upgrade  
16 under a qualified electrification project shall be—

17 (i) not more than \$4,000 for an electric load service center upgrade;

18 (ii) not more than \$1,600 for insulation, air sealing, and ventilation; and

19 (iii) not more than \$2,500 for electric wiring.

20 (C) MAXIMUM REBATE.—An eligible entity receiving multiple rebates under this  
21 section may receive not more than a total of \$14,000 in rebates.

22 (4) LIMITATIONS.—A rebate provided using funding under this section shall not exceed—

23 (A) in the case of an eligible entity described in subsection (d)(1)(A)—

24 (i) 50 percent of the cost of the qualified electrification project for a household  
25 the annual income of which is not less than 80 percent and not greater than 150  
26 percent of the area median income; and

27 (ii) 100 percent of the cost of the qualified electrification project for a  
28 household the annual income of which is less than 80 percent of the area median  
29 income;

30 (B) in the case of an eligible entity described in subsection (d)(1)(B)—

31 (i) 50 percent of the cost of the qualified electrification project for a  
32 multifamily building not less than 50 percent of the residents of which are  
33 households the annual income of which is not less than 80 percent and not greater  
34 than 150 percent of the area median income; and

35 (ii) 100 percent of the cost of the qualified electrification project for a  
36 multifamily building not less than 50 percent of the residents of which are  
37 households the annual income of which is less than 80 percent of the area median  
38 income; or

1 (C) in the case of an eligible entity described in subsection (d)(1)(C)—

2 (i) 50 percent of the cost of the qualified electrification project for a household

3 —

4 (I) on behalf of which the eligible entity is working; and

5 (II) the annual income of which is not less than 80 percent and not greater  
6 than 150 percent of the area median income; and

7 (ii) 100 percent of the cost of the qualified electrification project for a  
8 household—

9 (I) on behalf of which the eligible entity is working; and

10 (II) the annual income of which is less than 80 percent of the area median  
11 income.

12 (5) AMOUNT FOR INSTALLATION OF UPGRADES.—

13 (A) IN GENERAL.—In the case of an eligible entity described in subsection (d)(1)(C)  
14 that receives a rebate under the program and performs the installation of the applicable  
15 qualified electrification project, a State energy office or Indian Tribe shall provide to  
16 that eligible entity, in addition to the rebate, an amount that—

17 (i) does not exceed \$500; and

18 (ii) is commensurate with the scale of the upgrades installed as part of the  
19 qualified electrification project and any enhanced labor practices, as determined  
20 by the Secretary.

21 (B) TREATMENT.—An amount received under subparagraph (A) by an eligible entity  
22 described in that subparagraph shall not be subject to the requirement under paragraph  
23 (6).

24 (6) REQUIREMENT.—An eligible entity described in subparagraph (C) of subsection (d)(1)  
25 shall discount the amount of a rebate received for a qualified electrification project from any  
26 amount charged by that eligible entity to the eligible entity described in subparagraph (A) or  
27 (B) of that subsection on behalf of which the qualified electrification project is carried out.

28 (7) EXEMPTION.—Activities carried out by a State energy office using a grant provided  
29 under the program shall not be subject to the expenditure prohibitions and limitations  
30 described in section 420.18 of title 10, Code of Federal Regulations.

31 (8) PROHIBITION ON COMBINING REBATES.—A rebate provided by a State energy office  
32 or Indian Tribe under a high-efficiency electric home rebate program may not be combined  
33 with any other Federal grant or rebate, including a rebate provided under a HOMES rebate  
34 program (as defined in section 50121(d)), for the same qualified electrification project.

35 (9) ADMINISTRATIVE COSTS.—A State energy office or Indian Tribe that receives a grant  
36 under the program shall use not more than 20 percent of the grant amount for planning,  
37 administration, or technical assistance relating to a high-efficiency electric home rebate  
38 program.

39 (d) Definitions.—In this section:

1 (1) ELIGIBLE ENTITY.—The term “eligible entity” means—

2 (A) a low- or moderate-income household;

3 (B) an individual or entity that owns a multifamily building not less than 50 percent  
4 of the residents of which are low- or moderate-income households; and

5 (C) a governmental, commercial, or nonprofit entity, as determined by the Secretary,  
6 carrying out a qualified electrification project on behalf of an entity described in  
7 subparagraph (A) or (B).

8 (2) HIGH-EFFICIENCY ELECTRIC HOME REBATE PROGRAM.—The term “high-efficiency  
9 electric home rebate program” means a rebate program carried out by a State energy office  
10 or Indian Tribe pursuant to subsection (c) using a grant received under the program.

11 (3) INDIAN TRIBE.—The term “Indian Tribe” has the meaning given the term in section 4  
12 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

13 (4) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term “low- or moderate-income  
14 household” means an individual or family the total annual income of which is less than 150  
15 percent of the median income of the area in which the individual or family resides, as  
16 reported by the Department of Housing and Urban Development, including an individual or  
17 family that has demonstrated eligibility for another Federal program with income  
18 restrictions equal to or below 150 percent of area median income.

19 (5) PROGRAM.—The term “program” means the program carried out by the Secretary  
20 under subsection (a)(1).

21 (6) QUALIFIED ELECTRIFICATION PROJECT.—

22 (A) IN GENERAL.—The term “qualified electrification project” means a project that  
23 —

24 (i) includes the purchase and installation of—

25 (I) an electric heat pump water heater;

26 (II) an electric heat pump for space heating and cooling;

27 (III) an electric stove, cooktop, range, or oven;

28 (IV) an electric heat pump clothes dryer;

29 (V) an electric load service center;

30 (VI) insulation;

31 (VII) air sealing and materials to improve ventilation; or

32 (VIII) electric wiring;

33 (ii) with respect to any appliance described in clause (i), the purchase of which  
34 is carried out—

35 (I) as part of new construction;

36 (II) to replace a nonelectric appliance; or

37 (III) as a first-time purchase with respect to that appliance; and



1 (iii) is carried out at, or relating to, a single-family home or multifamily  
2 building, as applicable and defined by the Secretary.

3 (B) EXCLUSIONS.—The term “qualified electrification project” does not include any  
4 project with respect to which the appliance, system, equipment, infrastructure,  
5 component, or other item described in subclauses (I) through (VIII) of subparagraph  
6 (A)(i) is not certified under the Energy Star program established by section 324A of  
7 the Energy Policy and Conservation Act (42 U.S.C. 6294a), if applicable.

## 8 SEC. 50123. STATE-BASED HOME ENERGY EFFICIENCY 9 CONTRACTOR TRAINING GRANTS.

10 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
11 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
12 \$200,000,000, to remain available through September 30, 2031, to carry out a program to  
13 provide financial assistance to States to develop and implement a State program described in  
14 section 362(d)(13) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)(13)), which  
15 shall provide training and education to contractors involved in the installation of home energy  
16 efficiency and electrification improvements, including improvements eligible for rebates under a  
17 HOMES rebate program (as defined in section 50121(d)) or a high-efficiency electric home  
18 rebate program (as defined in section 50122(d)), as part of an approved State energy  
19 conservation plan under the State Energy Program.

20 (b) Use of Funds.—A State may use amounts received under subsection (a)—

21 (1) to reduce the cost of training contractor employees;

22 (2) to provide testing and certification of contractors trained and educated under a State  
23 program developed and implemented pursuant to subsection (a); and

24 (3) to partner with nonprofit organizations to develop and implement a State program  
25 pursuant to subsection (a).

26 (c) Administrative Expenses.—Of the amounts received by a State under subsection (a), a  
27 State shall use not more than 10 percent for administrative expenses associated with developing  
28 and implementing a State program pursuant to that subsection.

## 29 PART 3—BUILDING EFFICIENCY AND RESILIENCE

### 30 SEC. 50131. ASSISTANCE FOR LATEST AND ZERO 31 BUILDING ENERGY CODE ADOPTION.

32 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
33 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated—

34 (1) \$330,000,000, to remain available through September 30, 2029, to carry out activities  
35 under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 through  
36 6326) in accordance with subsection (b); and

37 (2) \$670,000,000, to remain available through September 30, 2029, to carry out activities  
38 under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 through

1 6326) in accordance with subsection (c).

2 (b) Latest Building Energy Code.—The Secretary shall use funds made available under  
3 subsection (a)(1) for grants to assist States, and units of local government that have authority to  
4 adopt building codes—

5 (1) to adopt—

6 (A) a building energy code (or codes) for residential buildings that meets or exceeds  
7 the 2021 International Energy Conservation Code, or achieves equivalent or greater  
8 energy savings;

9 (B) a building energy code (or codes) for commercial buildings that meets or  
10 exceeds the ANSI/ASHRAE/IES Standard 90.1–2019, or achieves equivalent or  
11 greater energy savings; or

12 (C) any combination of building energy codes described in subparagraph (A) or (B);  
13 and

14 (2) to implement a plan for the jurisdiction to achieve full compliance with any building  
15 energy code adopted under paragraph (1) in new and renovated residential or commercial  
16 buildings, as applicable, which plan shall include active training and enforcement programs  
17 and measurement of the rate of compliance each year.

18 (c) Zero Energy Code.—The Secretary shall use funds made available under subsection (a)(2)  
19 for grants to assist States, and units of local government that have authority to adopt building  
20 codes—

21 (1) to adopt a building energy code (or codes) for residential and commercial buildings  
22 that meets or exceeds the zero energy provisions in the 2021 International Energy  
23 Conservation Code or an equivalent stretch code; and

24 (2) to implement a plan for the jurisdiction to achieve full compliance with any building  
25 energy code adopted under paragraph (1) in new and renovated residential and commercial  
26 buildings, which plan shall include active training and enforcement programs and  
27 measurement of the rate of compliance each year.

28 (d) State Match.—The State cost share requirement under the item relating to “Department of  
29 Energy—Energy Conservation” in title II of the Department of the Interior and Related Agencies  
30 Appropriations Act, 1985 (42 U.S.C. 6323a; 98 Stat. 1861), shall not apply to assistance  
31 provided under this section.

32 (e) Administrative Costs.—Of the amounts made available under this section, the Secretary  
33 shall reserve **not more than** 5 percent for administrative costs necessary to carry out this section.

## 34 PART 4—DOE LOAN AND GRANT PROGRAMS

### 35 SEC. 50141. FUNDING FOR DEPARTMENT OF ENERGY 36 LOAN PROGRAMS OFFICE.

37 (a) Commitment Authority.—In addition to commitment authority otherwise available and  
38 previously provided, the Secretary may make commitments to guarantee loans for eligible  
39 projects under section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513), up to a total

1 principal amount of \$40,000,000,000, to remain available through September 30, 2026.

2 (b) Appropriation.—In addition to amounts otherwise available and previously provided, there  
3 is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not  
4 otherwise appropriated, \$3,600,000,000, to remain available through September 30, 2026, for the  
5 costs of guarantees made under section 1703 of the Energy Policy Act of 2005 (42 U.S.C.  
6 16513), using the loan guarantee authority provided under subsection (a) of this section.

7 (c) Administrative Expenses.—Of the amount made available under subsection (b), the  
8 Secretary shall reserve **not more than** 3 percent for administrative expenses to carry out title  
9 XVII of the Energy Policy Act of 2005 and for carrying out section 1702(h)(3) of such Act (42  
10 U.S.C. 16512(h)(3)).

11 (d) Limitations.—

12 (1) CERTIFICATION.—None of the amounts made available under this section for loan  
13 guarantees shall be available for any project unless the President has certified in advance in  
14 writing that the loan guarantee and the project comply with the provisions under this  
15 section.

16 (2) DENIAL OF DOUBLE BENEFIT.—Except as provided in paragraph (3), none of the  
17 amounts made available under this section for loan guarantees shall be available for  
18 commitments to guarantee loans for any projects under which funds, personnel, or property  
19 (tangible or intangible) of any Federal agency, instrumentality, personnel, or affiliated entity  
20 are expected to be used (directly or indirectly) through acquisitions, contracts,  
21 demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction  
22 authority, or other arrangements to support the project or to obtain goods or services from  
23 the project.

24 (3) EXCEPTION.—Paragraph (2) shall not preclude the use of the loan guarantee authority  
25 provided under this section for commitments to guarantee loans for—

26 (A) projects benefitting from otherwise allowable Federal tax benefits;

27 (B) projects benefitting from being located on Federal land pursuant to a lease or  
28 right-of-way agreement for which all consideration for all uses is—

29 (i) paid exclusively in cash;

30 (ii) deposited in the Treasury as offsetting receipts; and

31 (iii) equal to the fair market value;

32 (C) projects benefitting from the Federal insurance program under section 170 of the  
33 Atomic Energy Act of 1954 (42 U.S.C. 2210); or

34 (D) electric generation projects using transmission facilities owned or operated by a  
35 Federal Power Marketing Administration or the Tennessee Valley Authority that have  
36 been authorized, approved, and financed independent of the project receiving the  
37 guarantee.

38 (e) Guarantee.—Section 1701(4)(A) of the Energy Policy Act of 2005 (42 U.S.C. 16511(4)  
39 (A)) is amended by inserting “, except that a loan guarantee may guarantee any debt obligation  
40 of a non-Federal borrower to any Eligible Lender (as defined in section 609.2 of title 10, Code of

1 Federal Regulations)” before the period at the end.

2 (f) Source of Payments.—Section 1702(b) of the Energy Policy Act of 2005 (42 U.S.C.  
3 16512(b)(2)) is amended by adding at the end the following:

4 “(3) SOURCE OF PAYMENTS.—The source of a payment received from a borrower under  
5 subparagraph (A) or (B) of paragraph (2) may not be a loan or other debt obligation that is  
6 made or guaranteed by the Federal Government.”.

## 7 SEC. 50142. ADVANCED TECHNOLOGY VEHICLE 8 MANUFACTURING.

9 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
10 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
11 \$3,000,000,000, to remain available through September 30, 2028, for the costs of providing  
12 direct loans under section 136(d) of the Energy Independence and Security Act of 2007 (42  
13 U.S.C. 17013(d)): Provided, That funds appropriated by this section may be used for the costs of  
14 providing direct loans for reequipping, expanding, or establishing a manufacturing facility in the  
15 United States to produce, or for engineering integration performed in the United States of,  
16 advanced technology vehicles described in subparagraph (C), (D), (E), or (F) of section 136(a)(1)  
17 of such Act (42 U.S.C. 17013(a)(1)) only if such advanced technology vehicles emit, under any  
18 possible operational mode or condition, low or zero exhaust emissions of greenhouse gases.

19 (b) Administrative Costs.—The Secretary shall reserve **not more than** \$25,000,000 of  
20 amounts made available under subsection (a) for administrative costs of providing loans as  
21 described in subsection (a).

22 (c) Elimination of Loan Program Cap.—Section 136(d)(1) of the Energy Independence and  
23 Security Act of 2007 (42 U.S.C. 17013(d)(1)) is amended by striking “a total of not more than  
24 \$25,000,000,000 in”.

## 25 SEC. 50143. DOMESTIC MANUFACTURING 26 CONVERSION GRANTS.

27 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
28 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
29 \$2,000,000,000, to remain available through September 30, 2031, to provide grants for domestic  
30 production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and hydrogen fuel  
31 cell electric vehicles, in accordance with section 712 of the Energy Policy Act of 2005 (42  
32 U.S.C. 16062).

33 (b) Cost Share.—The Secretary shall require a recipient of a grant provided under subsection  
34 (a) to provide not less than 50 percent of the cost of the project carried out using the grant.

35 (c) Administrative Costs.—The Secretary shall reserve **not more than** 3 percent of amounts  
36 made available under subsection (a) for administrative costs of making grants described in such  
37 subsection (a) pursuant to section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062).

## 38 SEC. 50144. ENERGY INFRASTRUCTURE 39 REINVESTMENT FINANCING.

1 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
2 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
3 \$5,000,000,000, to remain available through September 30, 2026, to carry out activities under  
4 section 1706 of the Energy Policy Act of 2005.

5 (b) Commitment Authority.—The Secretary may make, through September 30, 2026,  
6 commitments to guarantee loans for projects under section 1706 of the Energy Policy Act of  
7 2005 the total principal amount of which is not greater than \$250,000,000,000, subject to the  
8 limitations that apply to loan guarantees under section 50141(d).

9 (c) Energy Infrastructure Reinvestment Financing.—Title XVII of the Energy Policy Act of  
10 2005 is amended by inserting after section 1705 (42 U.S.C. 16516) the following:

11 **“SEC. 1706. ENERGY INFRASTRUCTURE**  
12 **REINVESTMENT FINANCING.**

13 **“(a) In General.**—Notwithstanding section 1703, the Secretary may make guarantees,  
14 including refinancing, under this section only for projects that—

15 **“(1) retool, repower, repurpose, or replace energy infrastructure that has ceased**  
16 **operations; or**

17 **“(2) enable operating energy infrastructure to avoid, reduce, utilize, or sequester air**  
18 **pollutants or anthropogenic emissions of greenhouse gases.**

19 **“(b) Inclusion.**—A project under subsection (a) may include the remediation of environmental  
20 damage associated with energy infrastructure.

21 **“(c) Requirement.**—A project under subsection (a)(1) that involves electricity generation  
22 through the use of fossil fuels shall be required to have controls or technologies to avoid, reduce,  
23 utilize, or sequester air pollutants and anthropogenic emissions of greenhouse gases.

24 **“(d) Application.**—To apply for a guarantee under this section, an applicant shall submit to the  
25 Secretary an application at such time, in such manner, and containing such information as the  
26 Secretary may require, including—

27 **“(1) a detailed plan describing the proposed project;**

28 **“(2) an analysis of how the proposed project will engage with and affect associated**  
29 **communities; and**

30 **“(3) in the case of an applicant that is an electric utility, an assurance that the electric**  
31 **utility shall pass on any financial benefit from the guarantee made under this section to the**  
32 **customers of, or associated communities served by, the electric utility.**

33 **“(e) Term.**—Notwithstanding section 1702(f), the term of an obligation shall require full  
34 repayment over a period not to exceed 30 years.

35 **“(f) Definition of Energy Infrastructure.**—In this section, the term ‘energy infrastructure’  
36 means a facility, and associated equipment, used for—

37 **“(1) the generation or transmission of electric energy; or**

38 **“(2) the production, processing, and delivery of fossil fuels, fuels derived from**  
39 **petroleum, or petrochemical feedstocks.”.**

1 (d) Conforming Amendment.—Section 1702(o)(3) of the Energy Policy Act of 2005 (42  
2 U.S.C. 16512(o)(3)) is amended by inserting “and projects described in section 1706(a)” before  
3 the period at the end.

4 ~~(e) Clerical Amendment.—The table of contents for the Energy~~  
5 ~~Policy Act of 2005 is amended by inserting after the item~~  
6 ~~relating to section 1705 (Public Law 10958; 119 Stat. 604; 123~~  
7 ~~Stat. 145) the following:~~

8 ~~“Sec.1706.Energy infrastructure reinvestment financing.”.~~

9 SEC. 50145. TRIBAL ENERGY LOAN GUARANTEE  
10 PROGRAM.

11 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
12 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
13 \$75,000,000, to remain available through September 30, 2028, to carry out section 2602(c) of the  
14 Energy Policy Act of 1992 (25 U.S.C. 3502(c)), subject to the limitations that apply to loan  
15 guarantees under section 50141(d).

16 (b) Department of Energy Tribal Energy Loan Guarantee Program.—Section 2602(c) of the  
17 Energy Policy Act of 1992 (25 U.S.C. 3502(c)) is amended—

18 (1) in paragraph (1), by striking “) for an amount equal to not more than 90 percent of”  
19 and inserting “, except that a loan guarantee may guarantee any debt obligation of a non-  
20 Federal borrower to any Eligible Lender (as defined in section 609.2 of title 10, Code of  
21 Federal Regulations)) for”; and

22 (2) in paragraph (4), by striking “\$2,000,000,000” and inserting “\$20,000,000,000”.

23 PART 5—ELECTRIC TRANSMISSION

24 SEC. 50151. TRANSMISSION FACILITY FINANCING.

25 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
26 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
27 \$2,000,000,000, to remain available through September 30, 2030, to carry out this section:  
28 Provided, That the Secretary shall not enter into any loan agreement pursuant to this section that  
29 could result in disbursements after September 30, 2031.

30 (b) Use of Funds.—The Secretary shall use the amounts made available by subsection (a) to  
31 carry out a program to **make pay the costs of** direct loans to non-Federal borrowers, subject to  
32 the limitations that apply to loan guarantees under section 50141(d) and under such terms and  
33 conditions as the Secretary determines to be appropriate, for the construction or modification of  
34 electric transmission facilities designated by the Secretary to be necessary in the national interest  
35 under section 216(a) of the Federal Power Act (16 U.S.C. 824p(a)).

36 (c) Loans.—A direct loan provided under this section—

1 (1) shall have a term that does not exceed the lesser of—

2 (A) 90 percent of the projected useful life, in years, of the eligible transmission  
3 facility; and

4 (B) 30 years;

5 (2) shall not exceed 80 percent of the project costs; and

6 (3) shall, on first issuance, be subject to the condition that the direct loan is not  
7 subordinate to other financing.

8 (d) Interest Rates.—A direct loan provided under this section shall bear interest at a rate  
9 determined by the Secretary, taking into consideration market yields on outstanding marketable  
10 obligations of the United States of comparable maturities as of the date on which the direct loan  
11 is made.

12 (e) Definition of Direct Loan.—In this section, the term “direct loan” has the meaning given  
13 the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

## 14 SEC. 50152. GRANTS TO FACILITATE THE SITING OF 15 INTERSTATE ELECTRICITY TRANSMISSION LINES.

16 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
17 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
18 \$760,000,000, to remain available through September 30, 2029, for making grants in accordance  
19 with this section and for administrative expenses associated with carrying out this section.

20 (b) Use of Funds.—

21 (1) IN GENERAL.—The Secretary may make a grant under this section to a siting authority  
22 for, with respect to a covered transmission project, any of the following activities:

23 (A) Studies and analyses of the impacts of the covered transmission project.

24 (B) Examination of up to 3 alternate siting corridors within which the covered  
25 transmission project feasibly could be sited.

26 ~~(C) Hosting and facilitation of negotiations in settlement meetings involving the~~  
27 ~~siting authority, the covered transmission project applicant, and opponents of the~~  
28 ~~covered transmission project, for the purpose of identifying and addressing issues that~~  
29 ~~are preventing approval of the application relating to the siting or permitting of the~~  
30 ~~covered transmission project.~~

31 ~~(D)~~ Participation by the siting authority in regulatory proceedings or negotiations in  
32 another jurisdiction, or under the auspices of a Transmission Organization (as defined  
33 in section 3 of the Federal Power Act (16 U.S.C. 796)) that is also considering the  
34 siting or permitting of the covered transmission project.

35 ~~(E)~~~~(D)~~ Participation by the siting authority in regulatory proceedings at the Federal  
36 Energy Regulatory Commission or a State regulatory commission for determining  
37 applicable rates and cost allocation for the covered transmission project.

38 ~~(F)~~~~(E)~~ Other measures and actions that may improve the chances of, and shorten the  
39 time required for, approval by the siting authority of the application relating to the

1 siting or permitting of the covered transmission project, as the Secretary determines  
2 appropriate.

3 (2) ECONOMIC DEVELOPMENT.—The Secretary may make a grant under this section to a  
4 siting authority, or other State, local, or Tribal governmental entity, for economic  
5 development activities for communities that may be affected by the construction and  
6 operation of a covered transmission project, provided that the Secretary shall not enter into  
7 any grant agreement pursuant to this section that could result in any outlays after September  
8 30, 2031.

9 (c) Conditions.—

10 (1) FINAL DECISION ON APPLICATION.—In order to receive a grant for an activity  
11 described in subsection (b)(1), the Secretary shall require a siting authority to agree, in  
12 writing, to reach a final decision on the application relating to the siting or permitting of the  
13 applicable covered transmission project not later than 2 years after the date on which such  
14 grant is provided, unless the Secretary authorizes an extension for good cause.

15 (2) FEDERAL SHARE.—The Federal share of the cost of an activity described in  
16 subparagraph (C) or (D) or (E) of subsection (b)(1) shall not exceed 50 percent.

17 (3) ECONOMIC DEVELOPMENT.—The Secretary may only disburse grant funds for  
18 economic development activities under subsection (b)(2)—

19 (A) to a siting authority upon approval by the siting authority of the applicable  
20 covered transmission project; and

21 (B) to any other State, local, or Tribal governmental entity upon commencement of  
22 construction of the applicable covered transmission project in the area under the  
23 jurisdiction of the entity.

24 (d) Returning Funds.—If a siting authority that receives a grant for an activity described in  
25 subsection (b)(1) fails to use all grant funds within 2 years of receipt, the siting authority shall  
26 return to the Secretary any such unused funds.

27 (e) Definitions.—In this section:

28 (1) COVERED TRANSMISSION PROJECT.—The term “covered transmission project” means  
29 a high-voltage interstate or offshore electricity transmission line—

30 (A) that is proposed to be constructed and to operate—

31 (i) at a minimum of 275 kilovolts of either alternating-current or direct-current  
32 electric energy by an entity; or

33 (ii) offshore and at a minimum of 200 kilovolts of either alternating-current or  
34 direct-current electric energy by an entity; and

35 (B) for which such entity has applied, or informed a siting authority of such entity’s  
36 intent to apply, for regulatory approval.

37 (2) SITING AUTHORITY.—The term “siting authority” means a State, local, or Tribal  
38 governmental entity with authority to make a final determination regarding the siting,  
39 permitting, or regulatory status of a covered transmission project that is proposed to be  
40 located in an area under the jurisdiction of the entity.



1 SEC. 50153. INTERREGIONAL AND OFFSHORE WIND  
2 ELECTRICITY TRANSMISSION PLANNING, MODELING,  
3 AND ANALYSIS.

4 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
5 Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
6 \$100,000,000, to remain available through September 30, 2031, to carry out this section.

7 (b) Use of Funds.—The Secretary shall use amounts made available under subsection (a)—

8 (1) to pay expenses associated with convening relevant stakeholders, including States,  
9 generation and transmission developers, regional transmission organizations, independent  
10 system operators, environmental organizations, electric utilities, and other stakeholders the  
11 Secretary determines appropriate, to address the development of interregional electricity  
12 transmission and transmission of electricity that is generated by offshore wind; and

13 (2) to conduct planning, modeling, and analysis regarding interregional electricity  
14 transmission and transmission of electricity that is generated by offshore wind, taking into  
15 account the local, regional, and national economic, reliability, resilience, security, public  
16 policy, and environmental benefits of interregional electricity transmission and transmission  
17 of electricity that is generated by offshore wind, including planning, modeling, and analysis,  
18 as the Secretary determines appropriate, pertaining to—

19 (A) clean energy integration into the electric grid, including the identification of  
20 renewable energy zones;

21 (B) the effects of changes in weather due to climate change on the reliability and  
22 resilience of the electric grid;

23 (C) cost allocation methodologies that facilitate the expansion of the bulk power  
24 system;

25 (D) the benefits of coordination between generator interconnection processes and  
26 transmission planning processes;

27 (E) the effect of increased electrification on the electric grid;

28 (F) power flow modeling;

29 (G) the benefits of increased interconnections or interties between or among the  
30 Western Interconnection, the Eastern Interconnection, the Electric Reliability Council  
31 of Texas, and other interconnections, as applicable;

32 (H) the cooptimization of transmission and generation, including variable energy  
33 resources, energy storage, and demand-side management;

34 (I) the opportunities for use of nontransmission alternatives, energy storage, and  
35 grid-enhancing technologies;

36 (J) economic development opportunities for communities arising from development  
37 of interregional electricity transmission and transmission of electricity that is generated  
38 by offshore wind;

1 (K) evaluation of existing rights-of-way and the need for additional transmission  
2 corridors; and

3 (L) a planned national transmission grid, which would include a networked  
4 transmission system to optimize the existing grid for interconnection of offshore wind  
5 farms.

## 6 PART 6—INDUSTRIAL

### 7 SEC. 50161. ADVANCED INDUSTRIAL FACILITIES 8 DEPLOYMENT PROGRAM.

9 (a) Office of Clean Energy Demonstrations.—In addition to amounts otherwise available,  
10 there is appropriated to the Secretary, acting through the Office of Clean Energy Demonstrations,  
11 for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
12 \$5,812,000,000, to remain available through September 30, 2026, to carry out this section.

13 (b) Financial Assistance.—The Secretary shall use funds appropriated by subsection (a) to  
14 provide financial assistance, on a competitive basis, to eligible entities to carry out projects for—

15 (1) the purchase and installation, or implementation, of advanced industrial technology at  
16 an eligible facility;

17 (2) retrofits, upgrades to, or operational improvements at an eligible facility to install or  
18 implement advanced industrial technology; or

19 (3) engineering studies and other work needed to prepare an eligible facility for activities  
20 described in paragraph (1) or (2).

21 (c) Application.—To be eligible to receive financial assistance under subsection (b), an  
22 eligible entity shall submit to the Secretary an application at such time, in such manner, and  
23 containing such information as the Secretary may require, including the expected greenhouse gas  
24 emissions reductions to be achieved by carrying out the project.

25 (d) Priority.—In providing financial assistance under subsection (b), the Secretary shall give  
26 priority consideration to projects on the basis of, as determined by the Secretary—

27 (1) the expected greenhouse gas emissions reductions to be achieved by carrying out the  
28 project;

29 (2) the extent to which the project would provide the greatest benefit for the greatest  
30 number of people within the area in which the eligible facility is located; and

31 (3) whether the eligible entity participates or would participate in a partnership with  
32 purchasers of the output of the eligible facility.

33 (e) Cost Share.—The Secretary shall require an eligible entity to provide not less than 50  
34 percent of the cost of a project carried out pursuant to this section.

35 (f) Administrative Costs.—The Secretary shall reserve **\$200,000,000 not more than**  
36 **\$300,000,000** of amounts made available under subsection (a) for administrative costs of  
37 carrying out this section.

38 (g) Definitions.—In this section:

1 (1) ADVANCED INDUSTRIAL TECHNOLOGY.—The term “advanced industrial technology”  
2 means a technology directly involved in an industrial process, as described in any of  
3 paragraphs (1) through (6) of section 454(c) of the Energy Independence and Security Act  
4 of 2007 (42 U.S.C. 17113(c)), and designed to accelerate greenhouse gas emissions  
5 reduction progress to net-zero at an eligible facility, as determined by the Secretary.

6 (2) ELIGIBLE ENTITY.—The term “eligible entity” means the owner or operator of an  
7 eligible facility.

8 (3) ELIGIBLE FACILITY.—The term “eligible facility” means a domestic, non-Federal,  
9 nonpower industrial or manufacturing facility engaged in energy-intensive industrial  
10 processes, including production processes for iron, steel, steel mill products, aluminum,  
11 cement, concrete, glass, pulp, paper, industrial ceramics, chemicals, and other energy  
12 intensive industrial processes, as determined by the Secretary.

13 (4) FINANCIAL ASSISTANCE.—The term “financial assistance” means a grant, rebate,  
14 direct loan, or cooperative agreement.

## 15 PART 7—OTHER ENERGY MATTERS

### 16 SEC. 50171. DEPARTMENT OF ENERGY OVERSIGHT.

17 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
18 year 2022, out of any money in the Treasury not otherwise appropriated, **\$10,000,000**  
19 **\$20,000,000**, to remain available through September 30, 2031, for oversight by the Department  
20 of Energy Office of Inspector General of the Department of Energy activities for which funding  
21 is appropriated in this subtitle.

### 22 SEC. 50172. NATIONAL LABORATORY 23 INFRASTRUCTURE.

24 (a) Office of Science.—In addition to amounts otherwise available, there is appropriated to the  
25 Secretary, acting through the Director of the Office of Science, for fiscal year 2022, out of any  
26 money in the Treasury not otherwise appropriated, to remain available through September 30,  
27 2027—

28 (1) \$133,240,000 to carry out activities for science laboratory infrastructure projects;

29 (2) \$303,656,000 to carry out activities for high energy physics construction and major  
30 items of equipment projects;

31 (3) \$280,000,000 to carry out activities for fusion energy science construction and major  
32 items of equipment projects;

33 (4) \$217,000,000 to carry out activities for nuclear physics construction and major items  
34 of equipment projects;

35 (5) \$163,791,000 to carry out activities for advanced scientific computing research  
36 facilities;

37 (6) \$294,500,000 to carry out activities for basic energy sciences projects; and

38 (7) \$157,813,000 to carry out activities for isotope research and development facilities.

1 (b) Office of Fossil Energy and Carbon Management.—In addition to amounts otherwise  
2 available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the  
3 Treasury not otherwise appropriated, \$150,000,000, to remain available through September 30,  
4 2027, to carry out activities for infrastructure and general plant projects carried out by the Office  
5 of Fossil Energy and Carbon Management.

6 (c) Office of Nuclear Energy.—In addition to amounts otherwise available, there is  
7 appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not  
8 otherwise appropriated, \$150,000,000, to remain available through September 30, 2027, to carry  
9 out activities for infrastructure and general plant projects carried out by the Office of Nuclear  
10 Energy.

11 (d) Office of Energy Efficiency and Renewable Energy.—In addition to amounts otherwise  
12 available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the  
13 Treasury not otherwise appropriated, \$150,000,000, to remain available through September 30,  
14 2027, to carry out activities for infrastructure and general plant projects carried out by the Office  
15 of Energy Efficiency and Renewable Energy.

## 16 SEC. 50173. AVAILABILITY OF HIGH-ASSAY LOW- 17 ENRICHED URANIUM.

18 (a) Appropriations.—In addition to amounts otherwise available, there is appropriated to the  
19 Secretary of for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to  
20 remain available through September 30, 2026—

21 (1) \$100,000,000 to carry out the program elements described in subparagraphs (A)  
22 through (C) of section 2001(a)(2) of the Energy Act of 2020 (42 U.S.C. 16281(a)(2));

23 (2) \$500,000,000 to carry out the program elements described in subparagraphs (D)  
24 through (H) of that section; and

25 (3) \$100,000,000 to carry out activities to support the availability of high-assay low-  
26 enriched uranium for civilian domestic research, development, demonstration, and  
27 commercial use under section 2001 of the Energy Act of 2020 (42 U.S.C. 16281).

28 (b) Competitive Procedures.—To the maximum extent practicable, the Department of Energy  
29 shall, in a manner consistent with section 989 of the Energy Policy Act of 2005 (42 U.S.C.  
30 16353), use a competitive, merit-based review process in carrying out research, development,  
31 demonstration, and deployment activities under section 2001 of the Energy Act of 2020 (42  
32 U.S.C. 16281).

33 (c) Administrative Expenses.—The Secretary may use not more than 3 percent of the amounts  
34 appropriated by subsection (a) for administrative purposes.

## 35 Subtitle B—Natural Resources

### 36 PART 1—GENERAL PROVISIONS

#### 37 SEC. 50211. DEFINITIONS.

38 In this subtitle:

1 (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

2 (2) UNITED STATES INSULAR AREAS.—The term “United States Insular Areas” means  
3 American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the  
4 Commonwealth of Puerto Rico, and the United States Virgin Islands.

## 5 PART 2—PUBLIC LANDS

### 6 SEC. 50221. NATIONAL PARKS AND PUBLIC LANDS 7 CONSERVATION AND RESILIENCE.

8 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
9 year 2022, out of any money in the Treasury not otherwise appropriated, \$250,000,000, to  
10 remain available through September 30, 2031, to carry out projects for the conservation,  
11 protection, and resiliency of lands and resources administered by the National Park Service and  
12 Bureau of Land Management. None of the funds provided under this section shall be subject to  
13 cost-share or matching requirements.

### 14 SEC. 50222. NATIONAL PARKS AND PUBLIC LANDS 15 CONSERVATION AND ECOSYSTEM RESTORATION.

16 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
17 year 2022, out of any money in the Treasury not otherwise appropriated, \$250,000,000, to  
18 remain available through September 30, 2031, to carry out conservation, ecosystem and habitat  
19 restoration projects on lands administered by the National Park Service and Bureau of Land  
20 Management. None of the funds provided under this section shall be subject to cost-share or  
21 matching requirements.

### 22 SEC. 50223. NATIONAL PARK SERVICE EMPLOYEES.

23 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
24 year 2022, out of any money in the Treasury not otherwise appropriated, \$500,000,000, to  
25 remain available through September 30, 2030, to hire employees **in units to serve in units of the**  
26 **National Park System or national historic or national scenic trails administered by the**  
27 **National Park Service.**

### 28 SEC. 50224. NATIONAL PARK SYSTEM DEFERRED 29 MAINTENANCE.

30 **In addition to amounts otherwise available, there is appropriated to the Secretary for**  
31 **fiscal year 2022, out of any money in the Treasury not otherwise appropriated,**  
32 **\$200,000,000, to remain available through September 30, 2026, to carry out priority**  
33 **deferred maintenance projects, through direct expenditures or transfers, within the**  
34 **boundaries** of the National Park System.

## 35 PART 3—DROUGHT RESPONSE AND PREPAREDNESS

### 36 SEC. 50231. BUREAU OF RECLAMATION DOMESTIC

## 1 WATER SUPPLY PROJECTS.

2 In addition to amounts otherwise available, there is appropriated to the Secretary, acting  
3 through the Commissioner of Reclamation, for fiscal year 2022, out of any money in the  
4 Treasury not otherwise appropriated, \$550,000,000, to remain available through September 30,  
5 2031, for grants, contracts, or financial assistance agreements for disadvantaged communities  
6 (identified according to criteria adopted by the Commissioner of Reclamation) in a manner as  
7 determined by the Commissioner of Reclamation for up to 100 percent of the cost of the  
8 planning, design, or construction of water projects the primary purpose of which is to provide  
9 domestic water supplies to communities or households that do not have reliable access to  
10 domestic water supplies in a State or territory described in the first section of the Act of June 17,  
11 1902 (43 U.S.C. 391; 32 Stat. 388, chapter 1093).

## 12 SEC. 50232. CANAL IMPROVEMENT PROJECTS.

13 In addition to amounts otherwise available, there is appropriated to the Secretary, acting  
14 through the Commissioner of Reclamation, for fiscal year 2022, out of any money in the  
15 Treasury not otherwise appropriated, \$25,000,000, to remain available through September 30,  
16 2031, for the design, study, and implementation of projects (including pilot and demonstration  
17 projects) to cover water conveyance facilities with solar panels to generate renewable energy in a  
18 manner as determined by the Secretary or for other solar projects associated with Bureau of  
19 Reclamation projects that increase water efficiency and assist in implementation of clean energy  
20 goals.

## 21 SEC. 50233. DROUGHT MITIGATION IN THE 22 RECLAMATION STATES.

23 **(a) Definition of Reclamation State.—In this section, the term “Reclamation State”**  
24 **means a State or territory described in the first section of the Act of June 17, 1902 (32 Stat.**  
25 **388, chapter 1093; 43 U.S.C. 391).**

26 **(b) Appropriation.—In addition to amounts otherwise available, there is appropriated to**  
27 **the Secretary (acting through the Commissioner of Reclamation), for fiscal year 2022, out**  
28 **of any money in the Treasury not otherwise appropriated, \$4,000,000,000, to remain**  
29 **available through September 30, 2026, for grants, contracts, or financial assistance**  
30 **agreements, in accordance with the reclamation laws, to or with public entities and Indian**  
31 **Tribes, that provide for the conduct of the following activities to mitigate the impacts of**  
32 **drought in the Reclamation States, with priority given to the Colorado River Basin and**  
33 **other basins experiencing comparable levels of long-term drought, to be implemented in**  
34 **compliance with applicable environmental law:**

35 **(1) Compensation for a temporary or multiyear voluntary reduction in diversion of**  
36 **water or consumptive water use.**

37 **(2) Voluntary system conservation projects that achieve verifiable reductions in use**  
38 **of or demand for water supplies or provide environmental benefits in the Lower Basin**  
39 **or Upper Basin of the Colorado River.**

40 **(3) Ecosystem and habitat restoration projects to address issues directly caused by**  
41 **drought in a river basin or inland water body.**

1 (c) Report.—Not later than 1 year after the date of enactment of this Act, and each year  
2 thereafter, the Secretary shall submit to Congress a report that describes any expenditures  
3 under this section.

## 4 PART 4—INSULAR AFFAIRS

### 5 SEC. 50241. OFFICE OF INSULAR AFFAIRS CLIMATE 6 CHANGE TECHNICAL ASSISTANCE.

7 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
8 Secretary, acting through the Office of Insular Affairs, for fiscal year 2022, out of any money in  
9 the Treasury not otherwise appropriated, \$15,000,000, to remain available through September  
10 30, 2026, to provide technical assistance for climate change planning, mitigation, adaptation, and  
11 resilience to United States Insular Areas.

12 (b) Administrative Expenses.—In addition to amounts otherwise available, there is  
13 appropriated to the Secretary, acting through the Office of Insular Affairs, for fiscal year 2022,  
14 out of any money in the Treasury not otherwise appropriated, \$900,000, to remain available  
15 through September 30, 2026, for necessary administrative expenses associated with carrying out  
16 this section.

## 17 PART 5—OFFSHORE WIND

### 18 SEC. 50251. LEASING ON THE OUTER CONTINENTAL 19 SHELF.

20 (a) Leasing Authorized.—The Secretary may grant leases, easements, and rights-of-way  
21 pursuant to section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)  
22 (C)) in an area withdrawn by—

23 (1) the Presidential memorandum entitled “Memorandum on the Withdrawal of Certain  
24 Areas of the United States Outer Continental Shelf from Leasing Disposition” and dated  
25 September 8, 2020; or

26 (2) the Presidential memorandum entitled “Presidential Determination on the Withdrawal  
27 of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition”  
28 and dated September 25, 2020.

29 (b) Offshore Wind for the Territories.—

30 (1) APPLICATION OF OUTER CONTINENTAL SHELF LANDS ACT WITH RESPECT TO  
31 TERRITORIES OF THE UNITED STATES.—

32 (A) IN GENERAL.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C.  
33 1331) is amended—

34 (i) in subsection (a)—

35 (I) by striking “means all” and inserting the following: “means—

36 “(1) all”; and

37 (II) in paragraph (1) (as so designated), by striking “control;” and inserting

1 the following: “control or within the exclusive economic zone of the United  
2 States and adjacent to any territory of the United States; and”; and

3 (III) by adding at the end following:

4 “(2) does not include any area conveyed by Congress to a territorial government for  
5 administration;”;

6 (ii) in subsection (p), by striking “and” after the semicolon at the end;

7 (iii) in subsection (q), by striking the period at the end and inserting “; and”;  
8 and

9 (iv) by adding at the end the following:

10 “(r) The term ‘State’ means—

11 “(1) each of the several States;

12 “(2) the Commonwealth of Puerto Rico;

13 “(3) Guam;

14 “(4) American Samoa;

15 “(5) the United States Virgin Islands; and

16 “(6) the Commonwealth of the Northern Mariana Islands.”.

17 (B) EXCLUSIONS.—Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C.  
18 1344) is amended by adding at the end the following:

19 “(i) APPLICATION.—This section shall not apply to the scheduling of any lease  
20 sale in an area of the outer Continental Shelf that is adjacent to the  
21 Commonwealth of Puerto Rico, Guam, American Samoa, the United States  
22 Virgin Islands, or the Commonwealth of the Northern Mariana Islands.”.

23 (2) WIND LEASE SALES FOR AREAS OF THE OUTER CONTINENTAL SHELF.—The Outer  
24 Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the  
25 following:

26 **“SEC. 33. WIND LEASE SALES FOR AREAS OF THE**  
27 **OUTER CONTINENTAL SHELF OFFSHORE OF**  
28 **TERRITORIES OF THE UNITED STATES.**

29 “(a) Wind Lease Sales Off Coasts of Territories of the United States.—

30 “(1) CALL FOR INFORMATION AND NOMINATIONS.—

31 “(A) IN GENERAL.—The Secretary shall issue calls for information and nominations  
32 for proposed wind lease sales for areas of the outer Continental Shelf described in  
33 paragraph (2) that are determined to be feasible.

34 “(B) INITIAL CALL.—Not later than September 30, 2025, the Secretary shall issue an  
35 initial call for information and nominations under this paragraph.

36 “(2) CONDITIONAL WIND LEASE SALES.—The Secretary may conduct wind lease sales in



1 each area within the exclusive economic zone of the United States adjacent to the  
2 Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands,  
3 or the Commonwealth of the Northern Mariana Islands that meets each of the following  
4 criteria:

5 “(A) The Secretary has concluded that a wind lease sale in the area is feasible.

6 “(B) The Secretary has determined that there is sufficient interest in leasing the area.

7 “(C) The Secretary has consulted with the Governor of the territory regarding the  
8 suitability of the area for wind energy development.”.

## 9 PART 6—FOSSIL FUEL RESOURCES

### 10 SEC. 50261. OFFSHORE OIL AND GAS ROYALTY RATE.

11 Section 8(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)) is amended—

12 (1) in each of subparagraphs (A) and (C), by striking “not less than 12 $\frac{1}{2}$  per centum”  
13 each place it appears and inserting “not less than 16 $\frac{2}{3}$  percent, but not more than 18 $\frac{3}{4}$   
14 percent, during the 10-year period beginning on the date of enactment of the ~~Inflation~~  
15 ~~Reduction Act of 2022~~ **Act titled ‘An Act to provide for reconciliation pursuant to title**  
16 **II of S. Con. Res. 14’**, and not less than 16 $\frac{2}{3}$  percent thereafter,”;

17 (2) in subparagraph (F), by striking “no less than 12 $\frac{1}{2}$  per centum” and inserting “not  
18 less than 16 $\frac{2}{3}$  percent, but not more than 18 $\frac{3}{4}$  percent, during the 10-year period  
19 beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled ‘An**  
20 **Act to provide for reconciliation pursuant to title II of S. Con. Res. 14’**, and not less  
21 than 16 $\frac{2}{3}$  percent thereafter,”; and

22 (3) in subparagraph (H), by striking “no less than 12 and  $\frac{1}{2}$  per centum” and inserting  
23 “not less than 16 $\frac{2}{3}$  percent, but not more than 18 $\frac{3}{4}$  percent, during the 10-year period  
24 beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled ‘An**  
25 **Act to provide for reconciliation pursuant to title II of S. Con. Res. 14’**, and not less  
26 than 16 $\frac{2}{3}$  percent thereafter,”.

### 27 SEC. 50262. MINERAL LEASING ACT MODERNIZATION.

28 (a) Onshore Oil and Gas Royalty Rates.—

29 (1) LEASE OF OIL AND GAS LAND.—Section 17 of the Mineral Leasing Act (30 U.S.C.  
30 226) is amended—

31 (A) in subsection (b)(1)(A), in the fifth sentence—

32 (i) by striking “12.5” and inserting “16 $\frac{2}{3}$ ”; and

33 (ii) by inserting “or, in the case of a lease issued during the 10-year period  
34 beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act**  
35 **titled ‘An Act to provide for reconciliation pursuant to title II of S. Con. Res.**  
36 **14’**, 16 $\frac{2}{3}$  percent in amount or value of the production removed or sold from  
37 the lease” before the period at the end; and

38 (B) by striking “12 $\frac{1}{2}$  per centum” each place it appears and inserting “16 $\frac{2}{3}$

1 percent”.

2 (2) CONDITIONS FOR REINSTATEMENT.—Section 31(e)(3) of the Mineral Leasing Act (30  
3 U.S.C. 188(e)(3)) is amended by striking “16 $\frac{2}{3}$ ” each place it appears and inserting “20”.

4 (b) Oil and Gas Minimum Bid.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b))  
5 is amended—

6 (1) in paragraph (1)(B), in the first sentence, by striking “\$2 per acre for a period of 2  
7 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act  
8 of 1987.” and inserting “\$10 per acre during the 10-year period beginning on the date of  
9 enactment of the ~~Inflation Reduction Act of 2022.~~; **Act titled ‘An Act to provide for  
10 reconciliation pursuant to title II of S. Con. Res. 14’.**; and

11 (2) in paragraph (2)(C), by striking “\$2 per acre” and inserting “\$10 per acre”.

12 (c) Fossil Fuel Rental Rates.—

13 (1) ANNUAL RENTALS.—Section 17(d) of the Mineral Leasing Act (30 U.S.C. 226(d)) is  
14 amended, in the first sentence, by striking “\$1.50 per acre” and all that follows through the  
15 period at the end and inserting “\$3 per acre per year during the 2-year period beginning on  
16 the date the lease begins for new leases, and after the end of that 2-year period, \$5 per acre  
17 per year for the following 6-year period, and not less than \$15 per acre per year thereafter,  
18 or, in the case of a lease issued during the 10-year period beginning on the date of  
19 enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled ‘An Act to provide for  
20 reconciliation pursuant to title II of S. Con. Res. 14’**, \$3 per acre per year during the 2-  
21 year period beginning on the date the lease begins, and after the end of that 2-year period,  
22 \$5 per acre per year for the following 6-year period, and \$15 per acre per year thereafter.”.

23 (2) RENTALS IN REINSTATED LEASES.—Section 31(e)(2) of the Mineral Leasing Act (30  
24 U.S.C. 188(e)(2)) is amended by striking “\$10” and inserting “\$20”.

25 (d) Expression of Interest Fee.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is  
26 amended by adding at the end the following:

27 “(q) Fee for Expression of Interest.—

28 “(1) IN GENERAL.—The Secretary shall assess a nonrefundable fee against any person  
29 that, in accordance with procedures established by the Secretary to carry out this subsection,  
30 submits an expression of interest in leasing land available for disposition under this section  
31 for exploration for, and development of, oil or gas.

32 “(2) AMOUNT OF FEE.—

33 “(A) IN GENERAL.—Subject to subparagraph (B), the fee assessed under paragraph  
34 (1) shall be \$5 per acre of the area covered by the applicable expression of interest.

35 “(B) ADJUSTMENT OF FEE.—The Secretary shall, by regulation, not less frequently  
36 than every 4 years, adjust the amount of the fee under subparagraph (A) to reflect the  
37 change in inflation.”.

38 (e) Elimination of Noncompetitive Leasing.—

39 (1) IN GENERAL.—Section 17 of the Mineral Leasing Act (~~20~~**30** U.S.C. 226) is amended  
40 —

1 (A) in subsection (b)—

2 (i) in paragraph (1)(A)—

3 (I) in the first sentence, by striking “paragraphs (2) and (3) of this  
4 subsection” and inserting “paragraph (2)”; and

5 (II) by striking the last sentence; and

6 (ii) by striking paragraph (3);

7 (B) by striking subsection (c) and inserting the following:

8 “(c) Additional Rounds of Competitive Bidding.—Land made available for leasing under  
9 subsection (b)(1) for which no bid is accepted or received, or the land for which a lease  
10 terminates, expires, is cancelled, or is relinquished, may be made available by the Secretary of  
11 the Interior for a new round of competitive bidding under that subsection.”; and

12 (C) by striking subsection (e) and inserting the following:

13 “(e) Term of Lease.—

14 “(1) IN GENERAL.—Any lease issued under this section, including a lease for tar sand  
15 areas, shall be for a primary term of 10 years.

16 “(2) CONTINUATION OF LEASE.—A lease described in paragraph (1) shall continue after  
17 the primary term of the lease for any period during which oil or gas is produced in paying  
18 quantities.

19 “(3) ADDITIONAL EXTENSIONS.—Any lease issued under this section for land on which,  
20 or for which under an approved cooperative or unit plan of development or operation, actual  
21 drilling operations were commenced and diligently prosecuted prior to the end of the  
22 primary term of the lease shall be extended for 2 years and for any period thereafter during  
23 which oil or gas is produced in paying quantities.”.

24 (2) CONFORMING AMENDMENTS.—Section 31 of the Mineral Leasing Act (30 U.S.C.  
25 188) is amended—

26 (A) in subsection (d)(1), in the first sentence, by striking “or section 17(c) of this  
27 Act”;

28 (B) in subsection (e)—

29 (i) in paragraph (2)—

30 (I) by striking “either”; and

31 (II) by striking “or the inclusion” and all that follows through “, all”; and

32 (ii) in paragraph (3)—

33 (I) in subparagraph (A), by adding “and” after the semicolon;

34 (II) by striking subparagraph (B); and

35 (III) by striking “(3)(A) payment” and inserting the following:

36 “(3) payment”;

1 (C) in subsection (g)—

2 (i) in paragraph (1), by striking “as a competitive” and all that follows through  
3 “of this Act” and inserting “in the same manner as the original lease issued  
4 pursuant to section 17”;

5 (ii) by striking paragraph (2);

6 (iii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3),  
7 respectively; and

8 (iv) in paragraph (2) (as so redesignated), by striking “applicable to leases  
9 issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except,” and  
10 inserting “except”;

11 (D) in subsection (h), by striking “subsections (d) and (f) of this section” and  
12 inserting “subsection (d)”;

13 (E) in subsection (i), by striking “(i)(1) In acting” and all that follows through “of  
14 this section” in paragraph (2) and inserting the following:

15 “(i) ROYALTY REDUCTION IN REINSTATED LEASES.—In acting on a petition for  
16 reinstatement pursuant to subsection (d)”;

17 (F) by striking subsection (f); and

18 (G) by redesignating subsections (g) through (j) as subsections (f) through (i),  
19 respectively.

20 ~~(f) Oil and Gas Bonding Requirements.—Section 17(g) of the~~  
21 ~~Mineral Leasing Act (30 U.S.C. 226(g)) is amended by inserting~~  
22 ~~after the third sentence the following: “At a minimum each~~  
23 ~~bond, surety, or other financial arrangement established for a~~  
24 ~~lease shall be considered inadequate if the bond, surety, or other~~  
25 ~~financial arrangement is for less than \$150,000, in the case of an~~  
26 ~~individual oil or gas lease in a State, or for less than \$500,000, in~~  
27 ~~the case of an arrangement for all of the oil and gas leases of an~~  
28 ~~operating entity in a State, or for less than \$2,000,000, in the~~  
29 ~~case of an arrangement for all of the oil and gas leases of an~~  
30 ~~operating entity nationwide. The Secretary shall, by regulation,~~  
31 ~~not less frequently than every 4 years, adjust the amount at~~  
32 ~~which a bond, surety, or other financial arrangement is~~  
33 ~~considered inadequate to reflect the change in inflation.”.~~

34 SEC. 50263. ROYALTIES ON ALL EXTRACTED

## 1 METHANE.

2 (a) In General.—For all leases issued after the date of enactment of this Act, except as  
3 provided in subsection (b), royalties paid for gas produced from Federal land and on the outer  
4 Continental Shelf shall be assessed on all gas produced, including all gas that is consumed or lost  
5 by venting, flaring, or negligent releases through any equipment during upstream operations.

6 (b) Exception.—Subsection (a) shall not apply with respect to—

7 (1) gas vented or flared for not longer than 48 hours in an emergency situation that poses  
8 a danger to human health, safety, or the environment;

9 (2) gas used or consumed within the area of the lease, unit, or communitized area for the  
10 benefit of the lease, unit, or communitized area; or

11 (3) gas that is unavoidably lost.

## 12 SEC. 50264. LEASE SALES UNDER THE 2017–2022 OUTER 13 CONTINENTAL SHELF LEASING PROGRAM.

14 (a) Definitions.—In this section:

15

16 \* 11 (1) 2022 lease sales.—The term “2022 Lease Sales” means each of the following  
17 lease sales described in the 20172022 Outer Continental Shelf Oil and Gas Leasing  
18 Proposed Final Program published on November 18, 2016, and approved by the Secretary  
19 in the Record of Decision issued on January 17, 2017, described in the notice of availability  
20 entitled “Record of Decision for the 20172022 Outer Continental Shelf Oil and Gas Leasing  
21 Program Final Programmatic Environmental Impact Statement; MMAA104000” (82 Fed.  
22 Reg. 6643 (January 19, 2017)):

23 (A) Lease Sale 258.

24 (B) Lease Sale 259.

25 (2)(1) LEASE SALE 257.—The term “Lease Sale 257” means the lease sale numbered 257  
26 that was approved in the Record of Decision described in the notice of availability of a  
27 record of decision issued on August 31, 2021, entitled “Gulf of Mexico, Outer Continental  
28 Shelf (OCS), Oil and Gas Lease Sale 257” (86 Fed. Reg. 50160 (September 7, 2021)), and  
29 is the subject of the final notice of sale entitled “Gulf of Mexico Outer Continental Shelf Oil  
30 and Gas Lease Sale 257” (86 Fed. Reg. 54728 (October 4, 2021)).

31 (3)(2) LEASE SALE 261.—THE 258.—THE term “Lease Sale 261” 258” means the lease  
32 sale numbered 261 258 described in the 2017–2022 Outer Continental Shelf Oil and Gas  
33 Leasing Proposed Final Program published on November 18, 2016, and approved by the  
34 Secretary in the Record of Decision issued on January 17, 2017, described in the notice of  
35 availability entitled “Record of Decision for the 2017–2022 Outer Continental Shelf Oil and  
36 Gas Leasing Program Final Programmatic Environmental Impact Statement;  
37 MMAA104000” (82 Fed. Reg. 6643 (January 19, 2017)).

38 \*\* 11 (1) 2022 lease sales.—The term “2022 Lease Sales” means each of the following  
39 lease sales(3) LEASE SALE 259.—The term “Lease Sale 259” means the lease sale

1 **numbered 259** described in the 2017–2022 Outer Continental Shelf Oil and Gas Leasing  
2 Proposed Final Program published on November 18, 2016, and approved by the Secretary  
3 in the Record of Decision issued on January 17, 2017, described in the notice of availability  
4 entitled “Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas  
5 Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000”  
6 (82 Fed. Reg. 6643 (January 19, 2017)).

7 **(4) LEASE SALE 261.—The term “Lease Sale 261” means the lease sale numbered**  
8 **261 described in the 2017–2022 Outer Continental Shelf Oil and Gas Leasing**  
9 **Proposed Final Program published on November 18, 2016, and approved by the**  
10 **Secretary in the Record of Decision issued on January 17, 2017, described in the notice**  
11 **of availability entitled “Record of Decision for the 2017–2022 Outer Continental Shelf**  
12 **Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement;**  
13 **MMAA104000” (82 Fed. Reg. 6643 (January 19, 2017)).**

14 (b) Lease Sale 257 Reinstatement.—

15 (1) ACCEPTANCE OF BIDS.—Not later 30 days after the date of enactment of this Act, the  
16 Secretary shall, without modification or delay—

17 (A) accept the highest valid bid for each tract or bidding unit of Lease Sale 257 for  
18 which a valid bid was received on November 17, 2021; and

19 (B) provide the appropriate lease form to the winning bidder to execute and return.

20 (2) LEASE ISSUANCE.—On receipt of an executed lease form under paragraph (1)(B) and  
21 payment of the rental for the first year, the balance of the bonus bid (unless deferred), and  
22 any required bond or security from the high bidder, the Secretary shall promptly issue to the  
23 high bidder a fully executed lease, in accordance with—

24 (A) the regulations in effect on the date of Lease Sale 257; and

25 (B) the terms and conditions of the final notice of sale entitled “Gulf of Mexico  
26 Outer Continental Shelf Oil and Gas Lease Sale 257” (86 Fed. Reg. 54728 (October 4,  
27 2021)).

28 (c) Requirement for ~~2022 Lease Sales.~~—**Notwithstanding Lease Sale 258.—Notwithstanding**  
29 the expiration of the 2017–2022 leasing program, not later than December 31, 2022, the  
30 Secretary shall conduct ~~the 2022 Lease Sales~~ **Sale 258** in accordance with the Record of  
31 Decision approved by the Secretary on January 17, 2017, described in the notice of availability  
32 entitled “Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing  
33 Program Final Programmatic Environmental Impact Statement; MMAA104000” issued on  
34 January 17, 2017 (82 Fed. Reg. 6643 (January 19, 2017)).

35 (d) Requirement for Lease Sale ~~261.~~—**Notwithstanding 259.—Notwithstanding** the  
36 expiration of the 2017–2022 leasing program, not later than ~~September 30~~ **March 31**, 2023, the  
37 Secretary shall conduct Lease Sale ~~261~~ **259** in accordance with the Record of Decision approved  
38 by the Secretary on January 17, 2017, described in the notice of availability entitled “Record of  
39 Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final  
40 Programmatic Environmental Impact Statement; MMAA104000” issued on January 17, 2017  
41 (82 Fed. Reg. 6643 (January 19, 2017)).

42 **(e) Requirement for Lease Sale 261.—Notwithstanding the expiration of the 2017–2022**

1 leasing program, not later than September 30, 2023, the Secretary shall conduct Lease Sale  
2 261 in accordance with the Record of Decision approved by the Secretary on January 17,  
3 2017, described in the notice of availability entitled “Record of Decision for the 2017–2022  
4 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental  
5 Impact Statement; MMAA104000” issued on January 17, 2017 (82 Fed. Reg. 6643  
6 (January 19, 2017)).

## 7 SEC. 50265. ENSURING ENERGY SECURITY.

8 (a) Definitions.—In this section:

9 (1) FEDERAL LAND.—The term “Federal land” means public lands (as defined in section  
10 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

11 (2) OFFSHORE LEASE SALE.—The term “offshore lease sale” means an oil and gas lease  
12 sale—

13 (A) that is held by the Secretary in accordance with the Outer Continental Shelf  
14 Lands Act (43 U.S.C. 1331 et seq.); and

15 (B) that, if any acceptable bids have been received for any tract offered in the lease  
16 sale, results in the issuance of a lease.

17 (3) ONSHORE LEASE SALE.—The term “onshore lease sale” means a quarterly oil and gas  
18 lease sale—

19 (A) that is held by the Secretary in accordance with section 17 of the Mineral  
20 Leasing Act (30 U.S.C. 226); and

21 (B) that, if any acceptable bids have been received for any parcel offered in the lease  
22 sale, results in the issuance of a lease.

23 (b) Limitation on Issuance of Certain Leases or Rights-of-way.—During the 10-year period  
24 beginning on the date of enactment of this Act—

25 (1) the Secretary may not issue a right-of-way for wind or solar energy development on  
26 Federal land unless—

27 (A) an onshore lease sale has been held during the 120-day period ending on the  
28 date of the issuance of the right-of-way for wind or solar energy development; and

29 (B) the sum total of acres offered for lease in onshore lease sales during the 1-year  
30 period ending on the date of the issuance of the right-of-way for wind or solar energy  
31 development is not less than the lesser of—

32 (i) 2,000,000 acres; and

33 (ii) 50 percent of the acreage for which expressions of interest have been  
34 submitted for lease sales during that period; and

35 (2) the Secretary may not issue a lease for offshore wind development under section 8(p)  
36 (1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)) unless—

37 (A) an offshore lease sale has been held during the 1-year period ending on the date  
38 of the issuance of the lease for offshore wind development; and

1 (B) the sum total of acres offered for lease in offshore lease sales during the 1-year  
2 period ending on the date of the issuance of the lease for offshore wind development is  
3 not less than 60,000,000 acres.

4 (c) Savings.—Except as expressly provided in paragraphs (1) and (2) of subsection (b),  
5 nothing in this section supersedes, amends, or modifies existing law.

## 6 PART 7—UNITED STATES GEOLOGICAL SURVEY

### 7 SEC. 50271. UNITED STATES GEOLOGICAL SURVEY 3D 8 ELEVATION PROGRAM.

9 In addition to amounts otherwise available, there is appropriated to the Secretary, acting  
10 through the Director of the United States Geological Survey, for fiscal year 2022, out of any  
11 money in the Treasury not otherwise appropriated, \$23,500,000, to remain available through  
12 September 30, 2031, to produce, collect, disseminate, and use 3D elevation data.

## 13 PART 8—OTHER NATURAL RESOURCES MATTERS

### 14 SEC. 50281. DEPARTMENT OF THE INTERIOR 15 OVERSIGHT.

16 In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal  
17 year 2022, out of any money in the Treasury not otherwise appropriated, \$10,000,000, to remain  
18 available through September 30, 2031, for oversight by the Department of the Interior Office of  
19 Inspector General of the Department of the Interior activities for which funding is appropriated  
20 in this subtitle.

## 21 Subtitle C—Environmental Reviews

### 22 SEC. 50301. DEPARTMENT OF ENERGY.

23 In addition to amounts otherwise available, there is appropriated to the Secretary of Energy for  
24 fiscal year 2022, out of any money in the Treasury not otherwise appropriated, ~~\$125,000,000~~  
25 **\$115,000,000**, to remain available through September 30, 2031, to provide for the hiring and  
26 training of personnel, the development of programmatic environmental documents, the  
27 procurement of technical or scientific services for environmental reviews, the development of  
28 environmental data or information systems, stakeholder and community engagement, and the  
29 purchase of new equipment for environmental analysis to facilitate timely and efficient  
30 environmental reviews and authorizations.

### 31 SEC. 50302. FEDERAL ENERGY REGULATORY 32 COMMISSION.

33 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
34 Federal Energy Regulatory Commission for fiscal year 2022, out of any money in the Treasury  
35 not otherwise appropriated, \$100,000,000, to remain available through September 30, 2031, to  
36 provide for the hiring and training of personnel, the development of programmatic environmental



1 documents, the procurement of technical or scientific services for environmental reviews, the  
2 development of environmental data or information systems, stakeholder and community  
3 engagement, and the purchase of new equipment for environmental analysis to facilitate timely  
4 and efficient environmental reviews and authorizations.

5 (b) Fees and Charges.—Section 3401(a) of the Omnibus Budget Reconciliation Act of 1986  
6 (42 U.S.C. 7178(a)) shall not apply to the costs incurred by the Federal Energy Regulatory  
7 Commission in carrying out this section.

## 8 SEC. 50303. DEPARTMENT OF THE INTERIOR.

9 In addition to amounts otherwise available, there is appropriated to the Secretary of the  
10 Interior for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
11 \$150,000,000, to remain available through September 30, 2026, to provide for the hiring and  
12 training of personnel, the development of programmatic environmental documents, the  
13 procurement of technical or scientific services for environmental reviews, the development of  
14 environmental data or information systems, stakeholder and community engagement, and the  
15 purchase of new equipment for environmental analysis to facilitate timely and efficient  
16 environmental reviews and authorizations by the National Park Service, the Bureau of Land  
17 Management, the Bureau of Ocean Energy Management, the Bureau of Reclamation, the Bureau  
18 of Safety and Environmental Enforcement, and the Office of Surface Mining Reclamation and  
19 Enforcement.

## 20 TITLE VI—COMMITTEE ON ENVIRONMENT AND 21 PUBLIC WORKS

### 22 Subtitle A—Air Pollution

## 23 SEC. 60101. CLEAN HEAVY-DUTY VEHICLES.

24 The Clean Air Act is amended by inserting after section 131 of such Act (42 U.S.C. 7431) the  
25 following:

### 26 “SEC. 132. CLEAN HEAVY-DUTY VEHICLES.

27 “(a) Appropriations.—

28 “(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to  
29 the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise  
30 appropriated, \$600,000,000, to remain available until September 30, 2031, to carry out this  
31 section.

32 “(2) NONATTAINMENT AREAS.—In addition to amounts otherwise available, there is  
33 appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not  
34 otherwise appropriated, \$400,000,000, to remain available until September 30, 2031, to  
35 make awards under this section to eligible recipients and to eligible contractors that propose  
36 to replace eligible vehicles to serve 1 or more communities located in an air quality area  
37 designated pursuant to section 107 as nonattainment for any air pollutant.

38 “(3) RESERVATION.—Of the funds appropriated by paragraph (1), the Administrator shall

1 reserve 3 percent for administrative costs necessary to carry out this section.

2 “(b) Program.—Beginning not later than 180 days after the date of enactment of this section,  
3 the Administrator shall implement a program to make awards of grants and rebates to eligible  
4 recipients, and to make awards of contracts to eligible contractors for providing rebates, for up to  
5 100 percent of costs for—

6 “(1) the incremental costs of replacing an eligible vehicle that is not a zero-emission  
7 vehicle with a zero-emission vehicle, as determined by the Administrator based on the  
8 market value of the vehicles;

9 “(2) purchasing, installing, operating, and maintaining infrastructure needed to charge,  
10 fuel, or maintain zero-emission vehicles;

11 “(3) workforce development and training to support the maintenance, charging, fueling,  
12 and operation of zero-emission vehicles; and

13 “(4) planning and technical activities to support the adoption and deployment of zero-  
14 emission vehicles.

15 “(c) Applications.—To seek an award under this section, an eligible recipient or eligible  
16 contractor shall submit to the Administrator an application at such time, in such manner, and  
17 containing such information as the Administrator shall prescribe.

18 “(d) Definitions.—For purposes of this section:

19 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means a contractor that has  
20 the capacity—

21 “(A) to sell, lease, license, or contract for service zero-emission vehicles, or  
22 charging or other equipment needed to charge, fuel, or maintain zero-emission  
23 vehicles, to individuals or entities that own, lease, license, or contract for service an  
24 eligible vehicle; or

25 “(B) to arrange financing for such a sale, lease, license, or contract for service.

26 “(2) ELIGIBLE RECIPIENT.—The term ‘eligible recipient’ means—

27 “(A) a State;

28 “(B) a municipality;

29 “(C) an Indian tribe; or

30 “(D) a nonprofit school transportation association.

31 “(3) ELIGIBLE VEHICLE.—The term ‘eligible vehicle’ means a Class 6 or Class 7 heavy-  
32 duty vehicle as defined in section 1037.801 of title 40, Code of Federal Regulations (as in  
33 effect on the date of enactment of this section).

34 “(4) GREENHOUSE GAS.—The term ‘greenhouse gas’ means the air pollutants carbon  
35 dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur  
36 hexafluoride.

37 “(5) ZERO-EMISSION VEHICLE.—The term ‘zero-emission vehicle’ means a vehicle that  
38 has a drivetrain that produces, under any possible operational mode or condition, zero  
39 exhaust emissions of—

1 “(A) any air pollutant that is listed pursuant to section 108(a) (or any precursor to  
2 such an air pollutant); and

3 “(B) any greenhouse gas (as defined in section 211(o)(1)(G) (as in effect on the date  
4 of enactment of this section)).”; gas.”.

## 5 SEC. 60102. GRANTS TO REDUCE AIR POLLUTION AT 6 PORTS.

7 The Clean Air Act is amended by inserting after section 132 of such Act, as added by section  
8 60101 of this Act, the following:

## 9 “SEC. 133. GRANTS TO REDUCE AIR POLLUTION AT 10 PORTS.

11 “(a) Appropriations.—

12 “(1) GENERAL ASSISTANCE.—In addition to amounts otherwise available, there is  
13 appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not  
14 otherwise appropriated, \$2,250,000,000, to remain available until September 30, 2027, to  
15 award rebates and grants to eligible recipients on a competitive basis—

16 “(A) to purchase or install zero-emission port equipment or technology for use at, or  
17 to directly serve, one or more ports;

18 “(B) to conduct any relevant planning or permitting in connection with the purchase  
19 or installation of such zero-emission port equipment or technology; and

20 “(C) to develop qualified climate action plans.

21 “(2) NONATTAINMENT AREAS.—In addition to amounts otherwise available, there is  
22 appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not  
23 otherwise appropriated, \$750,000,000, to remain available until September 30, 2027, to  
24 award rebates and grants to eligible recipients to carry out activities described in paragraph  
25 (1) with respect to ports located in air quality areas designated pursuant to section 107 as  
26 nonattainment for an air pollutant.

27 “(b) Limitation.—Funds awarded under this section shall not be used by any recipient or  
28 subrecipient to purchase or install zero-emission port equipment or technology that will not be  
29 located at, or directly serve, the one or more ports involved.

30 “(c) Administration of Funds.—Of the funds made available by this section, the Administrator  
31 shall reserve 2 percent for administrative costs necessary to carry out this section.

32 “(d) Definitions.—In this section:

33 “(1) ELIGIBLE RECIPIENT.—The term ‘eligible recipient’ means—

34 “(A) a port authority;

35 “(B) a State, regional, local, or Tribal agency that has jurisdiction over a port  
36 authority or a port;

37 “(C) an air pollution control agency; or

1 “(D) a private entity ~~(including a nonprofit organization)~~ that—

2 “(i) applies for a grant under this section in partnership with an entity described  
3 in any of subparagraphs (A) through (C); and

4 “(ii) owns, operates, or uses the facilities, cargo-handling equipment,  
5 transportation equipment, or related technology of a port.

6 “(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ ~~has the meaning given the term in~~  
7 ~~section 211(o)(1)(G) (as in effect on the date of enactment of this section).~~ **means the air**  
8 **pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,**  
9 **perfluorocarbons, and sulfur hexafluoride.**

10 “(3) QUALIFIED CLIMATE ACTION PLAN.—The term ‘qualified climate action plan’ means  
11 a detailed and strategic plan that—

12 “(A) establishes goals, implementation strategies, and accounting and inventory  
13 practices ~~(including practices used to measure progress toward stated goals)~~ to reduce  
14 emissions at one or more ports of—

15 “(i) greenhouse gases;

16 “(ii) an air pollutant that is listed pursuant to section 108(a) (or any precursor to  
17 such an air pollutant); and

18 “(iii) hazardous air pollutants;

19 “(B) includes a strategy to collaborate with, communicate with, and address  
20 potential effects on **low-income and disadvantaged near-port communities and**  
21 **other** stakeholders that may be affected by implementation of the plan, ~~including low-~~  
22 ~~income and disadvantaged near-port communities;~~ and

23 “(C) describes how an eligible recipient has implemented or will implement  
24 measures to increase the resilience of the one or more ports involved, ~~including~~  
25 ~~measures related to withstanding and recovering from extreme weather events.~~

26 “(4) ZERO-EMISSION PORT EQUIPMENT OR TECHNOLOGY.—The term ‘zero-emission port  
27 equipment or technology’ means human-operated equipment or human-maintained  
28 technology that—

29 “(A) produces zero emissions of any air pollutant that is listed pursuant to section  
30 108(a) (or any precursor to such an air pollutant) and any greenhouse gas other than  
31 water vapor; or

32 “(B) captures 100 percent of the emissions described in subparagraph (A) that are  
33 produced by an ocean-going vessel at berth.”.

## 34 SEC. 60103. GREENHOUSE GAS REDUCTION FUND.

35 The Clean Air Act is amended by inserting after section 133 of such Act, as added by section  
36 60102 of this Act, the following:

## 37 “SEC. 134. GREENHOUSE GAS REDUCTION FUND.

38 “(a) Appropriations.—

1 “(1) ZERO-EMISSION TECHNOLOGIES.—In addition to amounts otherwise available, there  
2 is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury  
3 not otherwise appropriated, \$7,000,000,000, to remain available until September 30, 2024,  
4 to make grants, on a competitive basis and beginning not later than 180 calendar days after  
5 the date of enactment of this section, to States, municipalities, Tribal governments, and  
6 eligible recipients for the purposes of providing grants, loans, or other forms of financial  
7 assistance, as well as technical assistance, to enable low-income and disadvantaged  
8 communities to deploy or benefit from zero-emission technologies, including distributed  
9 technologies on residential rooftops, and to carry out other greenhouse gas emission  
10 reduction activities, as determined appropriate by the Administrator in accordance with this  
11 section.

12 “(2) GENERAL ASSISTANCE.—In addition to amounts otherwise available, there is  
13 appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not  
14 otherwise appropriated, \$11,970,000,000, to remain available until September 30, 2024, to  
15 make grants, on a competitive basis and beginning not later than 180 calendar days after the  
16 date of enactment of this section, to eligible recipients for the purposes of providing  
17 financial assistance and technical assistance in accordance with subsection (b).

18 “(3) LOW-INCOME AND DISADVANTAGED COMMUNITIES.—In addition to amounts  
19 otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of  
20 any money in the Treasury not otherwise appropriated, \$8,000,000,000, to remain available  
21 until September 30, 2024, to make grants, on a competitive basis and beginning not later  
22 than 180 calendar days after the date of enactment of this section, to eligible recipients for  
23 the purposes of providing financial assistance and technical assistance in low-income and  
24 disadvantaged communities in accordance with subsection (b).

25 “(4) ADMINISTRATIVE COSTS.—In addition to amounts otherwise available, there is  
26 appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not  
27 otherwise appropriated, \$30,000,000, to remain available until September 30, 2031, for the  
28 administrative costs necessary to carry out activities under this section.

29 “(b) Use of Funds.—An eligible recipient that receives a grant pursuant to subsection (a) shall  
30 use the grant in accordance with the following:

31 “(1) DIRECT INVESTMENT.—The eligible recipient shall—

32 “(A) provide financial assistance to qualified projects at the national, regional, State,  
33 and local levels;

34 “(B) prioritize investment in qualified projects that would otherwise lack access to  
35 financing; and

36 “(C) retain, manage, recycle, and monetize all repayments and other revenue  
37 received from fees, interest, repaid loans, and all other types of financial assistance  
38 provided using grant funds under this section to ensure continued operability.

39 “(2) INDIRECT INVESTMENT.—The eligible recipient shall provide funding and technical  
40 assistance to establish new or support existing public, quasi-public, not-for-profit, or  
41 nonprofit entities that provide financial assistance to qualified projects at the State, local,  
42 territorial, or Tribal level or in the District of Columbia, including community- and low-  
43 income-focused lenders and capital providers.

1 “(c) Definitions.—In this section:

2 “(1) ELIGIBLE RECIPIENT.—The term ‘eligible recipient’ means a nonprofit organization  
3 that—

4 “(A) is designed to provide capital, including by leveraging leverage private capital,  
5 and provide other forms of financial assistance for the rapid deployment of low- and  
6 zero-emission products, technologies, and services;

7 “(B) does not take deposits other than deposits from repayments and other revenue  
8 received from financial assistance provided using grant funds under this section;

9 “(C) is funded by public or charitable contributions; and

10 “(D) invests in or finances projects alone or in conjunction with other investors.

11 “(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ has the meaning given the term in  
12 section 211(o)(1)(G) (as in effect on the date of enactment of this section). means the air  
13 pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,  
14 perfluorocarbons, and sulfur hexafluoride.

15 “(3) QUALIFIED PROJECT.—The term ‘qualified project’ includes any project, activity, or  
16 technology that—

17 “(A) reduces or avoids greenhouse gas emissions and other forms of air pollution in  
18 partnership with, and by leveraging investment from, the private sector; or

19 “(B) assists communities in the efforts of those communities to reduce or avoid  
20 greenhouse gas emissions and other forms of air pollution.

21 “(4) Publicly available equipment.—The term ‘publicly available equipment’ means  
22 equipment that—

23 “(A) is located at a multi-unit housing structure;

24 “(B) is located at a workplace and is available to employees of such workplace or  
25 employees of a nearby workplace; or

26 “(C) is at a location that is publicly accessible for a minimum of 12 hours per day at least  
27 5 days per week and networked or otherwise capable of being monitored remotely;

28 “(5) ZERO-EMISSION TECHNOLOGY.—The term ‘zero-emission technology’ means any  
29 technology that produces zero emissions of—

30 “(A) any air pollutant that is listed pursuant to section 108(a) (or any precursor to  
31 such an air pollutant); and

32 “(B) any greenhouse gas.”.

## 33 SEC. 60104. DIESEL EMISSIONS REDUCTIONS.

34 (a) Goods Movement.—In addition to amounts otherwise available, there is appropriated to  
35 the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
36 money in the Treasury not otherwise appropriated, \$60,000,000, to remain available until  
37 September 30, 2031, for grants, rebates, and loans under section 792 of the Energy Policy Act of  
38 2005 (42 U.S.C. 16132) to identify and reduce diesel emissions resulting from goods movement

1 facilities, and vehicles servicing goods movement facilities, in low-income and disadvantaged  
2 communities to address the health impacts of such emissions on such communities.

3 (b) Administrative Costs.—The Administrator of the Environmental Protection Agency shall  
4 reserve 2 percent of the amounts made available under this section for the administrative costs  
5 necessary to carry out activities pursuant to this section.

## 6 SEC. 60105. FUNDING TO ADDRESS AIR POLLUTION.

7 (a) Fenceline Air Monitoring and Screening Air Monitoring.—In addition to amounts  
8 otherwise available, there is appropriated to the Administrator of the Environmental Protection  
9 Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
10 \$117,500,000, to remain available until September 30, 2031, for grants and other activities  
11 authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act  
12 (42 U.S.C. 7403(a)–(c), 7405) to deploy, integrate, support, and maintain fenceline air  
13 monitoring, screening air monitoring, national air toxics trend stations, and other air toxics and  
14 community monitoring.

15 (b) Multipollutant Monitoring Stations.—In addition to amounts otherwise available, there is  
16 appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022,  
17 out of any money in the Treasury not otherwise appropriated, \$50,000,000, to remain available  
18 until September 30, 2031, for grants and other activities authorized under subsections (a) through  
19 (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405)—

20 (1) to expand the national ambient air quality monitoring network with new  
21 multipollutant monitoring stations; and

22 (2) to replace, repair, operate, and maintain existing monitors.

23 (c) Air Quality Sensors in Low-income and Disadvantaged Communities.—In addition to  
24 amounts otherwise available, there is appropriated to the Administrator of the Environmental  
25 Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise  
26 appropriated, \$3,000,000, to remain available until September 30, 2031, for grants and other  
27 activities authorized under subsections (a) through (c) of section 103 and section 105 of the  
28 Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) to deploy, integrate, and operate air quality sensors  
29 in low-income and disadvantaged communities.

30 (d) Emissions From Wood Heaters.—In addition to amounts otherwise available, there is  
31 appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022,  
32 out of any money in the Treasury not otherwise appropriated, \$15,000,000, to remain available  
33 until September 30, 2031, for grants and other activities authorized under subsections (a) through  
34 (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) for testing  
35 and other agency activities to address emissions from wood heaters.

36 (e) Methane Monitoring.—In addition to amounts otherwise available, there is appropriated to  
37 the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
38 money in the Treasury not otherwise appropriated, \$20,000,000, to remain available until  
39 September 30, 2031, for grants and other activities authorized under subsections (a) through (c)  
40 of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) for  
41 monitoring emissions of methane.

42 (f) Clean Air Act Grants.—In addition to amounts otherwise available, there is appropriated to

1 the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
2 money in the Treasury not otherwise appropriated, \$25,000,000, to remain available until  
3 September 30, 2031, for grants and other activities authorized under subsections (a) through (c)  
4 of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405).

5 (g) Other Activities.—In addition to amounts otherwise available, there is appropriated to the  
6 Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in  
7 the Treasury not otherwise appropriated, \$45,000,000, to remain available until September 30,  
8 2031, to carry out, with respect to greenhouse gases, sections 111, 115, 165, 177, 202, 211, 213,  
9 ~~231~~, and ~~612~~ **231** of the Clean Air Act (42 U.S.C. 7411, 7415, 7475, 7507, 7521, 7545, 7547,  
10 ~~7571~~, and ~~7671k~~ **7571**).

11 (h) Greenhouse Gas and Zero-emission Standards for Mobile Sources.—In addition to  
12 amounts otherwise available, there is appropriated to the Administrator of the Environmental  
13 Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise  
14 appropriated, \$5,000,000, to remain available until September 30, 2031, to provide grants to  
15 States to adopt and implement greenhouse gas and zero-emission standards for mobile sources  
16 pursuant to section 177 of the Clean Air Act (42 U.S.C. 7507).

17 (i) Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” ~~has the meaning~~  
18 ~~given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in~~  
19 ~~effect on the date of enactment of this Act).~~ **means the air pollutants carbon dioxide,**  
20 **hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

## 21 SEC. 60106. FUNDING TO ADDRESS AIR POLLUTION AT 22 SCHOOLS.

23 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
24 Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in  
25 the Treasury not otherwise appropriated, \$37,500,000, to remain available until September 30,  
26 2031, for grants and other activities to monitor and reduce ~~air pollution and greenhouse gas (as~~  
27 ~~defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on~~  
28 ~~the date of enactment of this Act)) emissions~~ **greenhouse gas emissions and other air**  
29 **pollutants** at schools in low-income and disadvantaged communities under subsections (a)  
30 through (c) of section 103 of the Clean Air Act (42 U.S.C. 7403(a)–(c)) and section 105 of that  
31 Act (42 U.S.C. 7405).

32 (b) Technical Assistance.—In addition to amounts otherwise available, there is appropriated to  
33 the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
34 money in the Treasury not otherwise appropriated, \$12,500,000, to remain available until  
35 September 30, 2031, for providing technical assistance to schools in low-income and  
36 disadvantaged communities under subsections (a) through (c) of section 103 of the Clean Air Act  
37 (42 U.S.C. 7403(a)–(c)) and section 105 of that Act (42 U.S.C. 7405)—

38 (1) to address environmental issues;

39 (2) to develop school environmental quality plans that include standards for school  
40 building, design, construction, and renovation; and

41 (3) to identify and mitigate ongoing air pollution hazards.



1 (c) Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” means the  
2 air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,  
3 perfluorocarbons, and sulfur hexafluoride.

#### 4 SEC. 60107. LOW EMISSIONS ELECTRICITY PROGRAM.

5 The Clean Air Act is amended by inserting after section 134 of such Act, as added by section  
6 60103 of this Act, the following:

#### 7 “SEC. 135. LOW EMISSIONS ELECTRICITY PROGRAM.

8 “(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
9 Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
10 to remain available until September 30, 2031—

11 “(1) \$17,000,000 for consumer-related education and partnerships with respect to  
12 reductions in greenhouse gas emissions that result from domestic electricity generation and  
13 use;

14 “(2) \$17,000,000 for education, technical assistance, and partnerships within low-income  
15 and disadvantaged communities with respect to reductions in greenhouse gas emissions that  
16 result from domestic electricity generation and use;

17 “(3) \$17,000,000 for industry-related outreach ~~and,~~ technical assistance, ~~including-~~  
18 ~~through and~~ partnerships; with respect to reductions in greenhouse gas emissions that result  
19 from domestic electricity generation and use;

20 “(4) \$17,000,000 for outreach and technical assistance to, ~~and partnerships with,~~ State,  
21 Tribal, and local governments, ~~including through partnerships,~~ with respect to reductions in  
22 greenhouse gas emissions that result from domestic electricity generation and use;

23 “(5) \$1,000,000 to assess, not later than 1 year after the date of enactment of this section,  
24 the reductions in greenhouse gas emissions that result from changes in domestic electricity  
25 generation and use that are anticipated to occur on an annual basis through fiscal year 2031;  
26 and

27 “(6) \$18,000,000 ~~to carry out this section~~ to ensure that reductions in greenhouse gas  
28 emissions ~~from domestic electricity generation and use~~ are achieved through use of the  
29 ~~existing~~ authorities of this Act, ~~including through the establishment of requirements under~~  
30 ~~this Act,~~ incorporating the assessment under paragraph (5) ~~as a baseline.~~

31 “(b) Administration of Funds.—Of the amounts made available under subsection (a), the  
32 Administrator shall reserve 2 percent for the administrative costs necessary to carry out activities  
33 pursuant to that subsection.

34 “(c) Definition of Greenhouse Gas.—In this section, the term ‘greenhouse gas’ ~~has the~~  
35 ~~meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this~~  
36 ~~section).”:~~ means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous  
37 oxide, perfluorocarbons, and sulfur hexafluoride.”.

#### 38 SEC. 60108. FUNDING FOR SECTION 211(O) OF THE 39 CLEAN AIR ACT.

1 (a) Test and Protocol Development.—In addition to amounts otherwise available, there is  
2 appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022,  
3 out of any money in the Treasury not otherwise appropriated, \$5,000,000, to remain available  
4 until September 30, 2031, to carry out section 211(o) of the Clean Air Act (42 U.S.C. 7545(o))  
5 with respect to—

6 (1) the development and establishment of tests and protocols regarding the environmental  
7 and public health effects of a fuel or fuel additive;

8 (2) internal and extramural data collection and analyses to regularly update applicable  
9 regulations, guidance, and procedures for determining lifecycle greenhouse gas emissions of  
10 a fuel; and

11 (3) the review, analysis, and evaluation of the impacts of all transportation fuels,  
12 including fuel lifecycle implications, on the general public and on low-income and  
13 disadvantaged communities.

14 (b) Investments in Advanced Biofuels.—In addition to amounts otherwise available, there is  
15 appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022,  
16 out of any money in the Treasury not otherwise appropriated, \$10,000,000, to remain available  
17 until September 30, 2031, for new grants to industry and other related activities under section  
18 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) to support investments in advanced biofuels.

19 (c) Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” **has the**  
20 **meaning given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G))**  
21 **(as in effect on the date of enactment of this Act): means the air pollutants carbon dioxide,**  
22 **hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

## 23 SEC. 60109. FUNDING FOR IMPLEMENTATION OF THE 24 AMERICAN INNOVATION AND MANUFACTURING ACT.

25 (a) Appropriations.—

26 (1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the  
27 Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
28 money in the Treasury not otherwise appropriated, \$20,000,000, to remain available until  
29 September 30, 2026, to carry out subsections (a) through (i) and subsection (k) of section  
30 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

31 (2) IMPLEMENTATION AND COMPLIANCE TOOLS.—In addition to amounts otherwise  
32 available, there is appropriated to the Administrator of the Environmental Protection  
33 Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
34 \$3,500,000, to remain available until September 30, 2026, to deploy new implementation  
35 and compliance tools to carry out subsections (a) through (i) and subsection (k) of section  
36 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

37 (3) COMPETITIVE GRANTS.—In addition to amounts otherwise available, there is  
38 appropriated to the Administrator of the Environmental Protection Agency for fiscal year  
39 2022, out of any money in the Treasury not otherwise appropriated, \$15,000,000, to remain  
40 available until September 30, 2026, for competitive grants for reclaim and innovative  
41 destruction technologies under subsections (a) through (i) and subsection (k) of section 103

1 of division S of Public Law 116–260 (42 U.S.C. 7675).

2 (b) Administration of Funds.—Of the funds made available pursuant to subsection (a)(3), the  
3 Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative  
4 costs necessary to carry out activities pursuant to such subsection.

## 5 SEC. 60110. FUNDING FOR ENFORCEMENT 6 TECHNOLOGY AND PUBLIC INFORMATION.

7 (a) Compliance Monitoring.—In addition to amounts otherwise available, there is appropriated  
8 to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
9 money in the Treasury not otherwise appropriated, \$18,000,000, to remain available until  
10 September 30, 2031, to update the Integrated Compliance Information System of the  
11 Environmental Protection Agency and any associated systems, necessary information technology  
12 infrastructure, or public access software tools to ensure access to compliance data and related  
13 information.

14 (b) Communications With ICIS.—In addition to amounts otherwise available, there is  
15 appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022,  
16 out of any money in the Treasury not otherwise appropriated, \$3,000,000, to remain available  
17 until September 30, 2031, for grants to States, Indian tribes, and air pollution control agencies (as  
18 such terms are defined in section 302 of the Clean Air Act (42 U.S.C. 7602)) to update their  
19 systems to ensure communication with the Integrated Compliance Information System of the  
20 Environmental Protection Agency and any associated systems.

21 (c) Inspection Software.—In addition to amounts otherwise available, there is appropriated to  
22 the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any  
23 money in the Treasury not otherwise appropriated, \$4,000,000, to remain available until  
24 September 30, 2031—

25 (1) to acquire or update inspection software for use by the Environmental Protection  
26 Agency, States, Indian tribes, and air pollution control agencies (as such terms are defined  
27 in section 302 of the Clean Air Act (42 U.S.C. 7602)); or

28 (2) to acquire necessary devices on which to run such inspection software.

## 29 SEC. 60111. GREENHOUSE GAS CORPORATE 30 REPORTING.

31 (a) In **General.**—In addition to amounts otherwise available, there is appropriated to the  
32 Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in  
33 the Treasury not otherwise appropriated, \$5,000,000, to remain available until September 30,  
34 2031, for the Environmental Protection Agency to support—

35 (1) enhanced standardization and transparency of corporate climate action commitments  
36 and plans to reduce greenhouse gas (as defined in section 211(o)(1)(G) of the Clean Air Act  
37 (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act)) emissions;

38 (2) enhanced transparency regarding progress toward meeting such commitments and  
39 implementing such plans; and

1 (3) progress toward meeting such commitments and implementing such plans.

2 **(b) Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” means the**  
3 **air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,**  
4 **perfluorocarbons, and sulfur hexafluoride.**

## 5 SEC. 60112. ENVIRONMENTAL PRODUCT 6 DECLARATION ASSISTANCE.

7 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
8 Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in  
9 the Treasury not otherwise appropriated, \$250,000,000, to remain available until September 30,  
10 2031, to develop and carry out a program to support the development, ~~and~~ enhanced  
11 standardization and transparency, ~~of and reporting criteria for~~ environmental product  
12 declarations **that include measurements of the embodied greenhouse gas emissions of the**  
13 **material or product associated with all relevant stages of production, use, and disposal, and**  
14 **conform with international standards,** for construction materials and products, ~~including~~ by—

15 (1) providing grants to businesses that manufacture construction materials and products  
16 for developing and verifying environmental product declarations, and to States, Indian  
17 Tribes, and nonprofit organizations that will support such businesses;

18 (2) providing technical assistance to businesses that manufacture construction materials  
19 and products in developing and verifying environmental product declarations, and to States,  
20 Indian Tribes, and nonprofit organizations that will support such businesses; and

21 (3) carrying out other activities that assist in measuring, reporting, and steadily reducing  
22 the quantity of embodied carbon of construction materials and products.

23 (b) Administrative Costs.—Of the amounts made available under this section, the  
24 Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative  
25 costs necessary to carry out this section.

26 (c) Definitions.—In this section:

27 (1) ~~EMBODIED CARBON.—THE TERM “EMBODIED CARBON” MEANS THE QUANTITY OF~~  
28 ~~GREENHOUSE GAS (AS DEFINED IN SECTION 211(O)(1)(G) OF THE CLEAN AIR ACT (42~~  
29 ~~U.S.C. 7545(O)(1)(G)) (AS IN EFFECT ON THE DATE OF ENACTMENT OF THIS ACT))~~  
30 ~~EMISSIONS ASSOCIATED WITH ALL RELEVANT STAGES OF PRODUCTION OF A MATERIAL OR~~  
31 ~~PRODUCT, MEASURED IN KILOGRAMS OF CARBON DIOXIDE-EQUIVALENT PER UNIT OF SUCH~~  
32 ~~MATERIAL OR PRODUCT.~~ **GREENHOUSE GAS.—The term “greenhouse gas” means the air**  
33 **pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,**  
34 **perfluorocarbons, and sulfur hexafluoride.**

35 (2) Environmental product declaration.—~~The term “environmental product declaration”~~  
36 ~~means a document that reports the environmental impact of a material or product that—~~

37 ~~(A) includes measurement of the embodied carbon of the material or product;~~

38 ~~(B) conforms with international standards, such as a Type III environmental product~~  
39 ~~declaration, as defined by the International Organization for Standardization standard~~  
40 ~~14025; and~~

1 ~~(C) is developed in accordance with any standardized reporting criteria specified by the~~  
2 ~~Administrator of the Environmental Protection Agency.~~

3 ~~(3)(2)~~ STATE.—The term “State” has the meaning given to that term in section 302(d) of  
4 the Clean Air Act (42 U.S.C. 7602(d)).

## 5 SEC. 60113. METHANE EMISSIONS REDUCTION 6 PROGRAM.

7 The Clean Air Act is amended by inserting after section 135 of such Act, as added by section  
8 60107 of this Act, the following:

### 9 “SEC. 136. METHANE EMISSIONS AND WASTE 10 REDUCTION INCENTIVE PROGRAM FOR PETROLEUM 11 AND NATURAL GAS SYSTEMS.

12 “(a) Incentives for Methane Mitigation and Monitoring.—In addition to amounts otherwise  
13 available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the  
14 Treasury not otherwise appropriated, \$850,000,000, to remain available until September 30,  
15 2028—

16 “(1) for grants, rebates, contracts, loans, and other activities of the Environmental  
17 Protection Agency for the purposes of providing financial and technical assistance to  
18 owners and operators of applicable facilities to prepare and submit greenhouse gas reports  
19 under subpart W of part 98 of title 40, Code of Federal Regulations;

20 “(2) for grants, rebates, contracts, loans, and other activities of the Environmental  
21 Protection Agency authorized under subsections (a) through (c) of section 103 for methane  
22 emissions monitoring;

23 “(3) for grants, rebates, contracts, loans, and other activities of the Environmental  
24 Protection Agency for the purposes of providing financial and technical assistance to reduce  
25 methane and other greenhouse gas emissions from petroleum and natural gas systems,  
26 mitigate legacy air pollution from petroleum and natural gas systems, and provide ~~support~~  
27 ~~for communities, including~~ funding for—

28 “(A) improving climate resiliency of communities and petroleum and natural gas  
29 systems;

30 “(B) improving and deploying industrial equipment and processes that reduce  
31 methane and other greenhouse gas emissions and waste;

32 “(C) supporting innovation in reducing methane and other greenhouse gas emissions  
33 and waste from petroleum and natural gas systems;

34 “(D) permanently shutting in and plugging wells on non-Federal land;

35 “(E) mitigating health effects of methane and other greenhouse gas emissions, and  
36 legacy air pollution from petroleum and natural gas systems in low-income and  
37 disadvantaged communities; and

38 “(F) supporting environmental restoration; and

1 “(4) to cover all direct and indirect costs required to administer this section, including the  
2 costs of implementing the waste emissions charge under subsection (c), preparing  
3 inventories, gathering **prepare inventories, gather** empirical data, and **tracking track**  
4 emissions.

5 “(b) Incentives for Methane Mitigation From Conventional Wells.—In addition to amounts  
6 otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any  
7 money in the Treasury not otherwise appropriated, \$700,000,000, to remain available until  
8 September 30, 2028, for activities described in paragraphs (1) through (4) of subsection (a) at  
9 marginal conventional wells.

10 “(c) Waste Emissions Charge.—The Administrator shall impose and collect a charge on  
11 methane emissions that exceed an applicable waste emissions threshold under subsection (f)  
12 from an owner or operator of an applicable facility that reports more than 25,000 metric tons of  
13 carbon dioxide equivalent of greenhouse gases emitted per year pursuant to subpart W of part 98  
14 of title 40, Code of Federal Regulations, regardless of the reporting threshold under that subpart.

15 “(d) Applicable Facility.—For purposes of this section, the term ‘applicable facility’ means a  
16 facility within the following industry segments, as defined in subpart W of part 98 of title 40,  
17 Code of Federal Regulations:

18 “(1) Offshore petroleum and natural gas production.

19 “(2) Onshore petroleum and natural gas production.

20 “(3) Onshore natural gas processing.

21 “(4) Onshore natural gas transmission compression.

22 “(5) Underground natural gas storage.

23 “(6) Liquefied natural gas storage.

24 “(7) Liquefied natural gas import and export equipment.

25 “(8) Onshore petroleum and natural gas gathering and boosting.

26 “(9) Onshore natural gas transmission pipeline.

27 “(e) Charge Amount.—The amount of a charge under subsection (c) for an applicable facility  
28 shall be equal to the product obtained by multiplying—

29 “(1) the number of metric tons of methane emissions reported pursuant to subpart W of  
30 part 98 of title 40, Code of Federal Regulations, for the applicable facility that exceed the  
31 applicable annual waste emissions threshold listed in subsection (f) during the previous  
32 reporting period; and

33 “(2)(A) \$900 for emissions reported for calendar year 2024;

34 “(B) \$1,200 for emissions reported for calendar year 2025; or

35 “(C) \$1,500 for emissions reported for calendar year 2026 and each year thereafter.

36 “(f) Waste Emissions Threshold.—

37 “(1) PETROLEUM AND NATURAL GAS PRODUCTION.—With respect to imposing and  
38 collecting the charge under subsection (c) for an applicable facility in an industry segment

1 listed in paragraph (1) or (2) of subsection (d), the Administrator shall impose and collect  
2 the charge on the reported metric tons of methane emissions from such facility that exceed  
3 —

4 “(A) 0.20 percent of the natural gas sent to sale from such facility; or

5 “(B) 10 metric tons of methane per million barrels of oil sent to sale from such  
6 facility, if such facility sent no natural gas to sale.

7 “(2) NONPRODUCTION PETROLEUM AND NATURAL GAS SYSTEMS.—With respect to  
8 imposing and collecting the charge under subsection (c) for an applicable facility in an  
9 industry segment listed in paragraph (3), (6), (7), or (8) of subsection (d), the Administrator  
10 shall impose and collect the charge on the reported metric tons of methane emissions that  
11 exceed 0.05 percent of the natural gas sent to sale from **or through** such facility.

12 “(3) NATURAL GAS TRANSMISSION.—With respect to imposing and collecting the charge  
13 under subsection (c) for an applicable facility in an industry segment listed in paragraph (4),  
14 (5), or (9) of subsection (d), the Administrator shall impose and collect the charge on the  
15 reported metric tons of methane emissions that exceed 0.11 percent of the natural gas sent to  
16 sale from **or through** such facility.

17 “(4) COMMON OWNERSHIP OR CONTROL.—In calculating the total emissions charge  
18 obligation for facilities under common ownership or control, the Administrator shall allow  
19 for the netting of emissions by reducing the total obligation to account for facility emissions  
20 levels that are below the applicable thresholds within and across all applicable segments  
21 identified in subsection (d).

22 “(5) EXEMPTION.—Charges shall not be imposed pursuant to paragraph (1) on emissions  
23 that exceed the waste emissions threshold specified in such paragraph if such emissions are  
24 caused by unreasonable delay, as determined by the Administrator, in environmental  
25 permitting of gathering or transmission infrastructure necessary for offtake of increased  
26 volume as a result of methane emissions mitigation implementation.

27 “(6) EXEMPTION FOR REGULATORY COMPLIANCE.—

28 “(A) IN GENERAL.—Charges shall not be imposed pursuant to subsection (c) on an  
29 applicable facility that is subject to and in compliance with methane emissions  
30 requirements pursuant to subsections (b) and (d) of section 111 upon a determination  
31 by the Administrator that—

32 “(i) methane emissions standards and plans pursuant to subsections (b) and (d)  
33 of section 111 have been approved and are in effect in all States with respect to  
34 the applicable facilities; and

35 “(ii) compliance with the requirements described in clause (i) will result in  
36 equivalent or greater emissions reductions as would be achieved by the proposed  
37 rule of the Administrator entitled ‘Standards of Performance for New,  
38 Reconstructed, and Modified Sources and Emissions Guidelines for Existing  
39 Sources: Oil and Natural Gas Sector Climate Review’ (86 Fed. Reg. 63110  
40 (November 15, 2021)), if such rule had been finalized and implemented.

41 “(B) RESUMPTION OF CHARGE.—If the conditions in clause (i) or (ii) of  
42 subparagraph (A) cease to apply after the Administrator has made the determination in

1 that subparagraph, the applicable facility will again be subject to the charge under  
2 subsection (c) beginning in the first calendar year in which the conditions in either  
3 clause (i) or (ii) of that subparagraph are no longer met.

4 “(7) PLUGGED WELLS.—Charges shall not be imposed with respect to the emissions rate  
5 from any well that has been permanently shut-in and plugged in the previous year in  
6 accordance with all applicable closure requirements, as determined by the Administrator.

7 “(g) Period.—The charge under subsection (c) shall be imposed and collected beginning with  
8 respect to emissions reported for calendar year 2024 and for each year thereafter.

9 “(h) ~~Implementation.—In addition to other authorities in this Act addressing air pollution from~~  
10 ~~the oil and natural gas sectors, the Administrator may issue guidance or regulations as necessary~~  
11 ~~to carry out this section.~~

12 “(i) Reporting.—Not later than 2 years after the date of enactment of this section, ~~and as~~  
13 ~~necessary thereafter,~~ the Administrator shall revise the requirements of subpart W of part 98 of  
14 title 40, Code of Federal Regulations, to ensure the reporting under such subpart, and calculation  
15 of charges under subsections (e) and (f) of this section, are based on empirical data, including  
16 data collected pursuant to subsection (a)(4), accurately reflect the total methane emissions and  
17 waste emissions from the applicable facilities, and allow owners and operators of applicable  
18 facilities to submit empirical emissions data, in a manner to be prescribed by the Administrator,  
19 to demonstrate the extent to which a charge under subsection (c) is owed.

20 “(j) ~~Liability for Charge Payment.—Except as established under this section, a facility owner~~  
21 ~~or operator’s liability for payment of the charge under subsection (c) is not affected in any way~~  
22 ~~by emission standards, permit fees, penalties, or other requirements under this Act or any other~~  
23 ~~legal authorities.~~

24 “~~(k)~~“(i) Definition of Greenhouse Gas.—In this section, the term ‘greenhouse gas’ ~~has the~~  
25 ~~meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this~~  
26 ~~section).”.~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous**  
27 **oxide, perfluorocarbons, and sulfur hexafluoride.”.**

## 28 SEC. 60114. CLIMATE POLLUTION REDUCTION 29 GRANTS.

30 The Clean Air Act is amended by inserting after section 136 of such Act, as added by section  
31 60113 of this Act, the following:

### 32 “SEC. 137. GREENHOUSE GAS AIR POLLUTION PLANS 33 AND IMPLEMENTATION GRANTS.

34 “(a) Appropriations.—

35 “(1) GREENHOUSE GAS AIR POLLUTION PLANNING GRANTS.—In addition to amounts  
36 otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of  
37 any amounts in the Treasury not otherwise appropriated, \$250,000,000, to remain available  
38 until September 30, 2031, to carry out subsection (b).

39 “(2) GREENHOUSE GAS AIR POLLUTION IMPLEMENTATION GRANTS.—In addition to



1 amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022,  
2 out of any amounts in the Treasury not otherwise appropriated, \$4,750,000,000, to remain  
3 available until September 30, 2026, to carry out subsection (c).

4 “(3) ADMINISTRATIVE COSTS.—Of the funds made available under paragraph (2), the  
5 Administrator shall reserve 3 percent for administrative costs necessary to carry out this  
6 section, **including providing to provide** technical assistance to eligible entities, **developing**  
7 **to develop** a plan that could be used as a model by grantees in developing a plan under  
8 subsection (b), and **modeling to model** the effects of plans described in this section.

9 “(b) Greenhouse Gas Air Pollution Planning Grants.—The Administrator shall make a grant to  
10 at least one eligible entity in each State for the costs of developing a plan for the reduction of  
11 greenhouse gas air pollution to be submitted with an application for a grant under subsection (c).  
12 Each such plan shall include programs, policies, measures, and projects that will achieve or  
13 facilitate the reduction of greenhouse gas air pollution. Not later than 270 days after the date of  
14 enactment of this section, the Administrator shall publish a funding opportunity announcement  
15 for grants under this subsection.

16 “(c) Greenhouse Gas Air Pollution Reduction Implementation Grants.—

17 “(1) IN GENERAL.—The Administrator shall competitively award grants to eligible  
18 entities to implement plans developed under subsection (b).

19 “(2) APPLICATION.—To apply for a grant under this subsection, an eligible entity shall  
20 submit to the Administrator an application at such time, in such manner, and containing  
21 such information as the Administrator shall require, which such application shall include  
22 information **regarding regarding—**

23 **“(A) the degree to which greenhouse gas air pollution is projected to be reduced,**  
24 **including in total and** with respect to low-income and disadvantaged communities; **and**

25 **“(B) the quantifiability, specificity, additionality, permanence, and verifiability of such**  
26 **projected greenhouse gas air pollution reduction.**

27 “(3) TERMS AND CONDITIONS.—The Administrator shall make funds available to a  
28 grantee under this subsection in such amounts, upon such a schedule, and subject to such  
29 conditions based on its performance in implementing its plan submitted under this section  
30 and in achieving projected greenhouse gas air pollution reduction, as determined by the  
31 Administrator.

32 “(d) Definitions.—In this section:

33 “(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

34 “(A) a State;

35 “(B) an air pollution control agency;

36 “(C) a municipality;

37 “(D) an Indian tribe; and

38 “(E) a group of one or more entities listed in subparagraphs (A) through (D).

39 “(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ **has the meaning given the term in**  
40 **section 211(o)(1)(G) (as in effect on the date of enactment of this section).” means the air**

1 **pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,**  
2 **perfluorocarbons, and sulfur hexafluoride.”.**

### 3 SEC. 60115. ENVIRONMENTAL PROTECTION AGENCY 4 EFFICIENT, ACCURATE, AND TIMELY REVIEWS.

5 In addition to amounts otherwise available, there is appropriated to the Environmental  
6 Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise  
7 appropriated, \$40,000,000, to remain available until September 30, 2026, to provide for the  
8 development of efficient, accurate, and timely reviews for permitting and approval processes  
9 through the hiring and training of personnel, the development of programmatic documents, the  
10 procurement of technical or scientific services for reviews, the development of environmental  
11 data or information systems, stakeholder and community engagement, the purchase of new  
12 equipment for environmental analysis, and the development of geographic information systems  
13 and other analysis tools, techniques, and guidance to improve agency transparency,  
14 accountability, and public engagement.

### 15 SEC. 60116. LOW-EMBODIED CARBON LABELING FOR 16 CONSTRUCTION MATERIALS.

17 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
18 Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in  
19 the Treasury not otherwise appropriated, \$100,000,000, to remain available until September 30,  
20 2026, for necessary administrative costs of the Administrator of the Environmental Protection  
21 Agency to carry out this section and to develop and carry out a program, in consultation with the  
22 Administrator of the Federal Highway Administration for construction materials used in  
23 transportation projects and the Administrator of General Services for construction materials used  
24 for Federal buildings, to identify and label **low-embodied carbon** construction materials and  
25 products **that have substantially lower levels of embodied greenhouse gas emissions**  
26 **associated with all relevant stages of production, use, and disposal, as compared to**  
27 **estimated industry averages of similar materials or products, as determined by the**  
28 **Administrator of the Environmental Protection Agency**, based on—

29 (1) environmental product declarations; ~~or~~(2) ~~determinations of the California~~  
30 ~~Department of General Services Procurement Division, in consultation with the California~~  
31 ~~Air Resources Board; or~~

32 (3) ~~determinations by other~~(2) **determinations by** State agencies, as verified by the  
33 Administrator of the Environmental Protection Agency.

34 (b) **Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” means the**  
35 **air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,**  
36 **perfluorocarbons, and sulfur hexafluoride.** **Definitions.—In this section:**

37 (1) Embodied carbon.—The term “embodied carbon” means the quantity of greenhouse gas  
38 (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect  
39 on the date of enactment of this Act)) emissions associated with all relevant stages of production  
40 of a material or product, measured in kilograms of carbon dioxide equivalent per unit of such  
41 material or product.

1 (2) Environmental product declaration.—The term “environmental product declaration” means  
2 a document that reports the environmental impact of a material or product that—

3 (A) includes measurement of the embodied carbon of the material or product;

4 (B) conforms with international standards, such as a Type III environmental product  
5 declaration as defined by the International Organization for Standardization standard 14025; and

6 (C) is developed in accordance with any standardized reporting criteria specified by the  
7 Administrator of the Environmental Protection Agency.

8 (3) Low-embodied carbon construction materials and products.—The term “low-embodied-  
9 carbon construction materials and products” means construction materials and products  
10 identified by the Administrator of the Environmental Protection Agency as having substantially  
11 lower levels of embodied carbon as compared to estimated industry averages of similar materials  
12 or products.

## 13 Subtitle B—Hazardous Materials

### 14 SEC. 60201. ENVIRONMENTAL AND CLIMATE JUSTICE 15 BLOCK GRANTS.

16 The Clean Air Act is amended by inserting after section 137, as added by subtitle A of this  
17 title, the following:

### 18 “SEC. 138. ENVIRONMENTAL AND CLIMATE JUSTICE 19 BLOCK GRANTS.

20 “(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the  
21 Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated  
22 —

23 “(1) \$2,800,000,000 to remain available until September 30, 2026, to award grants for the  
24 activities described in subsection (b); and

25 “(2) \$200,000,000 to remain available until September 30, 2026, to provide technical  
26 assistance to eligible entities related to grants awarded under this section.

27 “(b) Grants.—

28 “(1) IN GENERAL.—The Administrator shall use amounts made available under  
29 subsection (a)(1) to award grants for periods of up to 3 years to eligible entities to carry out  
30 activities described in paragraph (2) that benefit disadvantaged communities, as defined by  
31 the Administrator.

32 “(2) ELIGIBLE ACTIVITIES.—An eligible entity may use a grant awarded under this  
33 subsection for—

34 “(A) community-led air and other pollution monitoring, prevention, and  
35 remediation, and investments in low- and zero-emission and resilient technologies and  
36 related infrastructure and workforce development that help reduce greenhouse gas (as  
37 defined in section 211(o)(1)(G) (as in effect on the date of enactment of this section))

1 emissions and other air pollutants;

2 “(B) mitigating climate and health risks from urban heat islands, extreme heat, wood  
3 heater emissions, and wildfire events;

4 “(C) climate resiliency and adaptation;

5 “(D) reducing indoor toxics and indoor air pollution; or

6 “(E) facilitating engagement of disadvantaged communities in State and Federal  
7 public processes, including facilitating such engagement in advisory groups,  
8 workshops, and rulemakings, and other public processes.

9 “(3) ELIGIBLE ENTITIES.—In this subsection, the term ‘eligible entity’ means—

10 “(A) a partnership between—

11 “(i) an Indian tribe, a local government, or an institution of higher education;  
12 and

13 “(ii) a community-based nonprofit organization;

14 “(B) a community-based nonprofit organization; or

15 “(C) a partnership of community-based nonprofit organizations.

16 “(c) Administrative Costs.—The Administrator shall reserve 7 percent of the amounts made  
17 available under subsection (a) for administrative costs to carry out this section.”;

18 section.

19 “(d) Definition of Greenhouse Gas.—In this section, the term ‘greenhouse gas’ means the  
20 air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,  
21 perfluorocarbons, and sulfur hexafluoride.”.

## 22 Subtitle C—United States Fish and Wildlife Service

### 23 SEC. 60301. ENDANGERED SPECIES ACT RECOVERY 24 PLANS.

25 In addition to amounts otherwise available, there is appropriated to the United States Fish and  
26 Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise  
27 appropriated, \$125,000,000, to remain available until expended, for the purposes of developing  
28 and implementing recovery plans under paragraphs (1), (3), and (4) of subsection (f) of section 4  
29 of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)).

### 30 SEC. 60302. FUNDING FOR THE UNITED STATES FISH 31 AND WILDLIFE SERVICE TO ADDRESS CLIMATE- 32 INDUCED WEATHER EVENTS.

33 (a) In General.—In addition to amounts otherwise available, there is appropriated to the  
34 United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury  
35 not otherwise appropriated, \$121,250,000, to remain available until September 30, 2026, to make  
36 direct expenditures, award grants, and enter into contracts and cooperative agreements for the

1 purposes of rebuilding and restoring units of the National Wildlife Refuge System and State  
2 wildlife management areas, **including** by—

- 3 (1) addressing the threat of invasive species;
- 4 (2) increasing the resiliency and capacity of habitats and infrastructure to withstand  
5 **climate-induced** weather events; and
- 6 (3) reducing the amount of damage caused by **climate-induced** weather events.

7 (b) Administrative Costs.—In addition to amounts otherwise available, there is appropriated to  
8 the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the  
9 Treasury not otherwise appropriated, \$3,750,000, to remain available until September 30, 2026,  
10 for necessary administrative expenses associated with carrying out this section.

## 11 Subtitle D—Council on Environmental Quality

### 12 SEC. 60401. ENVIRONMENTAL AND CLIMATE DATA 13 COLLECTION.

14 In addition to amounts otherwise available, there is appropriated to the Chair of the Council on  
15 Environmental Quality for fiscal year 2022, out of any money in the Treasury not otherwise  
16 appropriated, \$32,500,000, to remain available until September 30, 2026—

- 17 (1) to support data collection efforts relating to—
- 18 (A) disproportionate negative environmental harms and climate impacts; and
- 19 (B) cumulative impacts of pollution and temperature rise;
- 20 (2) to establish, expand, and maintain efforts to track disproportionate burdens and  
21 cumulative impacts, **including and provide** academic and workforce support for analytics  
22 and informatics infrastructure and data collection systems; and
- 23 (3) to support efforts to ensure that any mapping or screening tool is accessible to  
24 community-based organizations and community members.

### 25 SEC. 60402. COUNCIL ON ENVIRONMENTAL QUALITY 26 EFFICIENT AND EFFECTIVE ENVIRONMENTAL 27 REVIEWS.

28 In addition to amounts otherwise available, there is appropriated to the Chair of the Council on  
29 Environmental Quality for fiscal year 2022, out of any money in the Treasury not otherwise  
30 appropriated, \$30,000,000, to remain available until September 30, 2026, to carry out the  
31 Council on Environmental Quality’s functions and for the purposes of training personnel,  
32 developing programmatic environmental documents, and developing tools, guidance, and  
33 techniques to improve stakeholder and community engagement.

## 34 Subtitle E—Transportation and Infrastructure

### 35 SEC. 60501. NEIGHBORHOOD ACCESS AND EQUITY

## 1 GRANT PROGRAM.

2 (a) In General.—Chapter 1 of title 23, United States Code, is **further** amended by adding at the  
3 end the following:

### 4 **“178”177. Neighborhood access and equity grant program**

5 “(a) In General.—In addition to amounts otherwise available, there is appropriated for fiscal  
6 year 2022, out of any money in the Treasury not otherwise appropriated, \$1,893,000,000, to  
7 remain available until September 30, 2026, to the Administrator of the Federal Highway  
8 Administration for competitive grants to eligible entities described in subsection (b)—

9 “(1) to improve walkability, safety, and affordable transportation access through  
10 **construction of** projects that are context-sensitive—

11 “(A) to remove, remediate, or reuse a facility described in subsection (c)(1);

12 “(B) to replace a facility described in subsection (c)(1) with a facility that is at-grade  
13 or lower speed;

14 “(C) to retrofit or cap a facility described in subsection (c)(1);

15 “(D) to build or improve complete streets, multiuse trails, regional greenways, or  
16 active transportation networks and spines; or

17 “(E) to provide affordable access to essential destinations, public spaces, or  
18 transportation links and hubs;

19 “(2) to mitigate or remediate negative impacts on the human or natural environment  
20 resulting from a facility described in subsection (c)(2) in a disadvantaged or underserved  
21 community, **including construction of— through—**

22 “(A) noise barriers to reduce impacts resulting from a facility described in  
23 subsection (c)(2);

24 “(B) technologies, infrastructure, and activities to reduce surface transportation-  
25 related **air pollution, including** greenhouse gas emissions **and other air pollution;**

26 “(C) **natural** infrastructure, **pervious, permeable, or porous pavement,** or  
27 protective features to reduce or manage stormwater run-off resulting from a facility  
28 described in subsection (c)(2), **including through natural infrastructure and pervious,**  
29 **permeable, or porous pavement;**

30 “(D) infrastructure and natural features to reduce or mitigate urban heat island hot  
31 spots in the transportation right-of-way or on surface transportation facilities; or

32 “(E) safety improvements for vulnerable road users; and

33 “(3) for planning and capacity building activities in disadvantaged or underserved  
34 communities to—

35 “(A) identify, monitor, or assess local and ambient air quality, emissions of  
36 transportation greenhouse gases, hot spot areas of extreme heat or elevated air  
37 pollution, gaps in tree canopy coverage, or flood prone transportation infrastructure;

38 “(B) assess transportation equity or pollution impacts and develop local anti-

1 displacement policies and community benefit agreements;

2 “(C) conduct predevelopment activities for projects eligible under this subsection;

3 “(D) expand public participation in transportation planning by individuals and  
4 organizations in disadvantaged or underserved communities; or

5 “(E) administer or obtain technical assistance related to activities described in this  
6 subsection.

7 “(b) Eligible Entities Described.—An eligible entity referred to in subsection (a) is—

8 “(1) a State;

9 “(2) a unit of local government;

10 “(3) a political subdivision of a State;

11 “(4) an entity described in section 207(m)(1)(E);

12 “(5) a territory of the United States;

13 “(6) a special purpose district or public authority with a transportation function;

14 “(7) a metropolitan planning organization (as defined in section 134(b)(2)); or

15 “(8) with respect to a grant described in subsection (a)(3), in addition to an eligible entity  
16 described in paragraphs (1) through (7), a nonprofit organization or institution of higher  
17 education that has entered into a partnership with an eligible entity described in paragraphs  
18 (1) through (7).

19 “(c) Facility Described.—A facility referred to in subsection (a) is—

20 “(1) a surface transportation facility for which high speeds, grade separation, or other  
21 design factors create an obstacle to connectivity within a community; or

22 “(2) a surface transportation facility which is a source of air pollution, noise, stormwater,  
23 or other burden to a disadvantaged or underserved community.

24 “(d) Investment in Economically Disadvantaged Communities.—

25 “(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for  
26 fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
27 ~~\$1,109,950,000~~ **\$1,262,000,000**, to remain available until September 30, 2026, to the  
28 Administrator of the Federal Highway Administration to provide grants for projects in  
29 communities described in paragraph (2) for the same purposes and administered in the same  
30 manner as described in subsection (a).

31 “(2) COMMUNITIES DESCRIBED.—A community referred to in paragraph (1) is a  
32 community that—

33 “(A) is economically disadvantaged, including an underserved community or a  
34 community, or located in an area of persistent poverty;

35 “(B) has entered or will enter into a community benefits agreement with  
36 representatives of the community;

37 “(C) has an anti-displacement policy, a community land trust, or a community

1 advisory board in effect; or

2 “(D) has demonstrated a plan for employing local residents in the area impacted by  
3 the activity or project proposed under this section.

4 “(e) Administration.—

5 “(1) IN GENERAL.—A project carried out under subsection (a) or (d) shall be treated as a  
6 project on a Federal-aid highway.

7 “(2) COMPLIANCE WITH EXISTING REQUIREMENTS.—Funds made available for a grant  
8 under this section and administered by or through a State department of transportation shall  
9 be expended in compliance with the U.S. Department of Transportation’s Disadvantaged  
10 Business Enterprise Program.

11 “(f) Cost Share.—The Federal share of the cost of an activity carried out using a grant  
12 awarded under this section shall be not more than 80 percent, except that the Federal share of the  
13 cost of a project in a disadvantaged or underserved community may be up to 100 percent.

14 “(g) Technical Assistance.—In addition to amounts otherwise available, there is appropriated  
15 for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$42,150,000  
16 \$50,000,000, to remain available until September 30, 2026, to the Administrator of the Federal  
17 Highway Administration for—

18 “(1) guidance, technical assistance, templates, training, or tools to facilitate efficient and  
19 effective contracting, design, and project delivery by units of local government;

20 “(2) subgrants to units of local government to build capacity of such units of local  
21 government to assume responsibilities to deliver surface transportation projects; and

22 “(3) operations and administration of the Federal Highway Administration.

23 “(h) Limitations.—Amounts made available under this section shall not—

24 “(1) be subject to any restriction or limitation on the total amount of funds available for  
25 implementation or execution of programs authorized for Federal-aid highways; and

26 “(2) be used for a project for additional through travel lanes for single-occupant  
27 passenger vehicles.”. vehicles.

28 “(i) Definition of Greenhouse Gas.—In this section, the term ‘greenhouse gas’ has the  
29 meaning given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)  
30 (G)) (as in effect on the date of enactment of this section).”.

31 (b) Clerical Amendment.—The analysis for chapter 1 of title 23, United States Code, is further  
32 amended by adding at the end the following:

33 “178“177. Neighborhood access and equity grant program.”.

## 34 SEC. 60502. ASSISTANCE FOR FEDERAL BUILDINGS.

35 In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of  
36 any money in the Treasury not otherwise appropriated, \$250,000,000, to remain available until  
37 September 30, 2031, to be deposited in the Federal Buildings Fund established under section 592  
38 of title 40, United States Code, for measures necessary to convert facilities of the Administrator  
39 of General Services to high-performance green buildings (as defined in section 401 of the Energy



1 Independence and Security Act of 2007 (42 U.S.C. 17061)).

## 2 SEC. 60503. USE OF LOW-CARBON MATERIALS.

3 (a) Appropriation.—In addition to amounts otherwise available, there is appropriated for fiscal  
4 year 2022, out of any money in the Treasury not otherwise appropriated, \$2,150,000,000, to  
5 remain available until September 30, 2026, to be deposited in the Federal Buildings Fund  
6 established under section 592 of title 40, United States Code, to acquire and install ~~low-~~  
7 ~~embodied carbon~~ materials and products for use in the construction or alteration of buildings  
8 under the jurisdiction, custody, and control of the General Services Administration **that have**  
9 **substantially lower levels of embodied greenhouse gas :**

10 (b) Definitions.—In this section:

11 (1) Embodied carbon.—The term “embodied carbon” means the quantity of greenhouse gas  
12 (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect  
13 on the date of enactment of this Act)) emissions associated with all relevant stages of production,  
14 use, and disposal as compared to estimated industry averages of similar materials or  
15 products, as determined of a material or product, measured in kilograms of carbon dioxide-  
16 equivalent per unit of such material or product.

17 (2) Low-embodied carbon materials and products.—The term “low-embodied carbon  
18 materials and products” means materials and products identified by the Administrator of the  
19 Environmental Protection Agency as having substantially lower levels of embodied carbon as  
20 compared to estimated industry averages of similar products or materials..

21 (b) Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” means the  
22 air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide,  
23 perfluorocarbons, and sulfur hexafluoride.

## 24 SEC. 60504. GENERAL SERVICES ADMINISTRATION 25 EMERGING TECHNOLOGIES.

26 In addition to amounts otherwise available, there is appropriated to the Administrator of  
27 General Services for fiscal year 2022, out of any money in the Treasury not otherwise  
28 appropriated, \$975,000,000, to remain available until September 30, 2026, to be deposited in the  
29 Federal Buildings Fund established under section 592 of title 40, United States Code, for  
30 emerging and sustainable technologies, and related sustainability and environmental programs.

## 31 SEC. 60505. ENVIRONMENTAL REVIEW 32 IMPLEMENTATION FUNDS.

33 (a) In General.—Chapter 1 of title 23, United States Code, is further amended by adding at the  
34 end the following:

### 35 **“179“178.** Environmental review implementation funds

36 “(a) Establishment.—In addition to amounts otherwise available, for fiscal year 2022, there is  
37 appropriated to the Administrator, out of any money in the Treasury not otherwise appropriated,  
38 \$100,000,000, to remain available until September 30, 2026, for the purpose of facilitating the

1 development and review of documents for the environmental review process for proposed  
2 projects, including through—

3 “(1) the provision of guidance, technical assistance, templates, training, or tools to  
4 facilitate an efficient and effective environmental review process for surface transportation  
5 projects, including and any administrative expenses of the Federal Highway Administration  
6 to conduct such activities described in this section; and

7 “(2) providing funds made available under this subsection to eligible entities—

8 “(A) to build capacity of such eligible entities and to conduct environmental  
9 review processes;

10 “(B) to facilitate the environmental review process for proposed projects, including  
11 — by—

12 “(i) defining the scope or study areas;

13 “(ii) identifying impacts, mitigation measures, and reasonable alternatives;

14 “(iii) preparing planning and environmental studies and other documents prior  
15 to and during the environmental review process, for potential use in the  
16 environmental review process in accordance with applicable statutes and  
17 regulations;

18 “(iv) conducting public engagement activities; and

19 “(v) carrying out permitting or other activities, including permitting activities,  
20 as the Administrator determines to be appropriate, to support the timely  
21 completion of an environmental review process required for a proposed project;  
22 and

23 “(B)“(C) for administrative expenses of the eligible entity to conduct any of the  
24 activities described in subparagraph subparagraphs (A) and (B).

25 “(b) Cost Share.—

26 “(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this  
27 section by an eligible entity shall be not more than 80 percent.

28 “(2) SOURCE OF FUNDS.—The non-Federal share of the cost of an activity carried out  
29 under this section by an eligible entity may be satisfied using funds made available to the  
30 eligible entity under any other Federal, State, or local grant program, including funds made  
31 available to the eligible entity under this title or administered by the U.S. Department of  
32 Transportation.

33 “(c) Definitions.—In this section:

34 “(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal  
35 Highway Administration.

36 “(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

37 “(A) a State;

38 “(B) a unit of local government;

- 1 “(C) a political subdivision of a State;
- 2 “(D) a territory of the United States;
- 3 “(E) an entity described in section 207(m)(1)(E);
- 4 “(F) a recipient of funds under section 203; or
- 5 “(G) a metropolitan planning organization (as defined in section 134(b)(2)).

6 “(3) ENVIRONMENTAL REVIEW PROCESS.—The term ‘environmental review process’ has  
7 the meaning given the term in section 139(a)(5).

8 “(4) PROPOSED PROJECT.—The term ‘proposed project’ means a surface transportation  
9 project for which an environmental review process is required.”.

10 (b) Clerical Amendment.—The analysis for chapter 1 of title 23, United States Code, is further  
11 amended by adding at the end the following:

12 **“179“178.** Environmental review implementation funds.”.

## 13 SEC. 60506. LOW-CARBON TRANSPORTATION 14 MATERIALS GRANTS.

15 (a) In General.—Chapter 1 of title 23, United States Code, is further amended by adding at the  
16 end the following:

### 17 **“180“179.** Low-carbon transportation materials grants

18 “(a) Federal Highway Administration Appropriation.—In addition to amounts otherwise  
19 available, there is appropriated for fiscal year 2022, out of any money in the Treasury not  
20 otherwise appropriated, \$2,000,000,000, to remain available until September 30, 2026, to the  
21 Administrator to reimburse or provide incentives to eligible recipients for the use of low-  
22 embodied carbon, in projects, of construction materials and products in projects that have  
23 substantially lower levels of embodied greenhouse gas emissions associated with all relevant  
24 stages of production, use, and disposal as compared to estimated industry averages of  
25 similar materials or products, as determined by the Administrator of the Environmental  
26 Protection Agency, and for the operations and administration of the Federal Highway  
27 Administration to carry out this section.

28 “(b) Reimbursement of Incremental Costs; Incentives.—

29 “(1) IN GENERAL.—The Administrator shall, subject to the availability of funds, either  
30 reimburse or provide incentives to eligible recipients that use low-embodied carbon  
31 construction materials and products on a project funded under this title.

32 “(2) REIMBURSEMENT AND INCENTIVE AMOUNTS.—

33 “(A) INCREMENTAL AMOUNT.—The amount of reimbursement under paragraph (1)  
34 shall be equal to the incrementally higher cost of using such materials relative to the  
35 cost of using traditional materials, as determined by the eligible recipient and verified  
36 by the Administrator.

37 “(B) INCENTIVE AMOUNT.—The amount of an incentive under paragraph (1) shall be  
38 equal to 2 percent of the cost of using low-embodied carbon construction materials and

1 products on a project funded under this title.

2 “(3) FEDERAL SHARE.—If a reimbursement or incentive is provided under paragraph (1),  
3 the total Federal share payable for the project for which the reimbursement or incentive is  
4 provided shall be up to 100 percent.

5 “(4) LIMITATIONS.—

6 “(A) IN GENERAL.—The Administrator shall only provide a reimbursement or  
7 incentive under paragraph (1) for a project on a—

8 “(i) Federal-aid highway;

9 “(ii) tribal transportation facility;

10 “(iii) Federal lands transportation facility; or

11 “(iv) Federal lands access transportation facility.

12 “(B) OTHER RESTRICTIONS.—Amounts made available under this section shall not  
13 be subject to any restriction or limitation on the total amount of funds available for  
14 implementation or execution of programs authorized for Federal-aid highways.

15 “(C) SINGLE OCCUPANT PASSENGER VEHICLES.—Funds made available under this  
16 section shall not be used for projects that result in additional through travel lanes for  
17 single occupant passenger vehicles.

18 “(5) MATERIALS IDENTIFICATION.—The Administrator shall review the low-embodied  
19 carbon construction materials and products identified by the Administrator of the  
20 Environmental Protection Agency and shall identify low-embodied carbon construction  
21 materials and products—

22 “(A) appropriate for use in projects eligible under this title; and

23 “(B) eligible for reimbursement or incentives under this section.

24 “(c) Definitions.—In this section:

25 “(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal  
26 Highway Administration.

27 “(2) ELIGIBLE RECIPIENT.—The term ‘eligible recipient’ means—

28 “(A) a State;

29 “(B) a unit of local government;

30 “(C) a political subdivision of a State;

31 “(D) a territory of the United States;

32 “(E) an entity described in section 207(m)(1)(E));

33 “(F) a recipient of funds under section 203;

34 “(G) a metropolitan planning organization (as defined in section 134(b)(2)); or

35 “(H) a special purpose district or public authority with a transportation function.

36 “(3) **GREENHOUSE GAS.—The term ‘greenhouse gas’ means the air pollutants carbon**

1 **dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur**  
2 **hexafluoride.”** Embodied carbon.—The term ‘embodied carbon’ means the quantity of  
3 greenhouse gas (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)  
4 (1)(G)) (as in effect on the date of enactment of this Act)) emissions associated with all  
5 relevant stages of production of a material or product, measured in kilograms of carbon  
6 dioxide-equivalent per unit of such material or product.

7 ~~“(4) Low-embodied carbon construction materials and products.—The term ‘low-~~  
8 ~~embodied carbon construction materials and products’ means construction materials and~~  
9 ~~products identified by the Administrator of the Environmental Protection Agency as having~~  
10 ~~substantially lower levels of embodied carbon as compared to estimated industry averages~~  
11 ~~of similar products or materials.”.~~

12 (b) Clerical Amendment.—The analysis for chapter 1 of title 23, United States Code, is further  
13 amended by adding at the end the following:

14 ~~“180“179.~~ Low-carbon transportation materials grants.”.

## 15 TITLE VII—COMMITTEE ON HOMELAND SECURITY 16 AND GOVERNMENTAL AFFAIRS

### 17 SEC. 70001. DHS OFFICE OF CHIEF READINESS 18 SUPPORT OFFICER.

19 In addition to the amounts otherwise available, there is appropriated to the Secretary of  
20 Homeland Security for fiscal year 2022, out of any money in the Treasury not otherwise  
21 appropriated, \$500,000,000, to remain available until September 30, 2028, for the Office of the  
22 Chief Readiness Support Officer to carry out sustainability and environmental programs.

### 23 SEC. 70002. UNITED STATES POSTAL SERVICE CLEAN 24 FLEETS.

25 In addition to amounts otherwise available, there is appropriated to the United States Postal  
26 Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, **the**  
27 **following amounts**, to be deposited into the Postal Service Fund established under section 2003  
28 of title 39, United States Code, **\$3,000,000,000, to remain available through September 30, 2031,**  
29 **for—:**

30 ~~(1)~~ **(1) \$1,290,000,000, to remain available through September 30, 2031, for** the  
31 purchase of zero-emission delivery vehicles; ~~and.~~

32 ~~(2)~~ **(2) \$1,710,000,000, to remain available through September 30, 2031, for** the  
33 purchase, design, and installation of the requisite infrastructure to support zero-emission  
34 delivery vehicles at facilities that the United States Postal Service owns or leases from non-  
35 Federal entities.

### 36 SEC. 70003. UNITED STATES POSTAL SERVICE OFFICE 37 OF INSPECTOR GENERAL.

1 In addition to amounts otherwise available, there is appropriated to the Office of Inspector  
2 General of the United States Postal Service for fiscal year 2022, out of any money in the  
3 Treasury not otherwise appropriated, \$15,000,000, to remain available through September 30,  
4 2031, to support oversight of United States Postal Service activities implemented pursuant to this  
5 Act.

## 6 SEC. 70004. GOVERNMENT ACCOUNTABILITY OFFICE 7 OVERSIGHT.

8 In addition to amounts otherwise available, there is appropriated to the Comptroller General of  
9 the United States for fiscal year 2022, out of any money in the Treasury not otherwise  
10 appropriated, \$25,000,000, to remain available until September 30, 2031, for necessary expenses  
11 of the Government Accountability Office to support the oversight of—

- 12 (1) the distribution and use of funds appropriated under this Act; and  
13 (2) whether the economic, social, and environmental impacts of the funds described in  
14 paragraph (1) are equitable.

## 15 SEC. 70005. OFFICE OF MANAGEMENT AND BUDGET 16 OVERSIGHT.

17 In addition to amounts otherwise available, there are appropriated to the Director of the Office  
18 of Management and Budget for fiscal year 2022, out of any money in the Treasury not otherwise  
19 appropriated, \$25,000,000, to remain available until September 30, 2026, for necessary expenses  
20 to—

- 21 (1) oversee the implementation of this Act; and  
22 (2) track labor, equity, and environmental standards and performance.

## 23 SEC. 70006. FEMA BUILDING MATERIALS PROGRAM.

24 Through September 30, 2026, the Administrator of the Federal Emergency Management  
25 Agency may provide financial assistance under sections 203(h), 404(a), and 406(b) of the Robert  
26 T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(h), 42 U.S.C.  
27 5170c(a), 42 U.S.C. 5172(b)) for—

- 28 (1) costs associated with low-carbon materials; and  
29 (2) incentives that encourage low-carbon and net-zero energy projects, ~~which may~~  
30 ~~include an increase in the Federal cost share for those projects.~~

## 31 SEC. 70007. FEDERAL PERMITTING IMPROVEMENT 32 STEERING COUNCIL ENVIRONMENTAL REVIEW 33 IMPROVEMENT FUND MANDATORY FUNDING.

34 (a) ~~In General.—~~ ~~In~~ addition to amounts otherwise available, there is appropriated to the  
35 **Federal Permitting Improvement Steering Council** Environmental Review Improvement  
36 Fund ~~established by section 41009(d)(1) of the FAST Act (42 U.S.C. 4370m8(d)(1))~~, out of any

1 money in the Treasury not otherwise appropriated, **\$350,000,000 for fiscal year 2023, to**  
2 **remain available through September 30, 2031.** ~~\$70,000,000 for each of fiscal years 2022~~  
3 ~~through 2026.~~

4 (b) Availability.—~~Notwithstanding section 41009(d)(2) of the FAST Act (42 U.S.C.~~  
5 ~~4370m8(d)(2)), funds appropriated under subsection (a) for a fiscal year shall remain available~~  
6 ~~for the following 5 fiscal years.~~

## 7 TITLE VIII—COMMITTEE ON INDIAN AFFAIRS

### 8 SEC. 80001. TRIBAL CLIMATE RESILIENCE.

9 (a) Tribal Climate Resilience and Adaptation.—In addition to amounts otherwise available,  
10 there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of  
11 any money in the Treasury not otherwise appropriated, \$220,000,000, to remain available until  
12 September 30, 2031, for Tribal climate resilience and adaptation programs.

13 (b) Bureau of Indian Affairs Fish Hatcheries.—In addition to amounts otherwise available,  
14 there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of  
15 any money in the Treasury not otherwise appropriated, \$10,000,000, to remain available until  
16 September 30, 2031, for fish hatchery operations and maintenance programs of the Bureau of  
17 Indian Affairs.

18 (c) Administration.—In addition to amounts otherwise available, there is appropriated to the  
19 Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury  
20 not otherwise appropriated, \$5,000,000, to remain available until September 30, 2031, for the  
21 administrative costs of carrying out this section.

22 (d) Cost-sharing and Matching Requirements.—None of the funds provided by this section  
23 shall be subject to cost-sharing or matching requirements.

24 (e) Small and Needy Program.—Amounts made available under this section shall be excluded  
25 from the calculation of funds received by those Tribal governments that participate in the “Small  
26 and Needy” program.

27 (f) Distribution; Use of Funds.—Amounts made available under this section that are  
28 distributed to Indian Tribes and Tribal organizations for services pursuant to a self-determination  
29 contract (as defined in subsection (j) of section 4 of the Indian Self-Determination and Education  
30 Assistance Act (25 U.S.C. 5304(j))) or a self-governance compact entered into pursuant to  
31 subsection (a) of section 404 of the Indian Self-Determination and Education Assistance Act (25  
32 U.S.C. 5364(a))—

33 (1) shall be distributed on a 1-time basis;

34 (2) shall not be part of the amount required by subsections (a) through (b) of section 106  
35 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)–(b));  
36 and

37 (3) shall only be used for the purposes identified under the applicable subsection.

### 38 SEC. 80002. NATIVE HAWAIIAN CLIMATE RESILIENCE.

39 (a) Native Hawaiian Climate Resilience and Adaptation.—In addition to amounts otherwise

1 available, there is appropriated to the Senior Program Director of the Office of Native Hawaiian  
2 Relations for fiscal year 2022, out of any money in the Treasury not otherwise appropriated,  
3 \$23,500,000, to remain available until September 30, 2031, to carry out, through financial  
4 assistance, technical assistance, direct expenditure, grants, contracts, or cooperative agreements,  
5 climate resilience and adaptation activities that serve the Native Hawaiian Community.

6 (b) Administration.—In addition to amounts otherwise available, there is appropriated to the  
7 Senior Program Director of the Office of Native Hawaiian Relations for fiscal year 2022, out of  
8 any money in the Treasury not otherwise appropriated, \$1,500,000, to remain available until  
9 September 30, 2031, for the administrative costs of carrying out this section.

10 (c) Cost-sharing and Matching Requirements.—None of the funds provided by this section  
11 shall be subject to cost-sharing or matching requirements.

## 12 SEC. 80003. TRIBAL ELECTRIFICATION PROGRAM.

13 (a) Tribal Electrification Program.—In addition to amounts otherwise available, there is  
14 appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of any  
15 money in the Treasury not otherwise appropriated, \$145,500,000, to remain available until  
16 September 30, 2031, for—

17 (1) the provision of electricity to unelectrified Tribal homes through zero-emissions  
18 energy systems;

19 (2) transitioning electrified Tribal homes to zero-emissions energy systems; and

20 (3) associated home repairs and retrofitting necessary to install the zero-emissions energy  
21 systems authorized under paragraphs (1) and (2).

22 (b) Administration.—In addition to amounts otherwise available, there is appropriated to the  
23 Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury  
24 not otherwise appropriated, \$4,500,000, to remain available until September 30, 2031, for the  
25 administrative costs of carrying out this section.

26 (c) Cost-sharing and Matching Requirements.—None of the funds provided by this section  
27 shall be subject to cost-sharing or matching requirements.

28 (d) Small and Needy Program.—Amounts made available under this section shall be excluded  
29 from the calculation of funds received by those Tribal governments that participate in the “Small  
30 and Needy” program.

31 (e) Distribution; Use of Funds.—Amounts made available under this section that are  
32 distributed to Indian Tribes and Tribal organizations for services pursuant to a self-determination  
33 contract (as defined in subsection (j) of section 4 of the Indian Self-Determination and Education  
34 Assistance Act (25 U.S.C. 5304(j))) or a self-governance compact entered into pursuant to  
35 subsection (a) of section 404 of the Indian Self-Determination and Education Assistance Act (25  
36 U.S.C. 5364(a))—

37 (1) shall be distributed on a 1-time basis;

38 (2) shall not be part of the amount required by subsections (a) through (b) of section 106  
39 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)–(b));  
40 and



1 (3) shall only be used for the purposes identified under the applicable subsection.

2 **SEC. 80004. EMERGENCY DROUGHT RELIEF FOR**  
3 **TRIBES.**

4 (a) Emergency Drought Relief for Tribes.—In addition to amounts otherwise available, there  
5 is appropriated to the Commissioner of the Bureau of Reclamation for fiscal year 2022, out of  
6 any money in the Treasury not otherwise appropriated, \$12,500,000, to remain available until  
7 September 30, 2026, for near-term drought relief actions to mitigate drought impacts for Indian  
8 Tribes that are impacted by the operation of a Bureau of Reclamation water project, including  
9 through direct financial assistance to address drinking water shortages and to mitigate the loss of  
10 Tribal trust resources.

11 (b) Cost-sharing and Matching Requirements.—None of the funds provided by this section  
12 shall be subject to cost-sharing or matching requirements.

13 **TITLE IX—COMMITTEE ON HEALTH, EDUCATION,**  
14 **LABOR, AND PENSIONS**

15 **SEC. 90001. REQUIREMENTS WITH RESPECT TO**  
16 **COST-SHARING FOR INSULIN PRODUCTS.**

17 (a) In General.—Part D of title XXVII of the Public Health Service Act (42 U.S.C.  
18 300gg–111 et seq.) is amended by adding at the end the following:

19 **“SEC. 2799A–11. REQUIREMENTS WITH RESPECT TO**  
20 **COST-SHARING FOR CERTAIN INSULIN PRODUCTS.**

21 **“(a) In General.—For plan years beginning on or after January 1, 2023, a group health**  
22 **plan or health insurance issuer offering group or individual health insurance coverage**  
23 **shall provide coverage of selected insulin products, and with respect to such products, shall**  
24 **not—**

25 **“(1) apply any deductible; or**

26 **“(2) impose any cost-sharing in excess of, per 30-day supply—**

27 **“(A) for any applicable plan year beginning before January 1, 2024, \$35; or**

28 **“(B) for any plan year beginning on or after January 1, 2024, the lesser of—**

29 **“(i) \$35; or**

30 **“(ii) the amount equal to 25 percent of the negotiated price of the selected**  
31 **insulin product net of all price concessions received by or on behalf of the**  
32 **plan or coverage, including price concessions received by or on behalf of**  
33 **third-party entities providing services to the plan or coverage, such as**  
34 **pharmacy benefit management services.**

35 **“(b) Definitions.—In this section:**

36 **“(1) SELECTED INSULIN PRODUCTS.—The term ‘selected insulin products’ means at**

1 least one of each dosage form (such as vial, pump, or inhaler dosage forms) of each  
2 different type (such as rapid-acting, short-acting, intermediate-acting, long-acting,  
3 ultra long-acting, and premixed) of insulin (as defined below), when available, as  
4 selected by the group health plan or health insurance issuer.

5 “(2) INSULIN DEFINED.—The term ‘insulin’ means insulin that is licensed under  
6 subsection (a) or (k) of section 351 and continues to be marketed under such section,  
7 including any insulin product that has been deemed to be licensed under section 351(a)  
8 pursuant to section 7002(e)(4) of the Biologics Price Competition and Innovation Act  
9 of 2009 and continues to be marketed pursuant to such licensure.

10 “(c) Out-of-network Providers.—Nothing in this section requires a plan or issuer that  
11 has a network of providers to provide benefits for selected insulin products described in  
12 this section that are delivered by an out-of-network provider, or precludes a plan or issuer  
13 that has a network of providers from imposing higher cost-sharing than the levels specified  
14 in subsection (a) for selected insulin products described in this section that are delivered by  
15 an out-of-network provider.

16 “(d) Rule of Construction.—Subsection (a) shall not be construed to require coverage of,  
17 or prevent a group health plan or health insurance coverage from imposing cost-sharing  
18 other than the levels specified in subsection (a) on, insulin products that are not selected  
19 insulin products, to the extent that such coverage is not otherwise required and such cost-  
20 sharing is otherwise permitted under Federal and applicable State law.

21 “(e) Application of Cost-sharing Towards Deductibles and Out-of-pocket Maximums.—  
22 Any cost-sharing payments made pursuant to subsection (a)(2) shall be counted toward any  
23 deductible or out-of-pocket maximum that applies under the plan or coverage.”.

24 (b) No Effect on Other Cost-sharing.—Section 1302(d)(2) of the Patient Protection and  
25 Affordable Care Act (42 U.S.C. 18022(d)(2)) is amended by adding at the end the following  
26 new subparagraph:

27 “(D) SPECIAL RULE RELATING TO INSULIN COVERAGE.—For plan years  
28 beginning on or after January 1, 2024, the exemption of coverage of selected  
29 insulin products (as defined in section 2799A–11(b) of the Public Health Service  
30 Act) from the application of any deductible pursuant to section 2799A–11(a)(1) of  
31 such Act, section 726(a)(1) of the Employee Retirement Income Security Act of  
32 1974, or section 9826(a)(1) of the Internal Revenue Code of 1986 shall not be  
33 considered when determining the actuarial value of a qualified health plan under  
34 this subsection.”.

35 (c) Coverage of Certain Insulin Products Under Catastrophic Plans.—Section 1302(e) of  
36 the Patient Protection and Affordable Care Act (42 U.S.C. 18022(e)) is amended by adding  
37 at the end the following:

38 “(4) COVERAGE OF CERTAIN INSULIN PRODUCTS.—

39 “(A) IN GENERAL.—Notwithstanding paragraph (1)(B)(i), a health plan  
40 described in paragraph (1) shall provide coverage of selected insulin products, in  
41 accordance with section 2799A–11 of the Public Health Service Act, for a plan  
42 year before an enrolled individual has incurred cost-sharing expenses in an  
43 amount equal to the annual limitation in effect under subsection (c)(1) for the

1 plan year.

2 “(B) TERMINOLOGY.—For purposes of subparagraph (A)—

3 “(i) the term ‘selected insulin products’ has the meaning given such term  
4 in section 2799A–11(b) of the Public Health Service Act; and

5 “(ii) the requirements of section 2799A–11 of such Act shall be applied by  
6 deeming each reference in such section to ‘individual health insurance  
7 coverage’ to be a reference to a plan described in paragraph (1).”.

8 (d) ERISA.—

9 (1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee  
10 Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding  
11 at the end the following:

## 12 “SEC. 726. REQUIREMENTS WITH RESPECT TO 13 COST-SHARING FOR CERTAIN INSULIN PRODUCTS.

14 “(a) In General.—For plan years beginning on or after January 1, 2023, a group health  
15 plan or health insurance issuer offering group health insurance coverage shall provide  
16 coverage of selected insulin products, and with respect to such products, shall not—

17 “(1) apply any deductible; or

18 “(2) impose any cost-sharing in excess of, per 30-day supply—

19 “(A) for any applicable plan year beginning before January 1, 2024, \$35; or

20 “(B) for any plan year beginning on or after January 1, 2024, the lesser of—

21 “(i) \$35; or

22 “(ii) the amount equal to 25 percent of the negotiated price of the selected  
23 insulin product net of all price concessions received by or on behalf of the  
24 plan or coverage, including price concessions received by or on behalf of  
25 third-party entities providing services to the plan or coverage, such as  
26 pharmacy benefit management services.

27 “(b) Definitions.—In this section:

28 “(1) SELECTED INSULIN PRODUCTS.—The term ‘selected insulin products’ means at  
29 least one of each dosage form (such as vial, pump, or inhaler dosage forms) of each  
30 different type (such as rapid-acting, short-acting, intermediate-acting, long-acting,  
31 ultra long-acting, and premixed) of insulin (as defined below), when available, as  
32 selected by the group health plan or health insurance issuer.

33 “(2) INSULIN DEFINED.—The term ‘insulin’ means insulin that is licensed under  
34 subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262) and  
35 continues to be marketed under such section, including any insulin product that has  
36 been deemed to be licensed under section 351(a) of such Act pursuant to section  
37 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (Public Law  
38 111–148) and continues to be marketed pursuant to such licensure.

1 **“(c) Out-of-network Providers.—Nothing in this section requires a plan or issuer that**  
2 **has a network of providers to provide benefits for selected insulin products described in**  
3 **this section that are delivered by an out-of-network provider, or precludes a plan or issuer**  
4 **that has a network of providers from imposing higher cost-sharing than the levels specified**  
5 **in subsection (a) for selected insulin products described in this section that are delivered by**  
6 **an out-of-network provider.**

7 **“(d) Rule of Construction.—Subsection (a) shall not be construed to require coverage of,**  
8 **or prevent a group health plan or health insurance coverage from imposing cost-sharing**  
9 **other than the levels specified in subsection (a) on, insulin products that are not selected**  
10 **insulin products, to the extent that such coverage is not otherwise required and such cost-**  
11 **sharing is otherwise permitted under Federal and applicable State law.**

12 **“(e) Application of Cost-sharing Towards Deductibles and Out-of-pocket Maximums.—**  
13 **Any cost-sharing payments made pursuant to subsection (a)(2) shall be counted toward any**  
14 **deductible or out-of-pocket maximum that applies under the plan or coverage.”.**

15 **(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee**  
16 **Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by**  
17 **inserting after the item relating to section 725 the following:**

18 **“Sec.726.Requirements with respect to cost-sharing for certain insulin products.”.**

19 **(e) Internal Revenue Code.—**

20 **(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of**  
21 **1986 is amended by adding at the end the following new section:**

22 **“SEC. 9826. REQUIREMENTS WITH RESPECT TO**  
23 **COST-SHARING FOR CERTAIN INSULIN PRODUCTS.**

24 **“(a) In General.—For plan years beginning on or after January 1, 2023, a group health**  
25 **plan shall provide coverage of selected insulin products, and with respect to such products,**  
26 **shall not—**

27 **“(1) apply any deductible; or**

28 **“(2) impose any cost-sharing in excess of, per 30-day supply—**

29 **“(A) for any applicable plan year beginning before January 1, 2024, \$35; or**

30 **“(B) for any plan year beginning on or after January 1, 2024, the lesser of—**

31 **“(i) \$35; or**

32 **“(ii) the amount equal to 25 percent of the negotiated price of the selected**  
33 **insulin product net of all price concessions received by or on behalf of the**  
34 **plan, including price concessions received by or on behalf of third-party**  
35 **entities providing services to the plan, such as pharmacy benefit management**  
36 **services.**

37 **“(b) Definitions.—In this section:**

38 **“(1) SELECTED INSULIN PRODUCTS.—The term ‘selected insulin products’ means at**  
39 **least one of each dosage form (such as vial, pump, or inhaler dosage forms) of each**

1 different type (such as rapid-acting, short-acting, intermediate-acting, long-acting,  
2 ultra long-acting, and premixed) of insulin (as defined below), when available, as  
3 selected by the group health plan.

4 “(2) INSULIN DEFINED.—The term ‘insulin’ means insulin that is licensed under  
5 subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262) and  
6 continues to be marketed under such section, including any insulin product that has  
7 been deemed to be licensed under section 351(a) of such Act pursuant to section  
8 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (Public Law  
9 111–148) and continues to be marketed pursuant to such licensure.

10 “(c) Out-of-network Providers.—Nothing in this section requires a plan that has a  
11 network of providers to provide benefits for selected insulin products described in this  
12 section that are delivered by an out-of-network provider, or precludes a plan that has a  
13 network of providers from imposing higher cost-sharing than the levels specified in  
14 subsection (a) for selected insulin products described in this section that are delivered by an  
15 out-of-network provider.

16 “(d) Rule of Construction.—Subsection (a) shall not be construed to require coverage of,  
17 or prevent a group health plan from imposing cost-sharing other than the levels specified  
18 in subsection (a) on, insulin products that are not selected insulin products, to the extent  
19 that such coverage is not otherwise required and such cost-sharing is otherwise permitted  
20 under Federal and applicable State law.

21 “(e) Application of Cost-sharing Towards Deductibles and Out-of-pocket Maximums.—  
22 Any cost-sharing payments made pursuant to subsection (a)(2) shall be counted toward any  
23 deductible or out-of-pocket maximum that applies under the plan.”.

24 (2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100  
25 of such Code is amended by adding at the end the following new item:

26 “Sec.9826.Requirements with respect to cost-sharing for certain insulin products.”.

27 (f) Implementation.—The Secretary of Health and Human Services, the Secretary of  
28 Labor, and the Secretary of the Treasury shall implement the provisions of this section,  
29 including the amendments made by this section, through subregulatory guidance or  
30 program instruction.