Purpose: In the nature of a substitute.

H. R. 5376

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO BE PROPOSED BY _____

Viz:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inflation Reduction Act of 2022".

TITLE I—COMMITTEE ON FINANCE

Subtitle A—Deficit Reduction

SEC. 10001. AMENDMENT OF 1986 CODE.

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

PART 1—CORPORATE TAX REFORM

SEC. 10101. CORPORATE ALTERNATIVE MINIMUM TAX.

(a) Imposition of Tax.—

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

"(2) CORPORATIONS.—

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

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

(as determined under section 56A), over

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

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

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

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

"(1) APPLICABLE CORPORATION DEFINED.—

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

"(i) are prior to such taxable year, and

"(ii) end after December 31, 2021.

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

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

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

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

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

"(C) EXCEPTION.—Notwithstanding subparagraph (A), the term 'applicable corporation' shall not include any corporation which otherwise meets the requirements of subparagraph (A) if—

"(i) such corporation—

"(I) has a change in ownership, or

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

financial statement income test of subparagraph (B), and

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

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

"(D) SPECIAL RULES FOR DETERMINING APPLICABLE CORPORATION ~~STATUS.—~~ ~~SOLELY~~ **STATUS.—**

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

"(ii) MODIFICATIONS.—For purposes of this subparagraph—

"(I) section 52(a) shall be applied by substituting 'component members' for 'members', and

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

"(iii) COMPONENT MEMBER.—For purposes of this subparagraph, the term 'component member' has the meaning given such term by section 1563(b), except that the determination shall be made without regard to section 1563(b)(2).

"(E) OTHER SPECIAL RULES.—

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

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

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

"(2) SPECIAL RULE FOR FOREIGN-PARENTED ~~CORPORATIONS.—~~ **MULTINATIONAL GROUPS.—**

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

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

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

"(ii) such entities are included in the same applicable financial statement with respect to such year, and

"(iii) either—

"(I) the common parent of such entities is a foreign corporation, or

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

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

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

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

"(ii) the entities to be included in a foreign-parented multinational group, and

"(iii) the common parent of a foreign-parented multinational group.

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

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

"'(B) addressing the application of this subsection to a corporation that experiences a change in ownership.".

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

(4) CONFORMING AMENDMENTS.—

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

(B)(i) Section 55(b)(1) is amended—

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

"(1) NONCORPORATE TAXPAYERS.—In the case of a taxpayer other than a corporation—", and

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

"(D) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

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

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

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

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

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

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

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

"(5) For alternative minimum tax, see section 55.".

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

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

"(A) the sum of—

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

applicable, plus

"(ii) the tax imposed by section 55, plus

"(iii) the tax imposed by section 59A, over".

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

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

"(ii) the tax imposed by section 55,".

(b) Adjusted Financial Statement Income.—

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

"SEC. 56A. ADJUSTED FINANCIAL STATEMENT INCOME.

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

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

"(c) General Adjustments.—

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

"(2) SPECIAL RULES FOR RELATED ENTITIES.—

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

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

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

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

"(D) TREATMENT OF PARTNERSHIPS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(B) COVERED BENEFIT PLAN.—For purposes of this paragraph, the term 'covered benefit plan' means—

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

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

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

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

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

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

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

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

"(B) appropriately adjusted—

"(i) to disregard any amount of depreciation expense that is taken into account on the taxpayer's applicable financial statement with respect to such property, and

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

"(14) QUALIFIED WIRELESS SPECTRUM.—

"(A) IN GENERAL.—Adjusted financial statement income shall be—

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

"(ii) appropriately adjusted—

"(I) to disregard any amount of amortization expense that is taken into account on the taxpayer's applicable financial statement with respect to such qualified wireless spectrum, and

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

"(B) QUALIFIED WIRELESS SPECTRUM.—For purposes of this paragraph, the term 'qualified wireless spectrum' means wireless spectrum which—

"(i) is used in the trade or business of a wireless telecommunications carrier, and

"(ii) was acquired after December 31, 2007, and before the date of enactment of this section.

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

"(A) to prevent the omission or duplication of any item, and

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

"(d) Deduction for Financial Statement Net Operating Loss.—

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

"(A) the aggregate amount of financial statement net operating loss carryovers to the taxable year, or

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

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

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

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

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

"Sec.56A.Adjusted financial statement income.".

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

"(l) Corporate AMT Foreign Tax Credit.—

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

"(A) the lesser of—

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

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

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

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

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

"(i) taken into account on the applicable corporation's applicable financial statement, and

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

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

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

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

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

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

"(i) the first sentence of paragraph (1) shall be applied by substituting '25 percent of the taxpayer's net income tax as exceeds $25,000' for 'the greater of' and all that follows,

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

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

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

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

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

"(1) subsection (b)(1) shall be applied by substituting 'the net minimum tax for all prior taxable years beginning after 2022' for 'the adjusted net minimum tax imposed for all prior taxable years beginning after 1986', and

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

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

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

(B) by striking paragraph (3).

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

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

~~SEC. 10201. MODIFICATION OF RULES FOR PARTNERSHIP INTERESTS HELD IN CONNECTION WITH THE PERFORMANCE OF SERVICES.~~ **SEC. 10201. EXCISE TAX ON REPURCHASE OF CORPORATE STOCK.**

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

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

"Sec.4501.Repurchase of corporate stock.

"SEC. 4501. REPURCHASE OF CORPORATE STOCK.

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

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

"(c) Repurchase.—For purposes of this section—

"(1) IN GENERAL.—The term ~~'net applicable partnership gain' means—~~

~~"(A) the taxpayer's net long-term capital gain determined by only taking into account gains and losses with respect to one or more applicable partnership interests described in subsection (a), and~~

~~"(B) any other amounts which are—~~

~~"(i) includible in the gross income of the taxpayer with respect to one or more such applicable partnership interests, and~~

~~"(ii) treated as capital gain or subject to tax at the rate applicable to capital gain.~~

~~"(2) Holding period exception.—~~

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

~~"(i) The date on which the taxpayer acquired substantially all of the applicable partnership interest with respect to which the amount is realized.~~

~~"(ii) The date on which the partnership in which such applicable partnership interest is held acquired substantially all of the assets held by such partnership.~~

~~"(iii) If the partnership described in clause (i) owns~~ **'repurchase' means—**

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

"(B) any transaction determined by the Secretary to be economically similar to a transaction described in subparagraph (A).

"(2) TREATMENT OF PURCHASES BY SPECIFIED AFFILIATES.—

"(A) IN GENERAL.—The acquisition of stock of a covered corporation by a

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

"(B) SPECIFIED AFFILIATE.—For purposes of this section, the term 'specified affiliate' means, with respect to any corporation—

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

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

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

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

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

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

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

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

~~(1) in paragraph (1), by striking "to such other entity" and inserting "with respect to a trade or business that is not an applicable trade or business",~~

~~(2) in paragraph (3), by striking "an interest in a partnership to the extent of the partnership's proportionate interest in any of the foregoing" and inserting "except as otherwise provided by the Secretary, an interest in a partnership if such partnership has a direct or indirect interest in any of the foregoing", and~~

~~(3) in paragraph (4)—~~

~~(A) by striking "The term" and inserting "Except as otherwise provided by the Secretary, the term", and~~

~~(B) in subparagraph (A), by striking "corporation" and inserting "C corporation".~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

expatriated entity.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) APPLICABLE FOREIGN CORPORATION.—The term 'applicable foreign corporation' means any foreign corporation the stock of which is traded on an established securities market (within the meaning of section 7704(b)(1)).

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

"(C) EXPATRIATED ENTITY.—The term 'expatriated entity' has the meaning given such term by section 7874(a)(2)(A).

"(e) Exceptions.—Subsection (a) shall not apply—

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

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

"(3) in any case in which the total value of the stock repurchased during the taxable year does not exceed $1,000,000,

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

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

"(6) to the extent that the repurchase is treated as a dividend for purposes of this title.

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

"(1) to prevent the abuse of the exceptions provided by subsection (e),

"(2) to address special classes of stock and preferred stock, and

"(3) for the application of the rules under subsection (d).".

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

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

“Chapter 37—Repurchase of Corporate Stock”.

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

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

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

SEC. 10301. ENHANCEMENT OF INTERNAL REVENUE SERVICE RESOURCES.

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

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

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

~~(i)~~**(A)** IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

~~(2) Multi-year operational plan.—~~

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

~~(B) Quarterly updates.—~~

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

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

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

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

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

~~(C) Reduction in appropriation.—~~

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

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

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

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

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

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

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

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

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

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

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

Subtitle B—Prescription Drug Pricing Reform

PART 1—LOWERING PRICES THROUGH DRUG PRICE NEGOTIATION

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

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

"PART E—PRICE NEGOTIATION PROGRAM TO LOWER PRICES FOR CERTAIN HIGH-PRICED SINGLE SOURCE DRUGS

"SEC. 1191. ESTABLISHMENT OF PROGRAM.

"(a) In General.—The Secretary shall establish a Drug Price Negotiation Program (in this part referred to as the 'program'). Under the program, with respect to each price applicability period, the Secretary shall—

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

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

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

in accordance with section 1194;

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

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

"(1) INITIAL PRICE APPLICABILITY YEAR.—The term 'initial price applicability year' means a year (beginning with 2026).

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

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

"(4) NEGOTIATION PERIOD.—The term 'negotiation period' means, with respect to an initial price applicability year with respect to a selected drug, the period—

"(A) beginning on the sooner of—

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

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

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

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

"(1) **MANUFACTURER.—The term 'manufacturer' has the meaning given that term in section 1847A(c)(6)(A).**

"(2) MAXIMUM FAIR PRICE ELIGIBLE INDIVIDUAL.—The term 'maximum fair price eligible individual' means, with respect to a selected drug—

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

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

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

~~"(3)~~**"(4)** REFERENCE PRODUCT.—The term 'reference product' has the meaning given such term in section 351(i) of the Public Health Service Act.

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

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

"(6) UNIT.—The term 'unit' means, with respect to a drug or biological product, the lowest identifiable amount (such as a capsule or tablet, milligram of molecules, or grams) of the drug or biological product that is dispensed or furnished.

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

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

"(2) Subsection (b)(4) shall be applied—

"(A) in subparagraph (A)(ii), by substituting 'October 1, 2023' for 'February 28 following the selected drug publication date with respect to such selected drug'; and

"(B) in subparagraph (B), by substituting 'August 1, 2024' for 'November 1 of the year that begins 2 years prior to the initial price applicability year'.

"(3) Section 1192 shall be applied—

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

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

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

such drug publication date), with respect to such year'.

"(4) Section 1193(a) shall be applied by substituting 'October 1, 2023' for 'February 28 following the selected drug publication date with respect to such selected ~~drug '~~ **drug'**.

"(5) Section 1194(b)(2) shall be applied—

"(A) in subparagraph (A), by substituting 'October 2, 2023' for 'March 1 of the year of the selected drug publication date, with respect to the selected drug';

"(B) in subparagraph (B), by substituting 'February 1, 2024' for 'the June 1 following the selected drug publication date'; and

"(C) in subparagraph (E), by substituting 'August 1, 2024' for 'the first day of November following the selected drug publication date, with respect to the initial price applicability year '.

"(6) Section 1195(a)**(1)** shall be **applied** ~~applied—~~

~~"(A) in paragraph (1),~~ by substituting 'September 1, 2024' for 'November 30 of the year that is 2 years ~~prior to such initial price applicability year'; and~~

~~"(B) in paragraph (2), by substituting 'March 1, 2025' for 'March 1 of the year~~ prior to such initial price applicability year'.

"SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS AS SELECTED DRUGS.

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

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

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

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

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

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

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

"(b) Selection of Drugs.—

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

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

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

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

"(c) Selected Drug.—

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

"(A) is approved or licensed (as applicable)—

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

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

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

"(2) CLARIFICATION.—A negotiation-eligible drug—

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

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

year;

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

"(d) Negotiation-Eligible Drug.—

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

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

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

"(2) EXCEPTION FOR SMALL BIOTECH DRUGS.—

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

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

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

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

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

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

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

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

"(B) CLARIFICATIONS RELATING TO MANUFACTURERS.—

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

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

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

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

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

"(3) CLARIFICATIONS AND DETERMINATIONS.—

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

"(i) drugs that are already selected drugs; and

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

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

"(e) Qualifying Single Source Drug.—

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

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

"(A) DRUG PRODUCTS.—A drug—

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

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

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

"(B) BIOLOGICAL PRODUCTS.—A biological product—

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

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

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

"(2) TREATMENT OF AUTHORIZED GENERIC DRUGS.—

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

"(B) AUTHORIZED GENERIC DRUG DEFINED.—For purposes of this paragraph, the term 'authorized generic drug' means—

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

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

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

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

"(3) EXCLUSIONS.—In this part, the term 'qualifying single source drug' does not include any of the following:

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

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

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

~~"(i) with respect to 2021, $200,000,000; or~~ **in accordance with subsection (d)(3)(B)—**

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

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

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

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

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

"SEC. 1193. MANUFACTURER AGREEMENTS.

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

under which—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.

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

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

1193(a)(1); and

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

"(b) Negotiation Process Requirements.—

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

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

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

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

"(C) RESPONSE TO INITIAL OFFER.—

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

"(ii) COUNTEROFFER REQUIREMENTS.—If a manufacturer proposes a counteroffer, such counteroffer—

"(I) shall be in writing; and

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

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

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

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

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

and year; or

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

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

"(c) Ceiling for Maximum Fair Price.—

"(1) GENERAL CEILING.—

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

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

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

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

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

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

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

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

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

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

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

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

"(B) a fraction—

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

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

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

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

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

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

"(4) EXTENDED-MONOPOLY DRUG DEFINED.—

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

"(B) EXCLUSIONS.—The term 'extended-monopoly drug' shall not include any of the following:

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

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

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

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

"(5) LONG-MONOPOLY DRUG DEFINED.—

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

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

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

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

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

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

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

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

~~"(C) Unit~~ costs of production and distribution of the drug.

~~"(D)~~**"(C)** Prior Federal financial support for novel therapeutic discovery and

development with respect to the drug.

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

~~"(F) National sales data for the drug.~~**"(E) Market data and revenue and sales volume data for the drug in the United States.**

~~"(G) Information on clinical trials for the drug.~~

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

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

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

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

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

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

"(f) Renegotiation Process.—

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

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

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

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

"(i) is not an extended-monopoly or a long-monopoly drug; and

"(ii) for which there is a change in status to that of an extended-monopoly drug.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~"(g) Limitation.—~~

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

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

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

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

"SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.

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

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

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

"(b) Updates.—

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

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

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

price.

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

"SEC. 1196. ADMINISTRATIVE DUTIES AND COMPLIANCE MONITORING.

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

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

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

"(B) any other discounts.

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

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

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

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

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

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

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

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

program is entered into;

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

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

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

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

"SEC. 1197. CIVIL MONETARY PENALTIES.

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

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

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

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

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

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

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

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

1128A(a).

“SEC. 1198. LIMITATION ON ADMINISTRATIVE AND JUDICIAL REVIEW.

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

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

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

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

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

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

(1) UNDER MEDICARE.—

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

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

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

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

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

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

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

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

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

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

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

(i) in subparagraph (B), by inserting ", subject to subparagraph (D)," after "negotiated prices"; and

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

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

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

"(I) REQUIRED INCLUSION OF SELECTED DRUGS.—

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

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

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

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

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

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

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

1860D–12(b)(8).".

(G) CONDITIONS FOR COVERAGE.—

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

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

(II) by striking "Agreements.—Subsection" and inserting the following: "Agreements.—

"(1) IN GENERAL.—Subject to paragraph (2), subsection"; and

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

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

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

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

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

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

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

(A) in clause (i)(VI), by striking "any prices charged" and inserting "subject to clause (ii)(V), any prices charged"; and

(B) in clause (ii)—

(i) in subclause (III), by striking "; and" at the end;

(ii) in subclause (IV), by striking the period at the end and inserting "; and"; and

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

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

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

(A) in subclause (IV) by striking "; and" at the end;

(B) in subclause (V) by striking the period at the end and inserting "; and"; and

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

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

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

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

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

(1) in section 1192—

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

(B) in subsection (b)—

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

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

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

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

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

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

"(1) APPLICATION.—

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

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

"(B) REQUEST REQUIRED.—

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

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

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

"(ii) INFORMATION AND DOCUMENTS.—

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

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

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

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

"(III) ITEMS DESCRIBED.—The items described in this clause are the following:

**** 1** ~~"(i)~~**"(aa)** The manufacturing schedule for such biosimilar biological product submitted to the Food and Drug Administration

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

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

"(C) AGGREGATION RULE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

included as a selected drug on such list; and

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

"(D) LIMITATIONS ON DELAYS.—

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

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

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

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

"(I) is the same as the manufacturer of the reference product described in such paragraph or is treated as being the same pursuant to paragraph (1)(C); **or**~~"(II) has—~~

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

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

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

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

"(aa) requires or incentivizes the manufacturer of the biosimilar biological product to submit a request described in paragraph (1)(B)**; or**.

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

~~"(3) High likelihood.—~~

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

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

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

~~"(B) Items described.—The items described in this subparagraph are the following:~~

~~* 1 "(i) The manufacturing schedule for such biosimilar biological product submitted to the Food and Drug Administration during its review of the application under such section 351(k).~~

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

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

"(4) REBATE.—

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

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

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

"(I) 75 percent of the amount by which—

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

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

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

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

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

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

"(I) 80 percent of the amount by which—

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

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

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

section 1194 for such biological product under such agreement; or

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

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

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

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

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

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

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

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

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

~~"(6)~~ DEFINITIONS OF BIOSIMILAR BIOLOGICAL PRODUCT.—In this subsection, the term 'biosimilar biological product' has the ~~meanings~~ **meaning** given such term in section 1847A(c)(6)."; ~~and~~

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

(2) in section 1193(a)(4)—

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

(B) in subparagraph (A), by striking "and" at the end;

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

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

(3) in section 1196(a)(7), by **striking "section 1192(d)(2)(B)" and inserting "subsections (d)(2)(B) and** ~~inserting ", 1192(f)(1)(C)," after "sections 1192(d)(2)(B)"; and~~

(f)(1)(C) of section 1192";

(4) in section 1197—

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

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

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

(5) in section 1198(b)(2), by inserting "the application of section 1192(f)," after "section 1192(e)".~~.~~

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

~~(1) in clause (vi), by striking "and" at the end;~~

~~* 10 (2) in clause (vii), by striking the period at the end and inserting "; and"; and~~

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

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

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

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

SEC. 11003. ~~SELECTED DRUG MANUFACTURER~~ EXCISE TAX IMPOSED **ON DRUG MANUFACTURERS** DURING NONCOMPLIANCE PERIODS.

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

"CHAPTER ~~50A—SELECTED DRUGS~~ **50A—DESIGNATED DRUGS**

~~"Sec.5000D.Selected~~**"Sec.5000D.Designated** drugs during noncompliance periods.

"SEC. 5000D. ~~SELECTED~~ **DESIGNATED** DRUGS DURING NONCOMPLIANCE PERIODS.

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

"(1) such tax, divided by

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

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

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

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

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

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

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

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

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

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

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

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

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

"(c) **Suspension of Tax.—**

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

"(A) beginning on the first date on which—

"(i) the notice of terminations of all applicable agreements of the manufacturer have been received by the Secretary of Health and Human Services, and

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

"(B) ending on the last day of February following the earlier of—

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

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

"(2) APPLICABLE AGREEMENT.—For purposes of this subsection, the term

'applicable agreement' means the following:

"(A) An agreement under—

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

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

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

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

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

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

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

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

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

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

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

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

"(f) Special Rules.—

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

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

~~"(f) Special Rules.—~~

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

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

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

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

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

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

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

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

"Chapter ~~50A—Selected~~ **50A—Designated** Drugs".

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

SEC. 11004. FUNDING.

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

PART 2—PRESCRIPTION DRUG INFLATION REBATES

SEC. 11101. MEDICARE PART B REBATE BY MANUFACTURERS.

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

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

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

"(1) REQUIREMENTS.—

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

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

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

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

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

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

"(2) PART B REBATABLE DRUG DEFINED.—

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

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

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

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

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

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

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

"(3) REBATE AMOUNT.—

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

"(i) the total number of ~~billing~~ units determined under subparagraph (B) for the billing and payment code of such drug; and

"(ii) the amount (if any) by which—

"(I) the amount equal to—

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

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

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

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

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

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

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

~~"(ii) Convert the units determined under clause (i) to billing units for the~~**"(ii)**

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

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

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

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

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

"(i) the payment amount for the billing and payment code for such drug in the payment amount benchmark quarter (as defined in subparagraph (D)); increased by

"(ii) the percentage by which the rebate period CPI–U (as defined in subparagraph (F)) for the calendar quarter exceeds the benchmark period CPI–U (as defined in subparagraph (E)).

"(D) PAYMENT AMOUNT BENCHMARK QUARTER.—The term 'payment amount benchmark quarter' means the calendar quarter beginning July 1, 2021.

"(E) BENCHMARK PERIOD CPI–U.—The term 'benchmark period CPI–U' means the consumer price index for all urban consumers (United States city average) for January 2021.

"(F) REBATE PERIOD CPI–U.—The term 'rebate period CPI–U' means, with respect to a calendar quarter described in subparagraph (C), the greater of the benchmark period CPI–U and the consumer price index for all urban consumers (United States city average) for the first month of the calendar quarter that is two calendar quarters prior to such described calendar quarter.

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

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

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

"(4) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXEMPTION.—

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

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

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

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

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

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

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

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

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

~~(A) in paragraph (4), by striking at the end "and";~~

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

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

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

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

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

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

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

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

(1) in subsection (a)(1)—

(A) in subparagraph (G), by inserting ", subject to subsection (i)(9)," after "the amounts paid";

(B) in subparagraph (S), by striking "with respect to" and inserting "subject to subparagraph (EE), with respect to";

(C) by striking "and (DD)" and inserting "(DD)"; and

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

section 1847A(i)(5)(B)";

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

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

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

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

(c) Conforming Amendments.—

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

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

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

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

(A) in subclause (V), by striking "and" at the end;

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

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

"(VII) rebates paid by manufacturers under section 1847A(i); and".

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

SEC. 11102. MEDICARE PART D REBATE BY MANUFACTURERS.

(a) In General.—Part D of title XVIII of the Social Security Act is amended by inserting after section 1860D–14A (42 U.S.C. 1395w–114a) the following new section:

"SEC. 1860D–14B. MANUFACTURER REBATE FOR CERTAIN DRUGS WITH PRICES INCREASING FASTER THAN INFLATION.

"(a) Requirements.—

"(1) SECRETARIAL PROVISION OF INFORMATION.—Not later than 9 months after the end of each applicable period (as defined in subsection (g)(7)), subject to paragraph (3), the Secretary shall, for each part D rebatable drug, report to each manufacturer of such part D rebatable drug the following for such period:

"(A) The amount (if any) of the excess annual manufacturer price increase described in subsection (b)(1)(A)(ii) for each dosage form and strength with respect to such drug and period.

"(B) The rebate amount specified under subsection (b) for each dosage form and strength with respect to such drug and period.

"(2) MANUFACTURER REQUIREMENTS.—For each applicable period, the manufacturer of a part D rebatable drug, for each dosage form and strength with respect to such drug, not later than 30 days after the date of receipt from the Secretary of the information described in paragraph (1) for such period, shall provide to the Secretary a rebate that is equal to the amount specified in subsection (b) for such dosage form and strength with respect to such drug for such period.

"(3) TRANSITION RULE FOR REPORTING.—The Secretary may, for each rebatable covered part D drug, delay the timeframe for reporting the information and rebate amount described in subparagraphs (A) and (B) of such paragraph for the applicable periods beginning October 1, 2022, and October 1, 2023, until not later than December 31, 2025.

"(b) Rebate Amount.—

"(1) IN GENERAL.—

"(A) CALCULATION.—For purposes of this section, the amount specified in this subsection for a dosage form and strength with respect to a part D rebatable drug and applicable period is, subject to subparagraph (C), paragraph (5)(B), and paragraph (6), the estimated amount equal to the product of—

"(i) subject to subparagraph (B) of this paragraph, the total number of units ~~that are used to calculate the average manufacturer price~~ of such dosage form and strength ~~with respect to such part D rebatable drug, as reported by the manufacturer of such drug under section 1927 for each month, with respect to such~~ **for each rebatable covered part D drug dispensed under this part during the applicable** period; and

"(ii) the amount (if any) by which—

"(I) the annual manufacturer price (as determined in paragraph (2)) paid for such dosage form and strength with respect to such part D rebatable drug for the period; exceeds

"(II) the inflation-adjusted payment amount determined under paragraph (3) for such dosage form and strength with respect to such part D rebatable drug for the period.

"(B) EXCLUDED UNITS.—For purposes of subparagraph (A)(i), **beginning with plan year 2026,** the Secretary shall exclude from the total number of units for a dosage form and strength with respect to a part D rebatable drug, with respect to an applicable period, **units** ~~the following:~~

~~"(i) Units~~ of each dosage form and strength of such part D rebatable drug for which **the manufacturer provides a discount under the program under section 340B of the Public Health Service Act.** ~~payment was made under a State plan under title XIX (or waiver of such plan), as reported by States under section 1927(b)(2)(A).~~

~~"(ii) Units of each dosage form and strength of such part D rebatable drug for which a rebate is paid under section 1847A(i).~~

"(C) REDUCTION OR WAIVER FOR SHORTAGES AND SEVERE SUPPLY CHAIN DISRUPTIONS.—The Secretary shall reduce or waive the amount under subparagraph (A) with respect to a part D rebatable drug and an applicable period—

"(i) in the case of a part D rebatable drug that is described as currently in shortage on the shortage list in effect under section 506E of the Federal Food, Drug, and Cosmetic Act at any point during the applicable period;

"(ii) in the case of a generic part D rebatable drug (described in subsection (g)(1)(C)(ii)) or a biosimilar (defined as a biological product licensed under section 351(k) of the Public Health Service Act), when the Secretary determines there is a severe supply chain disruption during the applicable period, such as that caused by a natural disaster or other unique or unexpected event; and

"(iii) in the case of a generic Part D rebatable drug (as so described), if the Secretary determines that without such reduction or waiver, the drug is likely to be described as in shortage on such shortage list during a subsequent applicable period.

"(2) DETERMINATION OF ANNUAL MANUFACTURER PRICE.—The annual manufacturer price determined under this paragraph for a dosage form and strength, with respect to a part D rebatable drug and an applicable period, is the sum of the products of—

"(A) the average manufacturer price (as defined in subsection (g)(6)) of such dosage form and strength, as calculated for a unit of such drug, with respect to each of the calendar quarters of such period; and

"(B) the ratio of—

"(i) the total number of units of such dosage form and strength reported under section 1927 with respect to each such calendar quarter of such period; to

"(ii) the total number of units of such dosage form and strength reported under section 1927 with respect to such period, as determined by the Secretary.

"(3) DETERMINATION OF INFLATION-ADJUSTED PAYMENT AMOUNT.—The inflation-adjusted payment amount determined under this paragraph for a dosage form and strength with respect to a part D rebatable drug for an applicable period, subject to paragraph (5), is —

"(A) the benchmark period manufacturer price determined under paragraph (4) for such dosage form and strength with respect to such drug and period; increased by

"(B) the percentage by which the applicable period CPI–U (as defined in subsection (g)(5)) for the period exceeds the benchmark period CPI–U (as defined in subsection (g)(4)).

"(4) DETERMINATION OF BENCHMARK PERIOD MANUFACTURER PRICE.—The benchmark period manufacturer price determined under this paragraph for a dosage form and strength, with respect to a part D rebatable drug and an applicable period, is the sum of the products of—

"(A) the average manufacturer price (as defined in subsection (g)(6)) of such dosage form and strength, as calculated for a unit of such drug, with respect to each of the calendar quarters of the payment amount benchmark period (as defined in subsection (g)(3)); and

"(B) the ratio of—

"(i) the total number of units reported under section 1927 of such dosage form and strength with respect to each such calendar quarter of such payment amount benchmark period; to

"(ii) the total number of units reported under section 1927 of such dosage form and strength with respect to such payment amount benchmark period.

"(5) SPECIAL TREATMENT OF CERTAIN DRUGS AND EXEMPTION.—

"(A) SUBSEQUENTLY APPROVED DRUGS.—In the case of a part D rebatable drug first approved or licensed by the Food and Drug Administration after October 1, 2021, subparagraphs (A) and (B) of paragraph (4) shall be applied as if the term 'payment amount benchmark period' were defined under subsection (g)(3) as the first calendar year beginning after the day on which the drug was first marketed and subparagraph (B) of paragraph (3) shall be applied as if the term 'benchmark period CPI–U' were defined under subsection (g)(4) as if the reference to 'January 2021' under such subsection were a reference to 'January of the first year beginning after the date on which the drug was first marketed'.

"(B) TREATMENT OF NEW FORMULATIONS.—

"(i) IN GENERAL.—In the case of a part D rebatable drug that is a line extension of a part D rebatable drug that is an oral solid dosage form, the Secretary shall establish a formula for determining the rebate amount under paragraph (1) and the inflation adjusted payment amount under paragraph (3) with respect to such part D rebatable drug and an applicable period, consistent with the formula applied under subsection (c)(2)(C) of section 1927 for determining a rebate obligation for a rebate period under such section.

"(ii) LINE EXTENSION DEFINED.—In this subparagraph, the term 'line extension' means, with respect to a part D rebatable drug, a new formulation of the drug, such as an extended release formulation, but does not include an abuse-deterrent formulation of the drug (as determined by the Secretary), regardless of whether such abuse-deterrent formulation is an extended release formulation.

"(C) SELECTED DRUGS.—In the case of a part D rebatable drug that is a selected drug (as defined in section 1192(c)) with respect to a price applicability period (as defined in section 1191(b)(2)), in the case such drug is no longer considered to be a selected drug under section 1192(c), for each applicable period (as defined under subsection (g)(7)) beginning after the price applicability period with respect to such drug, subparagraphs (A) and (B) of paragraph (4) shall be applied as if the term 'payment amount benchmark period' were defined under subsection (g)(3) as the last year beginning during such price applicability period with respect to such selected drug and subparagraph (B) of paragraph (3) shall be applied as if the term 'benchmark period CPI–U' were defined under subsection (g)(4) as if the reference to 'January 2021' under such subsection were a reference to 'January of the last year beginning during such price applicability period with respect to such drug'.

"(6) RECONCILIATION IN CASE OF REVISED ~~AMP REPORTS.—THE~~ **INFORMATION.—The** Secretary shall provide for a method and process under which, in the case ~~of a manufacturer of a part D rebatable drug that~~ **where a PDP sponsor of a prescription drug plan or an MA organization offering an MA–PD plan** submits revisions to ~~information submitted under section 1927 by the manufacturer with respect to such drug~~ **the number of units of a rebatable covered part D drug dispensed**, the Secretary determines, pursuant to such revisions, adjustments, if any, to the calculation of the amount specified in this subsection for a dosage form and strength with respect to such part D rebatable drug and an applicable period and reconciles any overpayments or underpayments in amounts paid as rebates under this subsection. Any identified underpayment shall be rectified by the manufacturer not later than 30 days after the date of receipt from the Secretary of information on such underpayment.

"(c) Rebate Deposits.—Amounts paid as rebates under subsection (b) shall be deposited into the Medicare Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(d) Information.—For purposes of carrying out this section, the Secretary shall use information submitted ~~by~~ **by—**

"(1) manufacturers under section 1927(b)(3) ~~and information submitted by;~~

"(2) States under section 1927(b)(2)(A)**; and**

"(3) PDP sponsors of prescription drug plans and MA organization offering MA–PD plans under this part.

"(e) Civil Money Penalty.—If a manufacturer of a part D rebatable drug has failed to comply with the requirement under subsection (a)(2) with respect to such drug for an applicable period, the manufacturer shall be subject to~~, in accordance with a process established by the Secretary pursuant to regulations,~~ a civil money penalty in an amount equal to 125 percent of the amount specified in subsection (b) for such drug for such period. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(f) ~~No~~ **Limitation on** Administrative or Judicial Review.—There shall be no administrative or judicial review of **any of** the following:

"(1) The determination of units under this section.

"(2) The determination of whether a drug is a part D rebatable drug under this section.

"(3) The calculation of the rebate amount under this section.

"(g) Definitions.—In this section:

"(1) PART D REBATABLE DRUG.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'part D rebatable drug' means, with respect to an applicable period, a drug or biological described in subparagraph (C) that ~~would (without application of this section) be~~ **is** a covered part D drug (as such term is defined under section 1860D–2(e)).

"(B) EXCLUSION.—

"(i) IN GENERAL.—Such term shall, with respect to an applicable period, not include a drug or biological if the average annual total cost under this part for such period per individual who uses such a drug or biological, as determined by the Secretary, is less than, subject to clause (ii), $100, as determined by the Secretary using the most recent data available or, if data is not available, as estimated by the Secretary.

"(ii) INCREASE.—The dollar amount applied under clause (i)—

"(I) for the applicable period beginning October 1, 2023, shall be the dollar amount specified under such clause for the applicable period beginning October 1, 2022, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period beginning with October of 2023; and

"(II) for a subsequent applicable period, shall be the dollar amount specified in this clause for the previous applicable period, increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period beginning with October of the previous period.

Any dollar amount specified under this clause that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

"(C) DRUG OR BIOLOGICAL DESCRIBED.—A drug or biological described in this subparagraph is a drug or biological that, as of the first day of the applicable period involved, is—

"(i) a drug approved under a new drug application under section 505(c) of the Federal Food, Drug, and Cosmetic Act;

"(ii) a drug approved under an abbreviated new drug application under section 505(j) of the Federal Food, Drug, and Cosmetic Act, in the case where—

"(I) the reference listed drug approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act, including any 'authorized generic drug' (as that term is defined in section 505(t)(3) of the Federal Food, Drug, and Cosmetic Act), is not being marketed, as identified in the Food and Drug Administration's National Drug Code Directory;

"(II) there is no other drug approved under section 505(j) of the Federal Food, Drug, and Cosmetic Act that is rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations') and that is being marketed, as identified in the Food and Drug Administration's National Drug Code Directory;

"(III) the manufacturer is not a 'first applicant' during the '180-day exclusivity period', as those terms are defined in section 505(j)(5)(B)(iv) of the Federal Food, Drug, and Cosmetic Act; and

"(IV) the manufacturer is not a 'first approved applicant' for a competitive generic therapy, as that term is defined in section 505(j)(5)(B)(v) of the Federal Food, Drug, and Cosmetic Act; or

"(iii) a biological licensed under section 351 of the Public Health Service Act.

"(2) UNIT.—The term 'unit' means, with respect to a part D rebatable drug, the lowest dispensable amount (such as a capsule or tablet, milligram of molecules, or grams) of the part D rebatable drug, as reported under section 1927.

"(3) PAYMENT AMOUNT BENCHMARK PERIOD.—The term 'payment amount benchmark period' means the period beginning January 1, 2021, and ending in the month immediately prior to October 1, 2021.

"(4) BENCHMARK PERIOD CPI–U.—The term 'benchmark period CPI–U' means the consumer price index for all urban consumers (United States city average) for January 2021.

"(5) APPLICABLE PERIOD CPI–U.—The term 'applicable period CPI–U' means, with respect to an applicable period, the consumer price index for all urban consumers (United States city average) for the first month of such applicable period.

"(6) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' has the meaning, with respect to a part D rebatable drug of a manufacturer, given such term in section 1927(k)(1), with respect to a covered outpatient drug of a manufacturer for a rebate

period under section 1927.

"(7) APPLICABLE PERIOD.—The term 'applicable period' means a 12-month period beginning with October 1 of a year (beginning with October 1, 2022).

"(h) Implementation for 2022, 2023, and 2024.—The Secretary shall implement this section for 2022, 2023, and 2024 by program instruction or other forms of program guidance.".

(b) Conforming Amendments.—

(1) TO PART B ASP CALCULATION.—Section 1847A(c)(3) of the Social Security Act (42 U.S.C. 1395w–3a(c)(3)), as amended by section 11101(c)(1), is amended by striking "subsection (i) or section 1927" and inserting "subsection (i), section 1927, or section 1860D–14B".

(2) EXCLUDING PART D DRUG INFLATION REBATE FROM BEST PRICE.—Section 1927(c)(1)(C)(ii)(I) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)(ii)(I)), as amended by section 11101(c)(2), is amended by striking "or section 1847A(i)" and inserting ", section 1847A(i), or section 1860D–14B".

(3) COORDINATION WITH MEDICAID REBATE INFORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i)), as amended by ~~section~~ **sections 11002(b) and** 11101(c)(3), is amended by striking "or ~~to carry out section 1847B" and inserting "or to carry out section 1847B~~ **section 1192(f), including rebates under paragraph (4) of such section" and inserting ", section 1192(f), including rebates under paragraph (4) of such section,** or section 1860D–14B".

(4) EXCLUDING PART D DRUG INFLATION REBATES FROM AVERAGE MANUFACTURER PRICE.—Section 1927(k)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)(i)), as amended by section 11001(b)(3) and section 11101(c)(4), is amended by adding at the end the following new subclause:

(A) in subclause (VI), by striking "and" at the end;

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

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

"(VIII) rebates paid by manufacturers under section 1860D–14B.".

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

PART 3—PART D IMPROVEMENTS AND MAXIMUM OUT-OF-POCKET CAP FOR MEDICARE BENEFICIARIES

SEC. 11201. MEDICARE PART D BENEFIT REDESIGN.

(a) Benefit Structure Redesign.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), in the matter preceding clause (i), by inserting "for a year preceding 2025 and for costs above the annual deductible specified in paragraph (1) and up to the annual out-of-pocket threshold specified in paragraph (4)(B) for 2025 and each subsequent year" after "paragraph (3)";

(B) in subparagraph (C)—

(i) in clause (i), in the matter preceding subclause (I), by inserting "for a year preceding 2025," after "paragraph (4),"; and

(ii) in clause (ii)(III), by striking "and each subsequent year" and inserting "through 2024"; and

(C) in subparagraph (D)—

(i) in clause (i)—

(I) in the matter preceding subclause (I), by inserting "for a year preceding 2025," after "paragraph (4),"; and

(II) in subclause (I)(bb), by striking "a year after 2018" and inserting "each of years 2019 through 2024"; and

(ii) in clause (ii)(V), by striking "2019 and each subsequent year" and inserting "each of years 2019 through 2024";

(2) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by inserting "for a year preceding 2025," after "and (4),"; and

(B) in clause (ii), by striking "for a subsequent year" and inserting "for each of years 2007 through 2024"; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and moving the margin of each such redesignated item 2 ems to the right;

(II) in the matter preceding item (aa), as redesignated by subclause (I), by striking "is equal to the greater of—" and inserting "is equal to—

"(I) for a year preceding 2024, the greater of—";

(III) by striking the period at the end of item (bb), as redesignated by subclause (I), and inserting "; and"; and

(IV) by adding at the end the following:

"(II) for 2024 and each succeeding year, $0."; and

(ii) in clause (ii)—

(I) by striking "clause (i)(I)" and inserting "clause (i)(I)(aa)"; and

(II) by adding at the end the following new sentence: "The Secretary shall continue to calculate the dollar amounts specified in clause (i)(I)(aa), including with the adjustment under this clause, after 2023 for purposes of section 1860D–14(a)(1)(D)(iii).";

(B) in subparagraph (B)—

(i) in clause (i)—

(I) in subclause (V), by striking "or" at the end;

(II) in subclause (VI)—

(aa) by striking "for a subsequent year" and inserting "for each of years 2021 through 2024"; and

(bb) by striking the period at the end and inserting a semicolon; and

(III) by adding at the end the following new subclauses:

"(VII) for 2025, is equal to $2,000; or

"(VIII) for a subsequent year, is equal to the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (6) for the year involved."; and

(ii) in clause (ii), by striking "clause (i)(II)" and inserting "clause (i)";

(C) in subparagraph (C)—

(i) in clause (i), by striking "and for amounts" and inserting "and, for a year preceding 2025, for amounts"; and

(ii) in clause (iii)—

(I) by redesignating subclauses (I) through (IV) as items (aa) through (dd) and indenting appropriately;

(II) by striking "if such costs are borne or paid" and inserting "if such costs—

"(I) are borne or paid—"; and

(III) in item (dd), by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following new subclause:

"(II) for 2025 and subsequent years, are reimbursed through insurance, a group health plan, or certain other third party payment arrangements, but not including the coverage provided by a prescription drug plan or an MA–PD plan that is basic prescription drug coverage (as defined in subsection (a)(3)) or any payments by a manufacturer under the manufacturer discount program under section 1860D–14C."; and

(D) in subparagraph (E), by striking "In applying" and inserting "For each of years 2011 through 2024, in applying".

(b) Reinsurance Payment Amount.—Section 1860D–15(b) of the Social Security Act (42 U.S.C. 1395w–115(b)) is amended—

(1) in paragraph (1)—

(A) by striking "equal to 80 percent" and inserting "equal to—

"(A) for a year preceding 2025, 80 percent";

(B) in subparagraph (A), as added by subparagraph (A), by striking the period at the end and inserting "; and"; and

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

"(B) for 2025 and each subsequent year, the sum of—

"(i) with respect to applicable drugs (as defined in section 1860D–14C(g)(2)), an amount equal to 20 percent of such allowable reinsurance costs attributable to that portion of gross covered prescription drug costs as specified in paragraph (3) incurred in the coverage year after such individual has incurred costs that exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B); and

"(ii) with respect to covered part D drugs that are not applicable drugs (as so defined), an amount equal to 40 percent of such allowable reinsurance costs attributable to that portion of gross covered prescription drug costs as specified in paragraph (3) incurred in the coverage year after such individual has incurred costs that exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B).";

(2) in paragraph (2)—

(A) by striking "COSTS.—For purposes" and inserting "COSTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), for purposes"; and

(B) by adding at the end the following new subparagraph:

"(B) INCLUSION OF MANUFACTURER DISCOUNTS ON APPLICABLE DRUGS.—For purposes of applying subparagraph (A), the term 'allowable reinsurance costs' shall include the portion of the negotiated price (as defined in section 1860D–14C(g)(6)) of an applicable drug (as defined in section 1860D–14C(g)(2)) that was paid by a manufacturer under the manufacturer discount program under section 1860D–14C."; and

(3) in paragraph (3)—

(A) in the first sentence, by striking "For purposes" and inserting "Subject to paragraph (2)(B), for purposes"; and

(B) in the second sentence, by inserting "(or, with respect to 2025 and subsequent years, in the case of an applicable drug, as defined in section 1860D–14C(g)(2), by a manufacturer)" after "by the individual or under the plan".

(c) Manufacturer Discount Program.—

(1) IN GENERAL.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101 through 42 U.S.C. 1395w–153), as amended by section 11102, is amended by inserting after section 1860D–14B the following new sections:

"SEC. 1860D–14C. MANUFACTURER DISCOUNT PROGRAM.

"(a) Establishment.—The Secretary shall establish a manufacturer discount program (in this section referred to as the 'program'). Under the program, the Secretary shall enter into agreements described in subsection (b) with manufacturers and provide for the performance of the duties described in subsection (c).

"(b) Terms of Agreement.—

"(1) IN GENERAL.—

"(A) AGREEMENT.—An agreement under this section shall require the manufacturer to provide, in accordance with this section, discounted prices for applicable drugs of the manufacturer that are dispensed to applicable beneficiaries on or after January 1, 2025.

"(B) CLARIFICATION.—Nothing in this section shall be construed as affecting—

"(i) the application of a coinsurance of 25 percent of the negotiated price, as applied under paragraph (2)(A) of section 1860D–2(b), for costs described in such paragraph; or

"(ii) the application of the copayment amount described in paragraph (4)(A) of such section, with respect to costs described in such paragraph.

"(C) TIMING OF AGREEMENT.—

"(i) SPECIAL RULE FOR 2025.—In order for an agreement with a manufacturer to be in effect under this section with respect to the period beginning on January 1, 2025, and ending on December 31, 2025, the manufacturer shall enter into such agreement not later than March 1, 2024.

"(ii) 2026 AND SUBSEQUENT YEARS.—In order for an agreement with a manufacturer to be in effect under this section with respect to plan year 2026 or a subsequent plan year, the manufacturer shall enter into such agreement not later than a calendar quarter or semi-annual deadline established by the Secretary.

"(2) PROVISION OF APPROPRIATE DATA.—Each manufacturer with an agreement in effect under this section shall collect and have available appropriate data, as determined by the Secretary, to ensure that it can demonstrate to the Secretary compliance with the requirements under the program.

"(3) COMPLIANCE WITH REQUIREMENTS FOR ADMINISTRATION OF PROGRAM.—Each manufacturer with an agreement in effect under this section shall comply with requirements imposed by the Secretary, as applicable, for purposes of administering the program, including any determination under subparagraph (A) of subsection (c)(1) or procedures established under such subsection (c)(1).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—An agreement under this section shall be effective for an initial period of not less than 12 months and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary shall provide for termination of an agreement under this section for a knowing and willful violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 30 days after the date of notice to the manufacturer of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, and such hearing shall take place prior to the effective date of the termination with sufficient time for such effective date to be repealed if the Secretary determines appropriate.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate an agreement under this section for any reason. Any such termination shall be effective, with respect to a plan year—

"(I) if the termination occurs before January 31 of a plan year, as of the day after the end of the plan year; and

"(II) if the termination occurs on or after January 31 of a plan year, as of the day after the end of the succeeding plan year.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect discounts for applicable drugs of the manufacturer that are due under the agreement before the effective date of its termination.

"(5) EFFECTIVE DATE OF AGREEMENT.—An agreement under this section shall take effect at the start of a calendar quarter or another date specified by the Secretary.

"(c) Duties Described.—The duties described in this subsection are the following:

"(1) ADMINISTRATION OF PROGRAM.—Administering the program, including—

"(A) the determination of the amount of the discounted price of an applicable drug of a manufacturer;

"(B) the establishment of procedures to ensure that, not later than the applicable number of calendar days after the dispensing of an applicable drug by a pharmacy or mail order service, the pharmacy or mail order service is reimbursed for an amount equal to the difference between—

"(i) the negotiated price of the applicable drug; and

"(ii) the discounted price of the applicable drug;

"(C) the establishment of procedures to ensure that the discounted price for an applicable drug under this section is applied before any coverage or financial assistance under other health benefit plans or programs that provide coverage or financial assistance for the purchase or provision of prescription drug coverage on behalf of applicable beneficiaries as specified by the Secretary; and

"(D) providing a reasonable dispute resolution mechanism to resolve disagreements between manufacturers, prescription drug plans and MA–PD plans, and the Secretary.

"(2) MONITORING COMPLIANCE.—The Secretary shall monitor compliance by a manufacturer with the terms of an agreement under this section.

"(3) COLLECTION OF DATA FROM PRESCRIPTION DRUG PLANS AND MA–PD PLANS.—The Secretary may collect appropriate data from prescription drug plans and MA–PD plans in a timeframe that allows for discounted prices to be provided for applicable drugs under this section.

"(d) Administration.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for the implementation of this section, including the performance of the duties described in subsection (c).

"(2) LIMITATION.—In providing for the implementation of this section, the Secretary shall not receive or distribute any funds of a manufacturer under the program.

"(e) ~~Enforcement.—~~ **Civil Money Penalty.—**

~~"(1) Audits.—Each manufacturer with an agreement in effect under this section shall be subject to periodic audit by the Secretary.~~

~~"(2) Civil money penalty.—~~

~~"(A)~~**"(1)** IN GENERAL.—A manufacturer that fails to provide discounted prices for applicable drugs of the manufacturer dispensed to applicable beneficiaries in accordance with ~~such~~ **an** agreement **in effect under this section** shall be subject to a civil money penalty for each such failure in an amount the Secretary determines is equal to the sum of—

~~"(i)~~**"(A)** the amount that the manufacturer would have paid with respect to such discounts under the agreement, which will then be used to pay the discounts which the manufacturer had failed to provide; and

~~"(ii)~~**"(B)** 25 percent of such amount.

~~"(B)~~**"(2)** APPLICATION.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this ~~paragraph~~ **subsection** in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(f) Clarification Regarding Availability of Other Covered Part D Drugs.—Nothing in this section shall prevent an applicable beneficiary from purchasing a covered part D drug that is not an applicable drug (including a generic drug or a drug that is not on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in).

"(g) Definitions.—In this section:

"(1) APPLICABLE BENEFICIARY.—The term 'applicable beneficiary' means an individual who, on the date of dispensing a covered part D drug—

"(A) is enrolled in a prescription drug plan or an MA–PD plan;

"(B) is not enrolled in a qualified retiree prescription drug plan; and

"(C) has incurred costs, as determined in accordance with section 1860D–2(b)(4)

(C), for covered part D drugs in the year that exceed the annual deductible specified in section 1860D–2(b)(1).

"(2) APPLICABLE DRUG.—The term 'applicable drug', with respect to an applicable beneficiary—

"(A) means a covered part D drug—

"(i) approved under a new drug application under section 505(c) of the Federal Food, Drug, and Cosmetic Act or, in the case of a biologic product, licensed under section 351 of the Public Health Service Act; and

"(ii)(I) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan uses a formulary, which is on the formulary of the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in;

"(II) if the PDP sponsor of the prescription drug plan or the MA organization offering the MA–PD plan does not use a formulary, for which benefits are available under the prescription drug plan or MA–PD plan that the applicable beneficiary is enrolled in; or

"(III) is provided through an exception or appeal; and

"(B) does not include a selected drug (as referred to under section 1192(c)) during a price applicability period (as defined in section 1191(b)(2)) with respect to such drug.

"(3) APPLICABLE NUMBER OF CALENDAR DAYS.—The term 'applicable number of calendar days' means—

"(A) with respect to claims for reimbursement submitted electronically, 14 days; and

"(B) with respect to claims for reimbursement submitted otherwise, 30 days.

"(4) DISCOUNTED PRICE.—

"(A) IN GENERAL.—The term 'discounted price' means, subject to subparagraphs (B) and (C), with respect to an applicable drug of a manufacturer dispensed during a year to an applicable beneficiary—

"(i) who has not incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that are equal to or exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year, 90 percent of the negotiated price of such drug; and

"(ii) who has incurred such costs, as so determined, in the year that are equal to or exceed such threshold for the year, 80 percent of the negotiated price of such drug.

"(B) PHASE-IN FOR CERTAIN DRUGS DISPENSED TO LIS BENEFICIARIES.—

"(i) IN GENERAL.—In the case of an applicable drug of a specified manufacturer (as defined in clause (ii)) that is marketed as of the date of enactment of this subparagraph and dispensed for an applicable beneficiary who is a subsidy eligible individual (as defined in section 1860D–14(a)(3)), the term 'discounted price' means the specified LIS percent (as defined in clause (iii)) of the negotiated

price of the applicable drug of the manufacturer.

"(ii) SPECIFIED MANUFACTURER.—

"(I) IN GENERAL.—In this subparagraph, subject to subclause (II), the term 'specified manufacturer' means a manufacturer of an applicable drug for which, in 2021—

"(aa) the manufacturer had a coverage gap discount agreement under section 1860D–14A;

"(bb) the total expenditures for all of the specified drugs of the manufacturer covered by such agreement or agreements for such year and covered under this part during such year represented less than 1.0 percent of the total expenditures under this part for all covered Part D drugs during such year; and

"(cc) the total expenditures for all of the specified drugs of the manufacturer that are single source drugs and biological products ~~covered~~ **for which payment may be made** under part B during such year represented less than 1.0 percent of the total expenditures under part B for all drugs or biological products ~~covered~~ **for which payment may be made** under such part during such year.

"(II) SPECIFIED DRUGS.—

"(aa) IN GENERAL.—For purposes of this clause, the term 'specified drug' means, with respect to a specified manufacturer, for 2021, an applicable drug that is produced, prepared, propagated, compounded, converted, or processed by the manufacturer.

"(bb) AGGREGATION RULE.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as one manufacturer for purposes of this subparagraph. For purposes of making a determination pursuant to the previous sentence, an agreement under this section shall require that a manufacturer provide and attest to such information as specified by the Secretary as necessary.

"(III) LIMITATION.—The term 'specified manufacturer' shall not include a manufacturer described in subclause (I) if such manufacturer is acquired after 2021 by another manufacturer that is not a specified manufacturer, effective at the beginning of the plan year immediately following such acquisition or, in the case of an acquisition before 2025, effective January 1, 2025.

"(iii) SPECIFIED LIS PERCENT.—In this subparagraph, the 'specified LIS percent' means, with respect to a year—

"(I) for an applicable drug dispensed for an applicable beneficiary described in clause (i) who has not incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that are equal to or exceed the annual out-of-pocket threshold specified

in section 1860D–2(b)(4)(B)(i) for the year—

"(aa) for 2025, 99 percent;

"(bb) for 2026, 98 percent;

"(cc) for 2027, 95 percent;

"(dd) for 2028, 92 percent; and

"(ee) for 2029 and each subsequent year, 90 percent; and

"(II) for an applicable drug dispensed for an applicable beneficiary described in clause (i) who has incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that are equal to or exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year—

"(aa) for 2025, 99 percent;

"(bb) for 2026, 98 percent;

"(cc) for 2027, 95 percent;

"(dd) for 2028, 92 percent;

"(ee) for 2029, 90 percent;

"(ff) for 2030, 85 percent; and

"(gg) for 2031 and each subsequent year, 80 percent.

"(C) PHASE-IN FOR SPECIFIED SMALL MANUFACTURERS.—

"(i) IN GENERAL.—In the case of an applicable drug of a specified small manufacturer (as defined in clause (ii)) that is marketed as of the date of enactment of this subparagraph and dispensed for an applicable beneficiary, the term 'discounted price' means the specified small manufacturer percent (as defined in clause (iii)) of the negotiated price of the applicable drug of the manufacturer.

"(ii) SPECIFIED SMALL MANUFACTURER.—

"(I) IN GENERAL.—In this subparagraph, subject to subclause (III), the term 'specified small manufacturer' means a manufacturer of an applicable drug for which, in 2021—

"(aa) the manufacturer is a specified manufacturer (as defined in subparagraph (B)(ii)); and

"(bb) the total expenditures under part D for any one of the specified small manufacturer drugs of the manufacturer that are covered by the agreement or agreements under section 1860D–14A of such manufacturer for such year and covered under this part during such year are equal to or more than 80 percent of the total expenditures under this part for all specified small manufacturer drugs of the manufacturer that are covered by such agreement or agreements for such year and covered

under this part during such year.

"(II) SPECIFIED SMALL MANUFACTURER DRUGS.—

"(aa) IN GENERAL.—For purposes of this clause, the term 'specified small manufacturer drugs' means, with respect to a specified small manufacturer, for 2021, an applicable drug that is produced, prepared, propagated, compounded, converted, or processed by the manufacturer.

"(bb) AGGREGATION RULE.—All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as one manufacturer for purposes of this subparagraph. For purposes of making a determination pursuant to the previous sentence, an agreement under this section shall require that a manufacturer provide and attest to such information as specified by the Secretary as necessary.

"(III) LIMITATION.—The term 'specified small manufacturer' shall not include a manufacturer described in subclause (I) if such manufacturer is acquired after 2021 by another manufacturer that is not a specified small manufacturer, effective at the beginning of the plan year immediately following such acquisition or, in the case of an acquisition before 2025, effective January 1, 2025.

"(iii) SPECIFIED SMALL MANUFACTURER PERCENT.—In this subparagraph, the term 'specified small manufacturer percent' means, with respect to a year—

"(I) for an applicable drug dispensed for an applicable beneficiary who has not incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that are equal to or exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year—

"(aa) for 2025, 99 percent;

"(bb) for 2026, 98 percent;

"(cc) for 2027, 95 percent;

"(dd) for 2028, 92 percent; and

"(ee) for 2029 and each subsequent year, 90 percent; and

"(II) for an applicable drug dispensed for an applicable beneficiary who has incurred costs, as determined in accordance with section 1860D–2(b)(4)(C), for covered part D drugs in the year that are equal to or exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year—

"(aa) for 2025, 99 percent;

"(bb) for 2026, 98 percent;

"(cc) for 2027, 95 percent;

"(dd) for 2028, 92 percent;

"(ee) for 2029, 90 percent;

"(ff) for 2030, 85 percent; and

"(gg) for 2031 and each subsequent year, 80 percent.

"(D) TOTAL EXPENDITURES.—For purposes of this paragraph, the term 'total expenditures' includes, in the case of expenditures with respect to part D, the total gross covered prescription drug costs as defined in section 1860D–15(b)(3). The term 'total expenditures' excludes, in the case of expenditures with respect to part B, expenditures for a drug or biological that are bundled or packaged into the payment for another service.

"(E) SPECIAL CASE FOR CERTAIN CLAIMS.—

"(i) CLAIMS SPANNING DEDUCTIBLE.—In the case where the entire amount of the negotiated price of an individual claim for an applicable drug with respect to an applicable beneficiary does not fall above the annual deductible specified in section 1860D–2(b)(1) for the year, the manufacturer of the applicable drug shall provide the discounted price under this section on only the portion of the negotiated price of the applicable drug that falls above such annual deductible.

"(ii) CLAIMS SPANNING OUT-OF-POCKET THRESHOLD.—In the case where the entire amount of the negotiated price of an individual claim for an applicable drug with respect to an applicable beneficiary does not fall entirely below or entirely above the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i) for the year, the manufacturer of the applicable drug shall provide the discounted price—

"(I) in accordance with subparagraph (A)(i) on the portion of the negotiated price of the applicable drug that falls below such threshold; and

"(II) in accordance with subparagraph (A)(ii) on the portion of such price of such drug that falls at or above such threshold.

"(5) MANUFACTURER.—The term 'manufacturer' means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(6) NEGOTIATED PRICE.—The term 'negotiated price' has the meaning given such term for purposes of section 1860D–2(d)(1)(B), and, with respect to an applicable drug, such negotiated price shall include any dispensing fee and, if applicable, any vaccine administration fee for the applicable drug.

"(7) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug plan' has the meaning given such term in section 1860D–22(a)(2).

"SEC. 1860D–14D. SELECTED DRUG SUBSIDY PROGRAM.

"With respect to covered part D drugs that would be applicable drugs (as defined in section 1860D–14C(g)(2)) but for the application of subparagraph (B) of such section, the Secretary shall provide a process whereby, in the case of an applicable beneficiary (as defined in section 1860D–14C(g)(1)) who, with respect to a year, is enrolled in a prescription drug plan or is enrolled in an MA–PD plan, has not incurred costs that are equal to or exceed the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B)(i), and is dispensed such a drug, the Secretary (periodically and on a timely basis) provides the PDP sponsor or the MA organization offering the plan, a subsidy with respect to such drug that is equal to 10 percent of the negotiated price (as defined in section 1860D–14C(g)(6)) of such drug.".

(2) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 1860D–14A of the Social Security Act (42 U.S.C. 1395w–114a) is amended—

(A) in subsection (a), in the first sentence, by striking "The Secretary" and inserting "Subject to subsection (h), the Secretary"; and

(B) by adding at the end the following new subsection:

"(h) Sunset of Program.—

"(1) IN GENERAL.—The program shall not apply with respect to applicable drugs dispensed on or after January 1, 2025, and, subject to paragraph (2), agreements under this section shall be terminated as of such date.

"(2) CONTINUED APPLICATION FOR APPLICABLE DRUGS DISPENSED PRIOR TO SUNSET.—The provisions of this section (including all responsibilities and duties) shall continue to apply on and after January 1, 2025, with respect to applicable drugs dispensed prior to such date.".

(3) SELECTED DRUG SUBSIDY PAYMENTS FROM MEDICARE PRESCRIPTION DRUG ACCOUNT.—Section 1860D–16(b)(1) of the Social Security Act (42 U.S.C. 1395w–116(b)(1)) is amended—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

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

"(E) payments under section 1860D–14D (relating to selected drug subsidy payments).".

(d) Medicare Part D Premium Stabilization.—

(1) 2024 THROUGH 2029.—Section 1860D–13 of the Social Security Act (42 U.S.C. 1395w–113) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A), by inserting "or (8) (as applicable)" after "paragraph (2)";

(ii) in paragraph (2), in the matter preceding subparagraph (A), by striking "The base" and inserting "Subject to paragraph (8), the base";

(iii) in paragraph (7)—

(I) in subparagraph (B)(ii), by inserting "or (8) (as applicable)" after "paragraph (2)"; and

(II) in subparagraph (E)(i), by inserting "or (8) (as applicable)" after "paragraph (2)"; and

(iv) by adding at the end the following new paragraph:

"(8) PREMIUM STABILIZATION.—

"(A) IN GENERAL.—The base beneficiary premium under this paragraph for a prescription drug plan for a month in 2024 through 2029 shall be computed as follows:

"(i) 2024.—The base beneficiary premium for a month in 2024 shall be equal to the lesser of—

"(I) the base beneficiary premium computed under paragraph (2) for a month in 2023 increased by 6 percent; or

"(II) the base beneficiary premium computed under paragraph (2) for a month in 2024 that would have applied if this paragraph had not been enacted.

"(ii) 2025.—The base beneficiary premium for a month in 2025 shall be equal to the lesser of—

"(I) the base beneficiary premium computed under clause (i) for a month in 2024 increased by 6 percent; or

"(II) the base beneficiary premium computed under paragraph (2) for a month in 2025 that would have applied if this paragraph had not been enacted.

"(iii) 2026.—The base beneficiary premium for a month in 2026 shall be equal to the lesser of—

"(I) the base beneficiary premium computed under clause (ii) for a month in 2025 increased by 6 percent; or

"(II) the base beneficiary premium computed under paragraph (2) for a month in 2026 that would have applied if this paragraph had not been enacted.

"(iv) 2027.—The base beneficiary premium for a month in 2027 shall be equal to the lesser of—

"(I) the base beneficiary premium computed under clause (iii) for a month in 2026 increased by 6 percent; or

"(II) the base beneficiary premium computed under paragraph (2) for a month in 2027 that would have applied if this paragraph had not been enacted.

"(v) 2028.—The base beneficiary premium for a month in 2028 shall be equal to the lesser of—

"(I) the base beneficiary premium computed under clause (iv) for a month

in 2027 increased by 6 percent; or

"(II) the base beneficiary premium computed under paragraph (2) for a month in 2028 that would have applied if this paragraph had not been enacted.

"(vi) 2029.—The base beneficiary premium for a month in 2029 shall be equal to the lesser of—

"(I) the base beneficiary premium computed under clause (v) for a month in 2028 increased by 6 percent; or

"(II) the base beneficiary premium computed under paragraph (2) for a month in 2029 that would have applied if this paragraph had not been enacted.

"(B) CLARIFICATION REGARDING 2030 AND SUBSEQUENT YEARS.—The base beneficiary premium for a month in 2030 or a subsequent year shall be computed under paragraph (2) without regard to this paragraph."; and

(B) in subsection (b)(3)(A)(ii), by striking "subsection (a)(2)" and inserting "paragraph (2) or (8) of subsection (a) (as applicable)".

(2) ADJUSTMENT TO BENEFICIARY PREMIUM PERCENTAGE FOR 2030 AND SUBSEQUENT YEARS.—Section 1860D–13(a) of the Social Security Act (42 U.S.C. 1395w–113(a)), as amended by paragraph (1), is amended—

(A) in paragraph (3)(A), by inserting "(or, for 2030 and each subsequent year, the percent specified under paragraph (9))" after "25.5 percent"; and

(B) by adding at the end the following new paragraph:

"(9) PERCENT SPECIFIED.—

"(A) IN GENERAL.—Subject to subparagraph (B), for purposes of paragraph (3)(A), the percent specified under this paragraph for 2030 and each subsequent year is the percent that the Secretary determines is necessary to ensure that the base beneficiary premium computed under paragraph (2) for a month in 2030 is equal to the lesser of—

"(i) the base beneficiary premium computed under paragraph (8)(A)(vi) for a month in 2029 increased by 6 percent; or

"(ii) the base beneficiary premium computed under paragraph (2) for a month in 2030 that would have applied if this paragraph had not been enacted.

"(B) FLOOR.—The percent specified under subparagraph (A) may not be less than 20 percent.".

(3) CONFORMING AMENDMENTS.—

(A) Section 1854(b)(2)(B) of the Social Security Act 42 U.S.C. 1395w–24(b)(2)(B)) is amended by striking "section 1860D–13(a)(2)" and inserting "paragraph (2) or (8) (as applicable) of section 1860D–13(a)".

(B) Section 1860D–11(g)(6) of the Social Security Act (42 U.S.C. 1395w–111(g)(6)) is amended by inserting "(or, for 2030 and each subsequent year, the percent

specified under section 1860D–13(a)(9))" after "25.5 percent".

(C) Section 1860D–13(a)(7)(B)(i) of the Social Security Act (42 U.S.C. 1395w–113(a)(7)(B)(i)) is amended—

(i) in subclause (I), by inserting "(or, for 2030 and each subsequent year, the percent specified under paragraph (9))" after "25.5 percent"; and

(ii) in subclause (II), by inserting "(or, for 2030 and each subsequent year, the percent specified under paragraph (9))" after "25.5 percent".

(D) Section 1860D–15(a) of the Social Security Act (42 U.S.C. 1395w–115(a)) is amended—

(i) in the matter preceding paragraph (1), by inserting "(or, for each of 2024 through 2029, the percent applicable as a result of the application of section 1860D–13(a)(8), or, for 2030 and each subsequent year, 100 percent minus the percent specified under section 1860D–13(a)(9))" after "74.5 percent"; and

(ii) in paragraph (1)(B), by striking "paragraph (2) of section 1860D–13(a)" and inserting "paragraph (2) or (8) of section 1860D–13(a) (as applicable)".

(e) Conforming Amendments.—

(1) Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102) is amended—

(A) in subsection (a~~(2)(A)(i)(I)~~)**(2)(A)(i)(I)**, by striking ", or an increase in the initial" and inserting "or, for a year preceding 2025, an increase in the initial";

(B) in subsection (c)(1)(C)—

(i) in the subparagraph heading, by striking "AT INITIAL COVERAGE LIMIT"; and

(ii) by inserting "for a year preceding 2025 or the annual out-of-pocket threshold specified in subsection (b)(4)(B) for the year for 2025 and each subsequent year" after "subsection (b)(3) for the year" each place it appears; and

(C) in subsection (d)(1)(A), by striking "or an initial" and inserting "or, for a year preceding 2025, an initial".

(2) Section 1860D–4(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is amended by striking "the initial" and inserting "for a year preceding 2025, the initial".

(3) Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking "The continuation" and inserting "For a year preceding 2025, the continuation";

(ii) in subparagraph (D)(iii), by striking "1860D–2(b)(4)(A)(i)(I)" and inserting "1860D–2(b)(4)(A)(i)(I)(aa)"; and

(iii) in subparagraph (E), by striking "The elimination" and inserting "For a year preceding 2024, the elimination"; and

(B) in paragraph **(2)**~~(2)—~~

~~(i) in subparagraph (C), by striking "The continuation" and inserting "For a year preceding 2025, the continuation"; and~~

~~(ii) in subparagraph~~(E), by striking "1860D–2(b)(4)(A)(i)(I)" and inserting ~~"1860D2(b)(4)(A)(i)(I)(aa) (for a year preceding 2024)".~~**"1860D–2(b)(4)(A)(i)(I)(aa)".**

(4) Section 1860D–21(d)(7) of the Social Security Act (42 U.S.C. 1395w–131(d)(7)) is amended by striking "section 1860D–2(b)(4)(B)(i)" and inserting "section 1860D–2(b)(4)(C)(i)".

(5) Section 1860D–22(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w–132(a)(2)(A)) is amended—

(A) by striking "the value of any discount" and inserting the following: "the value of —

"(i) for years prior to 2025, any discount";

(B) in clause (i), as inserted by subparagraph (A) of this paragraph, by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new clause:

"(ii) for 2025 and each subsequent year, any discount provided pursuant to section 1860D–14C.".

(6) Section 1860D–41(a)(6) of the Social Security Act (42 U.S.C. 1395w–151(a)(6)) is amended—

(A) by inserting "for a year before 2025" after "1860D–2(b)(3)"; and

(B) by inserting "for such year" before the period.

(7) Section 1860D–43 of the Social Security Act (42 U.S.C. 1395w–153) is amended—

(A) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

"(1) participate in—

"(A) for 2011 through 2024, the Medicare coverage gap discount program under section 1860D–14A; and

"(B) for 2025 and each subsequent year, the manufacturer discount program under section 1860D–14C;";

(ii) by striking paragraph (2) and inserting the following:

"(2) have entered into and have in effect—

"(A) for 2011 through 2024, an agreement described in subsection (b) of section 1860D–14A with the Secretary; and

"(B) for 2025 and each subsequent year, an agreement described in subsection (b) of section 1860D–14C with the Secretary; and"; and

(iii) in paragraph (3), by striking "such section" and inserting "section 1860D–14A"; and

(B) by striking subsection (b) and inserting the following:

"(b) Effective Date.—Paragraphs (1)(A), (2)(A), and (3) of subsection (a) shall apply to covered part D drugs dispensed under this part on or after January 1, 2011, and before January 1, 2025, and paragraphs (1)(B) and (2)(B) of such subsection shall apply to covered part D drugs dispensed under this part on or after January 1, 2025.".

(8) Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(A) in subsection (c)(1)(C)(i)(VI), by inserting before the period at the end the following: "or under the manufacturer discount program under section 1860D–14C"; and

(B) in subsection (k)(1)(B)(i)(V), by inserting before the period at the end the following: "or under section 1860D–14C".

(f) Implementation for 2024 Through 2026.—The Secretary shall implement this section, including the amendments made by this section, for 2024, 2025, and 2026 by program instruction or other forms of program guidance.

(g) Funding.—In addition to amounts otherwise available, there are appropriated to the Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise appropriated, $341,000,000 for fiscal year 2022, including $20,000,000 and $65,000,000 to carry out the provisions of, including the amendments made by, this section in fiscal years 2022 and 2023, respectively, and $32,000,000 to carry out the provisions of, including the amendments made by, this section in each of fiscal years 2024 through 2031, to remain available until expended.

SEC. 11202. MAXIMUM MONTHLY CAP ON COST-SHARING PAYMENTS UNDER PRESCRIPTION DRUG PLANS AND MA–PD PLANS.

(a) In General.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "and (D)" and inserting ", (D), and (E)"; and

(B) by adding at the end the following new subparagraph:

"(E) MAXIMUM MONTHLY CAP ON COST-SHARING PAYMENTS.—

"(i) IN GENERAL.—For plan years beginning on or after January 1, 2025, each PDP sponsor offering a prescription drug plan and each MA organization offering an MA–PD plan shall provide to any enrollee of such plan, including an enrollee who is a subsidy eligible individual (as defined in paragraph (3) of section 1860D–14(a)), the option to elect with respect to a plan year to pay cost-sharing under the plan in monthly amounts that are capped in accordance with this subparagraph.

"(ii) DETERMINATION OF MAXIMUM MONTHLY CAP.—For each month in the plan year for which an enrollee in a prescription drug plan or an MA–PD plan has made an election pursuant to clause (i), the PDP sponsor or MA organization shall determine a maximum monthly cap (as defined in clause (iv)) for such enrollee.

"(iii) BENEFICIARY MONTHLY PAYMENTS.—With respect to an enrollee who has made an election pursuant to clause (i), for each month described in clause (ii), the PDP sponsor or MA organization shall bill such enrollee an amount (not to exceed the maximum monthly cap) for the out-of-pocket costs of such enrollee in such month.

"(iv) MAXIMUM MONTHLY CAP DEFINED.—In this subparagraph, the term 'maximum monthly cap' means, with respect to an enrollee—

"(I) for the first month for which the enrollee has made an election pursuant to clause (i), an amount determined by calculating—

"(aa) the annual out-of-pocket threshold specified in paragraph (4)(B) minus the incurred costs of the enrollee as described in paragraph (4)(C); divided by

"(bb) the number of months remaining in the plan year; and

"(II) for a subsequent month, an amount determined by calculating—

"(aa) the sum of any remaining out-of-pocket costs owed by the enrollee from a previous month that have not yet been billed to the enrollee and any additional out-of-pocket costs incurred by the enrollee; divided by

"(bb) the number of months remaining in the plan year.

"(v) ADDITIONAL REQUIREMENTS.—The following requirements shall apply with respect to the option to make an election pursuant to clause (i) under this subparagraph:

"(I) SECRETARIAL RESPONSIBILITIES.—The Secretary shall provide information to part D eligible individuals on the option to make such election through educational materials, including through the notices provided under section 1804(a).

"(II) TIMING OF ELECTION.—An enrollee in a prescription drug plan or an MA–PD plan may make such an election—

"(aa) prior to the beginning of the plan year; or

"(bb) in any month during the plan year.

"(III) PDP SPONSOR AND MA ORGANIZATION RESPONSIBILITIES.—Each PDP sponsor offering a prescription drug plan or MA organization offering an MA–PD plan—

"(aa) may not limit the option for an enrollee to make such an election to certain covered part D drugs;

"(bb) shall, prior to the plan year, notify prospective enrollees of the

option to make such an election in promotional materials;

"(cc) shall include information on such option in enrollee educational materials;

"(dd) shall have in place a mechanism to notify a pharmacy during the plan year when an enrollee incurs out-of-pocket costs with respect to covered part D drugs that make it likely the enrollee may benefit from making such an election;

"(ee) shall provide that a pharmacy, after receiving a notification described in item (dd) with respect to an enrollee, informs the enrollee of such notification;

"(ff) shall ensure that such an election by an enrollee has no effect on the amount paid to pharmacies (or the timing of such payments) with respect to covered part D drugs dispensed to the enrollee; and

"(gg) shall have in place a financial reconciliation process to correct inaccuracies in payments made by an enrollee under this subparagraph with respect to covered part D drugs during the plan year.

"(IV) FAILURE TO PAY AMOUNT BILLED.—If an enrollee fails to pay the amount billed for a month as required under this subparagraph—

"(aa) the election of the enrollee pursuant to clause (i) shall be terminated and the enrollee shall pay the cost-sharing otherwise applicable for any covered part D drugs subsequently dispensed to the enrollee up to the annual out-of-pocket threshold specified in paragraph (4)(B); and

"(bb) the PDP sponsor or MA organization may preclude the enrollee from making an election pursuant to clause (i) in a subsequent plan year.

"(V) CLARIFICATION REGARDING PAST DUE AMOUNTS.—Nothing in this subparagraph shall be construed as prohibiting a PDP sponsor or an MA organization from billing an enrollee for an amount owed under this subparagraph.

"(VI) TREATMENT OF UNSETTLED BALANCES.—Any unsettled balances with respect to amounts owed under this subparagraph shall be treated as plan losses and the Secretary shall not be liable for any such balances outside of those assumed as losses estimated in plan bids."; and

(2) in paragraph (4)—

(A) in subparagraph (C), by striking "subparagraph (E)" and inserting "subparagraph (E) or subparagraph (F)"; and

(B) by adding at the end the following new subparagraph:

"(F) INCLUSION OF COSTS PAID UNDER MAXIMUM MONTHLY CAP OPTION.—In applying subparagraph (A), with respect to an enrollee who has made an election

pursuant to clause (i) of paragraph (2)(E), costs shall be treated as incurred if such costs are paid by a PDP sponsor or an MA organization under the option provided under such paragraph.".

(b) Application to Alternative Prescription Drug Coverage.—Section 1860D–2(c) of the Social Security Act (42 U.S.C. 1395w–102(c)) is amended by adding at the end the following new paragraph:

"(4) SAME MAXIMUM MONTHLY CAP ON COST-SHARING.—The maximum monthly cap on cost-sharing payments shall apply to coverage with respect to an enrollee who has made an election pursuant to clause (i) of subsection (b)(2)(E) under the option provided under such subsection.".

(c) Implementation for 2025.—The Secretary shall implement this section, including the amendments made by this section, for 2025 by program instruction or other forms of program guidance.

(d) Funding.—In addition to amounts otherwise available, there are appropriated to the Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise appropriated, $10,000,000 for fiscal year 2023, to remain available until expended, to carry out the provisions of, including the amendments made by, this section.

PART ~~4—REPEAL~~ **4—CONTINUED DELAY OF IMPLEMENTATION** OF PRESCRIPTION DRUG REBATE RULE

SEC. 11301. ~~PROHIBITING~~ **EXTENSION OF MORATORIUM ON** IMPLEMENTATION OF RULE RELATING TO ELIMINATING THE ANTI-KICKBACK STATUTE SAFE HARBOR PROTECTION FOR PRESCRIPTION DRUG REBATES.

~~Section 90006 of division I of the Infrastructure Investment and Jobs Act (42 U.S.C. 1320a7b note), as amended by section 13101 of division A of the Bipartisan Safer Communities Act, is amended by striking "~~**The Secretary of Health and Human Services shall not**, prior to January 1, ~~2027,".~~ **2032, implement, administer, or enforce the provisions of the final rule published by the Office of the Inspector General of the Department of Health and Human Services on November 30, 2020, and titled "Fraud and Abuse; Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Service Fees" (85 Fed. Reg. 76666).**

PART 5—MISCELLANEOUS

SEC. 11401. COVERAGE OF ADULT VACCINES RECOMMENDED BY THE ADVISORY COMMITTEE ON

IMMUNIZATION PRACTICES UNDER MEDICARE PART D.

(a) Ensuring Treatment of Cost-sharing and Deductible Is Consistent With Treatment of Vaccines Under Medicare Part B.—Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102), as amended by sections 11201 and 11202, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking "The coverage" and inserting "Subject to paragraph (8), the coverage";

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and paragraph (8)" after "and (E)";

(ii) in subparagraph (C)(i), in the matter preceding subclause (I), by striking "paragraph (4)" and inserting "paragraphs (4) and (8)"; and

(iii) in subparagraph (D)(i), in the matter preceding subclause (I), by striking "paragraph (4)" and inserting "paragraphs (4) and (8)";

(C) **in paragraph (3)(A), in the matter preceding clause (i), by striking "and (4)" and inserting "(4), and (8)";**

(D) in paragraph (4)(A)(i), by striking "The coverage" and inserting "Subject to paragraph (8), the coverage"; and

~~(D)~~**(E)** by adding at the end the following new paragraph:

"(8) TREATMENT OF COST-SHARING FOR ADULT VACCINES RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES CONSISTENT WITH TREATMENT OF VACCINES UNDER PART B.—

"(A) IN GENERAL.—For plan years beginning on or after January 1, 2023, with respect to an adult vaccine recommended by the Advisory Committee on Immunization Practices (as defined in subparagraph (B))—

"(i) the deductible under paragraph (1) shall not apply; and

"(ii) there shall be no coinsurance or other cost-sharing under this part with respect to such vaccine.

"(B) ADULT VACCINES RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES.—For purposes of this paragraph, the term 'adult vaccine recommended by the Advisory Committee on Immunization Practices' means a covered part D drug that is a vaccine licensed under section 351 of the Public Health Service Act for use by adult populations and administered in accordance with recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention."; and

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

"(5) TREATMENT OF COST-SHARING FOR ADULT VACCINES RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES.—The coverage is in accordance with

subsection (b)(8).".

(b) Conforming Amendments to Cost-sharing for Low-income Individuals.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)), as amended by section 11201, is amended—

(1) in paragraph (1)(D), in each of clauses (ii) and (iii), by striking "In the case" and inserting "Subject to paragraph (6), in the case";

(2) in paragraph (2)—

(A) in subparagraph (B), by striking "A reduction" and inserting "Subject to section 1860D–2(b)(8), a reduction";

(B) in subparagraph (D), by striking "The substitution" and inserting "Subject to paragraph (6), the substitution"; and

(C) in subparagraph (E), by striking ~~"and subsection~~**"subsection** (c)" and inserting ~~", paragraph~~**"paragraph** (6) of this subsection~~,~~ and subsection (c)"; and

(3) by adding at the end the following new paragraph:

"(6) NO APPLICATION OF COST-SHARING OR DEDUCTIBLE FOR ADULT VACCINES RECOMMENDED BY THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES.—For plan years beginning on or after January 1, 2023, with respect to an adult vaccine recommended by the Advisory Committee on Immunization Practices (as defined in section 1860D–2(b)(8)(B))—

"(A) the deductible under section 1860D–2(b)(1) shall not apply; and

"(B) there shall be no cost-sharing under this section with respect to such vaccine.".

(c) Temporary Retrospective ~~Subsidy.—Section~~ **Subsidy.—**

(1) IN GENERAL.—Section 1860D–15 of the Social Security Act (42 U.S.C. 1395w–115) is amended by adding at the end the following new subsection:

"(h) Temporary Retrospective Subsidy for Reduction in Cost-sharing **and Deductible** for Adult Vaccines Recommended by the Advisory Committee on Immunization Practices During 2023.—

"(1) IN GENERAL.—In addition to amounts otherwise payable under this section to a PDP sponsor of a prescription drug plan or an MA organization offering an MA–PD plan, for plan year 2023, the Secretary shall provide the PDP sponsor or MA organization offering the plan subsidies in an amount equal to the aggregate reduction in cost-sharing **and deductible** by reason of the application of section 1860D–2(b)(8) for individuals under the plan during the year.

"(2) TIMING.—The Secretary shall provide a subsidy under paragraph (1), as applicable, not later than 18 months following the end of the applicable plan year.".

(2) TREATMENT AS INCURRED COSTS.—Section 1860D–2(b)(4)(C)(iii)(I) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)(C)(iii)(I)), as amended by section 11201(a)(3)(C), is amended—

(A) in item (cc), by striking "or" at the end; and

(B) by adding at the end the following new item:

"(dd) under section 1860D–15(h); or".

(d) Rule of Construction.—Nothing in this section shall be construed as limiting coverage under part D of title XVIII of the Social Security Act for vaccines that are not recommended by the Advisory Committee on Immunization Practices.

(e) Implementation for 2023 Through 2025.—The Secretary shall implement this section, including the amendments made by this section, for 2023, 2024, and 2025, by program instruction or other forms of program guidance.

SEC. 11402. PAYMENT FOR BIOSIMILAR BIOLOGICAL PRODUCTS DURING INITIAL PERIOD.

Section 1847A(c)(4) of the Social Security Act (42 U.S.C. 1395w–3a(c)(4)) is amended—

(1) in each of subparagraphs (A) and (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving such subclauses 2 ems to the right;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and moving such clauses 2 ems to the right;

(3) by striking "UNAVAILABLE.—In the case" and inserting "UNAVAILABLE.—

"(A) IN GENERAL.—Subject to subparagraph (B), in the case"; and

(4) by adding at the end the following new subparagraph:

"(B) LIMITATION ON PAYMENT AMOUNT FOR BIOSIMILAR BIOLOGICAL PRODUCTS DURING INITIAL PERIOD.—In the case of a biosimilar biological product furnished on or after July 1, 2024, during the initial period described in subparagraph (A) with respect to the biosimilar biological product, the amount payable under this section for the biosimilar biological product is the lesser of the following:

"(i) The amount determined under clause (ii) of such subparagraph for the biosimilar biological product.

"(ii) The amount determined under subsection (b)(1)(B) for the reference biological product.".

SEC. 11403. TEMPORARY INCREASE IN MEDICARE PART B PAYMENT FOR CERTAIN BIOSIMILAR BIOLOGICAL PRODUCTS.

Section 1847A(b)(8) of the Social Security Act (42 U.S.C. 1395w–3a(b)(8)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margin of each such redesignated clause 2 ems to the right;

(2) by striking "PRODUCT.—The amount" and inserting the following: "PRODUCT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the amount"; and

(3) by adding at the end the following new subparagraph:

"(B) TEMPORARY PAYMENT INCREASE.—

"(i) IN GENERAL.—In the case of a qualifying biosimilar biological product that is furnished during the applicable 5-year period for such product, the amount specified in this paragraph for such product with respect to such period is the sum determined under subparagraph (A), except that clause (ii) of such subparagraph shall be applied by substituting '8 percent' for '6 percent'.

"(ii) APPLICABLE 5-YEAR PERIOD.—For purposes of clause (i), the applicable 5-year period for a qualifying biosimilar biological product is—

"(I) in the case of such a product for which payment was made under this paragraph as of September 30, 2022, the 5-year period beginning on October 1, 2022; and

"(II) in the case of such a product for which payment is first made under this paragraph during a calendar quarter during the period beginning October 1, 2022, and ending December 31, 2027, the 5-year period beginning on the first day of such calendar quarter during which such payment is first made.

"(iii) QUALIFYING BIOSIMILAR BIOLOGICAL PRODUCT DEFINED.—For purposes of this subparagraph, the term 'qualifying biosimilar biological product' means a biosimilar biological product described in paragraph (1)(C) with respect to which —

"(I) in the case of a product described in clause (ii)(I), the average sales price under paragraph (8)(A)(i) for a calendar quarter during the 5-year period described in such clause is not more than the average sales price under paragraph (4)(A) for such quarter for the reference biological product; and

"(II) in the case of a product described in clause (ii)(II), the average sales price under paragraph (8)(A)(i) for a calendar quarter during the 5-year period described in such clause is not more than the average sales price under paragraph (4)(A) for such quarter for the reference biological product.".

SEC. 11404. EXPANDING ELIGIBILITY FOR LOW-INCOME SUBSIDIES UNDER PART D OF THE MEDICARE PROGRAM.

Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)), as amended by ~~section~~ **sections** 11201 **and 11401**, is amended—

(1) in the subsection heading, by striking "Individuals" and all that follows through "Line" and inserting "Certain Individuals";

(2) in paragraph (1)—

(A) by striking the paragraph heading and inserting "INDIVIDUALS WITH CERTAIN LOW INCOMES"; and

(B) in the matter preceding subparagraph ~~(A),~~**(A)—**

(i) by inserting "(or, with respect to a plan year beginning on or after January 1, 2024, 150 percent)" after "135 percent"; and

(ii) by inserting "(or, with respect to a plan year beginning on or after January 1, 2024, paragraph (3)(E))" after "the resources requirement described in paragraph (3)(D)"; and

(3) in paragraph (2)—

(A) by striking the paragraph heading and inserting "OTHER LOW-INCOME INDIVIDUALS"; and

(B) in the matter preceding subparagraph (A), by striking "In the case of a subsidy" and inserting "With respect to a plan year beginning before January 1, 2024, in the case of a subsidy".

SEC. 11405. IMPROVING ACCESS TO ADULT VACCINES UNDER MEDICAID AND CHIP.

(a) Medicaid.—

(1) REQUIRING COVERAGE OF ADULT VACCINATIONS.—

(A) IN GENERAL.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended in the matter preceding clause (i) by inserting "(13)(B)," after "(5),".

(B) MEDICALLY NEEDY.—Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ", (13)(B)," after "(5)".

(2) NO COST SHARING FOR VACCINATIONS.—

(A) GENERAL COST-SHARING LIMITATIONS.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(i) in subsection (a)(2)—

(I) in subparagraph (G), by inserting a comma after "State plan";

(II) in subparagraph (H), by striking "; or" and inserting a comma;

(III) in subparagraph (I), by striking "; and" and inserting ", or"; and

(IV) by adding at the end the following new subparagraph:

"(J) vaccines described in section 1905(a)(13)(B) and the administration of such vaccines; and"; and

(ii) in subsection (b)(2)—

(I) in subparagraph (G), by inserting a comma after "State plan";

(II) in subparagraph (H), by striking "; or" and inserting a comma;

(III) in subparagraph (I), by striking "; and" and inserting ", or"; and

(IV) by adding at the end the following new subparagraph:

"(J) vaccines described in section 1905(a)(13)(B) and the administration of such vaccines; and".

(B) APPLICATION TO ALTERNATIVE COST SHARING.—Section 1916A(b)(3)(B) of the Social Security Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended by adding at the end the following new clause:

"(xiv) Vaccines described in section 1905(a)(13)(B) and the administration of such vaccines.".

(3) INCREASED FMAP FOR ADULT VACCINES AND THEIR ADMINISTRATION.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(A) by striking "and (5)" and inserting "(5)";

(B) by striking "services and vaccines described in subparagraphs (A) and (B) of subsection (a)(13), and prohibits cost-sharing for such services and vaccines" and inserting "services described in subsection (a)(13)(A), and prohibits cost-sharing for such services";

(C) by striking "medical assistance for such services and vaccines" and inserting "medical assistance for such services"; and

(D) by inserting ", and (6) during the first 8 fiscal quarters beginning on or after the effective date of this clause, in the case of a State which, as of the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'**, provides medical assistance for vaccines described in subsection (a)(13)(B) and their administration and prohibits cost-sharing for such vaccines, the Federal medical assistance percentage, as determined under this subsection and subsection (y), shall be increased by 1 percentage point with respect to medical assistance for such vaccines and their administration" before the first period.

(b) CHIP.—

(1) REQUIRING COVERAGE OF ADULT VACCINATIONS.—Section 2103(c) of the Social Security Act (42 U.S.C. 1397cc(c)) is amended by adding at the end the following paragraph:

"(12) REQUIRED COVERAGE OF APPROVED, RECOMMENDED ADULT VACCINES AND THEIR ADMINISTRATION.—Regardless of the type of coverage elected by a State under subsection (a), if the State child health plan or a waiver of such plan provides child health assistance or pregnancy-related assistance (as defined in section 2112) to an individual who is 19 years of age or older, such assistance shall include coverage of vaccines described in section 1905(a)(13)(B) and their administration.".

(2) NO COST-SHARING FOR VACCINATIONS.—Section 2103(e)(2) of such Act (42 U.S.C. 1397cc(e)(2)) is amended by inserting "vaccines described in subsection (c)(12) (and the administration of such vaccines)," after "in vitro diagnostic products described in subsection (c)(10) (and administration of such products),".

(c) Effective Date.—The amendments made by this section take effect on the 1st day of the 1st fiscal quarter that begins on or after the date that is 1 year after the date of enactment of this Act

and shall apply to expenditures made under a State plan or waiver of such plan under title XIX of the Social Security Act (42 U.S.C. 1396 through 1396w–6) or under a State child health plan or waiver of such plan under title XXI of such Act (42 U.S.C. 1397aa through 1397mm) on or after such effective date.

SEC. 11406. APPROPRIATE COST-SHARING FOR COVERED INSULIN PRODUCTS UNDER MEDICARE PART D.

(a) In General.—Section 1860D–2 of the Social Security Act (42 U.S.C. 1395w–102), as amended by sections 11201, 11202, and 11401, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking "paragraph (8)" and inserting "paragraphs (8) and (9)";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraphs (8) and (9)";

(ii) in subparagraph (C)(i), in the matter preceding subclause (I), by striking "and (8)" and inserting ", (8), and (9)"; and

(iii) in subparagraph (D)(i), in the matter preceding subclause (I), by striking "and (8)" and inserting ", (8), and (9)";

(C) in paragraph (3)(A), in the matter preceding clause (i), by striking "and (8)" and inserting "(8), and (9)";

(D) in paragraph (4)(A)(i), by striking "paragraph (8)" and inserting "paragraphs (8) and (9)"; and

(E) by adding at the end the following new paragraph:

"(9) TREATMENT OF COST-SHARING FOR COVERED INSULIN PRODUCTS.—

"(A) NO APPLICATION OF DEDUCTIBLE.—For plan year 2023 and subsequent plan years, the deductible under paragraph (1) shall not apply with respect to any covered insulin product.

"(B) APPLICATION OF COST-SHARING.—

"(i) PLAN YEARS 2023 AND 2024.—For plan years 2023 and 2024, the coverage provides benefits for any covered insulin product, regardless of whether an individual has reached the initial coverage limit under paragraph (3) or the out-of-pocket threshold under paragraph (4), with cost-sharing for a month's supply that does not exceed the applicable copayment amount.

"(ii) PLAN YEAR 2025 AND SUBSEQUENT PLAN YEARS.—For a plan year beginning on or after January 1, 2025, the coverage provides benefits for any covered insulin product, prior to an individual reaching the out-of-pocket threshold under paragraph (4), with cost-sharing for a month's supply that

does not exceed the applicable copayment amount.

"(C) COVERED INSULIN PRODUCT.—In this paragraph, the term 'covered insulin product' means an insulin product that is a covered part D drug covered under the prescription drug plan or MA–PD plan that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of the Public Health Service Act and marketed pursuant to such approval or licensure, including any covered insulin product that has been deemed to be licensed under section 351 of the Public Health Service Act pursuant to section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 and marketed pursuant to such section.

"(D) APPLICABLE COPAYMENT AMOUNT.—In this paragraph, the term 'applicable copayment amount' means, with respect to a covered insulin product under a prescription drug plan or an MA–PD plan dispensed—

"(i) during plan years 2023, 2024, and 2025, $35; and

"(ii) during plan year 2026 and each subsequent plan year, the lesser of—

"(I) $35;

"(II) an amount equal to 25 percent of the maximum fair price established for the covered insulin product in accordance with part E of title XI; or

"(III) an amount equal to 25 percent of the negotiated price of the covered insulin product under the prescription drug plan or MA–PD plan.

"(E) SPECIAL RULE FOR FIRST 3 MONTHS OF 2023.—With respect to a month's supply of a covered insulin product dispensed during the period beginning on January 1, 2023, and ending on March 31, 2023, a PDP sponsor offering a prescription drug plan or an MA organization offering an MA–PD plan shall reimburse an enrollee within 30 days for any cost-sharing paid by such enrollee that exceeds the cost-sharing applied by the prescription drug plan or MA–PD plan under subparagraph (B)(i) at the point-of-sale for such month's supply."; and

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

"(6) TREATMENT OF COST-SHARING FOR COVERED INSULIN PRODUCTS.—The coverage is provided in accordance with subsection (b)(9).".

(b) Conforming Amendments to Cost-sharing for Low-income Individuals.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)), as amended by sections 11201, 11401, and 11404, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)(iii), by adding at the end the following new sentence: "For plan year 2023 and subsequent plan years, the copayment amount applicable under the preceding sentence to a month's supply of a covered insulin product (as defined in section 1860D–2(b)(9)(C)) dispensed to the individual may

not exceed the applicable copayment amount for the product under the prescription drug plan or MA–PD plan in which the individual is enrolled.”; and

(B) in subparagraph (E), by inserting the following before the period at the end: “or under section 1860D–2(b)(9) in the case of a covered insulin product (as defined in subparagraph (C) of such section)”; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking “section 1860D–2(b)(8)” and inserting “paragraphs (8) and (9) of section 1860D–2(b)”;

(B) in subparagraph (D), by adding at the end the following new sentence: “For plan year 2023, the amount of the coinsurance applicable under the preceding sentence to a month’s supply of a covered insulin product (as defined in section 1860D–2(b)(9)(C)) dispensed to the individual may not exceed the applicable copayment amount for the product under the prescription drug plan or MA–PD plan in which the individual is enrolled.”; and

(C) in subparagraph (E), by adding at the end the following new sentence: “For plan year 2023, the amount of the copayment or coinsurance applicable under the preceding sentence to a month’s supply of a covered insulin product (as defined in section 1860D–2(b)(9)(C)) dispensed to the individual may not exceed the applicable copayment amount for the product under the prescription drug plan or MA–PD plan in which the individual is enrolled.”.

(c) Temporary Retrospective Subsidy.—Section 1860D–15(h) of the Social Security Act (42 U.S.C. 1395w–115(h)), as added by section 11401(c), is amended—

(1) in the subsection heading, by inserting “and Insulin” after “Practices”; and

(2) in paragraph (1), by striking “section 1860D–2(b)(8)” and inserting “paragraph (8) or (9) of section 1860D–2(b)”.

(d) Implementation for 2023 Through 2025.—The Secretary shall implement this section for plan years 2023, 2024, and 2025 by program instruction or other forms of program guidance.

(e) Funding.—In addition to amounts otherwise available, there is appropriated to the Centers for Medicare & Medicaid Services, out of any money in the Treasury not otherwise appropriated, $1,500,000 for fiscal year 2022, to remain available until expended, to carry out the provisions of, including the amendments made by, this section.

SEC. 11407. LIMITATION ON MONTHLY COINSURANCE AND ADJUSTMENTS TO SUPPLIER PAYMENT UNDER MEDICARE PART B FOR INSULIN FURNISHED THROUGH DURABLE MEDICAL EQUIPMENT.

(a) Waiver of Deductible.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and (12)" and inserting "(12)"; and

(2) by inserting before the period the following: ", and (13) such deductible shall not apply with respect to insulin furnished on or after July 1, 2023, through an item of durable medical equipment covered under section 1861(n).".

(b) Coinsurance.—

(1) IN GENERAL.—Section 1833(a)(1)(S) of the Social Security Act (42 U.S.C. 1395l(a)(1)(S)) is amended—

(A) by inserting "(i) except as provided in clause (ii)," after "(S)"; and

(B) by inserting after "or 1847B)," the following: "and (ii) with respect to insulin furnished on or after July 1, 2023, through an item of durable medical equipment covered under section 1861(n), the amounts paid shall be, subject to the fourth sentence of this subsection, 80 percent of the payment amount established under section 1847A (or section 1847B, if applicable) for such insulin,".

(2) ADJUSTMENT TO SUPPLIER PAYMENTS; LIMITATION ON MONTHLY COINSURANCE.—Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended, in the flush matter at the end, by adding at the end the following new sentence: "The Secretary shall make such adjustments as may be necessary to the amounts paid as specified under paragraph (1)(S)(ii) for insulin furnished on or after July 1, 2023, through an item of durable medical equipment covered under section 1861(n), such that the amount of coinsurance payable by an individual enrolled under this part for a month's supply of such insulin does not exceed $35.".

(c) Implementation.—The Secretary of Health and Human Services shall implement this section for 2023 by program instruction or other forms of program guidance.

SEC. 11408. SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE FOR INSULIN.

(a) In General.—Paragraph (2) of section 223(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(G) SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE FOR CERTAIN INSULIN PRODUCTS.—

"(i) IN GENERAL.—A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for selected insulin products.

"(ii) SELECTED INSULIN PRODUCTS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'selected insulin products' means any dosage form (such as vial, pump, or inhaler dosage forms) of any different type (such as rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting, and premixed) of insulin.

"(II) INSULIN.—The term 'insulin' means insulin that is licensed

under subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262) and continues to be marketed under such section, including any insulin product that has been deemed to be licensed under section 351(a) of such Act pursuant to section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (Public Law 111–148) and continues to be marketed pursuant to such licensure.".

**** 3** ~~(c)~~**(b)** Effective Date.—The ~~amendments~~ **amendment** made by this section shall apply to ~~taxable~~ **plan** years beginning after December 31, 2022.

Subtitle C—Affordable Care Act Subsidies

SEC. 12001. IMPROVE AFFORDABILITY AND REDUCE PREMIUM COSTS OF HEALTH INSURANCE FOR CONSUMERS.

(a) In General.—Clause (iii) of section 36B(b)(3)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking "in 2021 or 2022" and inserting "after December 31, 2020, and before January 1, 2026", and

(2) by striking "2021 AND 2022" in the heading and inserting "2021 THROUGH 2025".

(b) Extension Through 2025 of Rule to Allow Credit to Taxpayers Whose Household Income Exceeds 400 Percent of the Poverty Line.—Section 36B(c)(1)(E) of the Internal Revenue Code of 1986 is amended—

(1) by striking "in 2021 or 2022" and inserting "after December 31, 2020, and before January 1, 2026", and

(2) by striking "2021 AND 2022" in the heading and inserting "2021 THROUGH 2025".

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

Subtitle D—Energy Security

SEC. 13001. AMENDMENT OF 1986 CODE.

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

PART 1—CLEAN ELECTRICITY AND REDUCING CARBON EMISSIONS

SEC. 13101. EXTENSION AND MODIFICATION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN

RENEWABLE RESOURCES.

(a) In General.—The following provisions of section 45(d) are each amended by striking "January 1, 2022" each place it appears and inserting "January 1, 2025":

(1) Paragraph (2)(A).

(2) Paragraph (3)(A).

(3) Paragraph (6).

(4) Paragraph (7).

(5) Paragraph (9).

(6) Paragraph (11)(B).

(b) Base Credit Amount.—Section 45 is amended—

(1) in subsection (a)(1), by striking "1.5 cents" and inserting "0.3 cents", and

(2) in subsection (b)(2), by striking "1.5 cent" and inserting "0.3 cent".

(c) Application of Extension to Geothermal and Solar.—Section 45(d)(4) is amended by striking "and which" and all that follows through "January 1, 2022" and inserting "and the construction of which begins before January 1, 2025".

(d) Extension of Election to Treat Qualified Facilities as Energy Property.—Section 48(a)(5)(C)(ii) is amended by striking "January 1, 2022" and inserting "January 1, 2025".

(e) Application of Extension to Wind Facilities.—

(1) IN GENERAL.—Section 45(d)(1) is amended by striking "January 1, 2022" and inserting "January 1, 2025".

(2) APPLICATION OF PHASEOUT PERCENTAGE.—

(A) RENEWABLE ELECTRICITY PRODUCTION CREDIT.—Section 45(b)(5) is amended by inserting "which is placed in service before January 1, 2022" after "using wind to produce electricity".

(B) ENERGY CREDIT.—Section 48(a)(5)(E) is amended by inserting "placed in service before January 1, 2022, and" before "treated as energy property".

(3) QUALIFIED OFFSHORE WIND FACILITIES UNDER ENERGY CREDIT.—Section 48(a)(5)(F)(i) is amended by striking "offshore wind facility" and all that follows and inserting the following: "offshore wind facility, subparagraph (E) shall not apply.".

(f) Wage and Apprenticeship Requirements.—Section 45(b) is amended by adding at the end the following new paragraphs:

"(6) INCREASED CREDIT AMOUNT FOR QUALIFIED FACILITIES.—

"(A) IN GENERAL.—In the case of any qualified facility which satisfies the requirements of subparagraph (B), the amount of the credit determined under subsection (a) (determined after the application of paragraphs (1) through (5) and without regard to this paragraph) shall be equal to such amount multiplied by 5.

"(B) QUALIFIED FACILITY REQUIREMENTS.—A qualified facility meets the requirements of this subparagraph if it is one of the following:

"(i) A facility with a maximum net output of less than 1 megawatt (as measured in alternating current).

"(ii) A facility the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (7)(A) and (8).

"(iii) A facility which satisfies the requirements of paragraphs (7)(A) and (8).

"(7) PREVAILING WAGE REQUIREMENTS.—

**** 4** "(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified ~~clean hydrogen production~~ facility are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in—

~~"(A) In general.—The requirements described in this subparagraph with respect to any qualified facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—~~"(i) the construction of such facility, and

"(ii) with respect to any taxable year, for any portion of such taxable year which is within the period described in subsection (a)(2)(A)(ii), the alteration or repair of such facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such facility is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. For purposes of determining an increased credit amount under paragraph (6)(A) for a taxable year, the requirement under clause (ii) is applied to such taxable year in which the alteration or repair of the qualified facility occurs."

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to the construction of any qualified facility or with respect to the alteration or repair of a facility in any year during the period described in subparagraph (A)(ii), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such facility for any year if, with respect to any laborer or mechanic who was paid wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer—

"(I) makes payment to such laborer or mechanic in an amount equal to the sum of—

"(aa) an amount equal to the difference between—

"(AA) the amount of wages paid to such laborer or mechanic during such period, and

"(BB) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus

"(bb) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 (determined by substituting '6 percentage points' for '3 percentage points' in subsection (a)(2) of such section) for the period described in such item, and

"(II) makes payment to the Secretary of a penalty in an amount equal to the product of—

"(aa) $5,000, multiplied by

"(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subparagraph (A) for any period during such year.

"(ii) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of any penalty imposed by this paragraph.

"(iii) INTENTIONAL DISREGARD.—If the Secretary determines that any failure described in clause (i) is due to intentional disregard of the requirements under subparagraph (A), such clause shall be applied—

"(I) in subclause (I), by substituting 'three times the sum' for 'the sum', and

"(II) in subclause (II), by substituting '$10,000' for '5,000' in item (aa) thereof.

"(iv) LIMITATION ON PERIOD FOR PAYMENT.—Pursuant to rules issued by the Secretary, in the case of a final determination by the Secretary with respect to any failure by the taxpayer to satisfy the requirement under subparagraph (A), subparagraph (B)(i) shall not apply unless the payments described in subclauses (I) and (II) of such subparagraph are made by the taxpayer on or before the date which is 180 days after the date of such determination.

"(8) APPRENTICESHIP REQUIREMENTS.—The requirements described in this paragraph with respect to the construction of any qualified facility are as follows:

"(A) LABOR HOURS.—

"(i) PERCENTAGE OF TOTAL LABOR HOURS.—Taxpayers shall ensure that, with respect to the construction of any qualified facility, not less than the applicable percentage of the total labor hours of the construction, alteration, or repair work (including such work performed by any contractor or subcontractor) with respect to such facility shall, subject to subparagraph (B), be performed by qualified apprentices.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be—

"(I) in the case of a qualified facility the construction of which begins before January 1, 2023, 10 percent,

"(II) in the case of a qualified facility the construction of which begins after December 31, 2022, and before January 1, 2024, 12.5 percent, and

"(III) in the case of a qualified facility the construction of which begins after December 31, 2023, 15 percent.

"(B) APPRENTICE TO JOURNEYWORKER RATIO.—The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.

"(C) PARTICIPATION.—Each **taxpayer,** contractor ~~and~~**, or** subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work with respect to the construction of a qualified facility shall employ 1 or more qualified apprentices to perform such work.

"(D) EXCEPTION.—

"(i) IN GENERAL.—A taxpayer shall not be treated as failing to satisfy the requirements of this paragraph if such taxpayer—

"(I) satisfies the requirements described in clause (ii), or

"(II) subject to clause (iii), in the case of any failure by the taxpayer to satisfy the requirement under subparagraphs (A) and (C) with respect to the construction, alteration, or repair work on any qualified facility to which subclause (I) does not apply, makes payment to the Secretary of a penalty in an amount equal to the product of—

"(aa) $50, multiplied by

"(bb) the total labor hours for which the requirement described in such subparagraph was not satisfied with respect to the construction, alteration, or repair work on such qualified facility.

"(ii) GOOD FAITH EFFORT.—For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under this paragraph with respect to a qualified facility if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and—

"(I) such request has been denied, provided that such denial is not the result of a refusal by the **taxpayer or any** contractors or subcontractors engaged in the performance of construction, alteration, or repair work with respect to such qualified facility to comply with the established standards and requirements of the registered apprenticeship program, or

"(II) the registered apprenticeship program fails to respond to such request within 5 business days after the date on which such registered apprenticeship

program received such request.

"(iii) INTENTIONAL DISREGARD.—If the Secretary determines that any failure described in subclause (i)(II) is due to intentional disregard of the requirements under subparagraphs (A) and (C), subclause (i)(II) shall be applied by substituting '$500' for '$50' in item (aa) thereof.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LABOR HOURS.—The term 'labor hours'—

"(I) means the total number of hours devoted to the performance of construction, alteration, or repair work by ~~employees of~~ **any individual employed by** the taxpayer ~~(including construction, alteration, or repair work~~ **or** by any contractor or subcontractor~~),~~**,** and

"(II) excludes any hours worked by—

"(aa) foremen,

"(bb) superintendents,

"(cc) owners, or

"(dd) persons employed in a bona fide executive, administrative, or professional capacity (within the meaning of those terms in part 541 of title 29, Code of Federal Regulations).

"(ii) QUALIFIED APPRENTICE.—The term 'qualified apprentice' means an individual who is ~~an employee of the~~ **employed by the taxpayer or by any** contractor or subcontractor and who is participating in a registered apprenticeship program, as defined in section 3131(e)(3)(B).

"(9) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.".

(g) Domestic Content, Phaseout, and Energy Communities.—Section 45(b), as amended by subsection (f), is amended—

(1) by redesignating paragraph (9) as paragraph (12), and

(2) by inserting after paragraph (8) the following:

"(9) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any qualified facility which satisfies the requirement under subparagraph (B)(i), the amount of the credit determined under subsection (a) (determined after the application of paragraphs (1) through (8)) shall be increased by an amount equal to 10 percent of the amount so determined.

"(B) REQUIREMENT.—

"(i) IN GENERAL.—The requirement described in this ~~subclause~~ **clause** is satisfied with respect to any qualified facility if the taxpayer certifies to the

Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that any steel, iron, or manufactured product which is a component of such facility (upon completion of construction) was produced in the United States (as determined under section 661 of title 49, Code of Federal Regulations).

"(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5 of title 49, Code of Federal Regulations.

"(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), the manufactured products which are components of a qualified facility upon completion of construction shall be deemed to have been produced in the United States if not less than the adjusted percentage (as determined under subparagraph (C)) of the total costs of all such manufactured products of such facility are attributable to manufactured products (including components) which are mined, produced, or manufactured in the United States.

"(C) ADJUSTED PERCENTAGE.—

"(i) IN GENERAL.—Subject to subclause (ii), for purposes of subparagraph (B)(iii), the adjusted percentage shall be 40 percent.

"(ii) OFFSHORE WIND FACILITY.—For purposes of subparagraph (B)(iii), in the case of a qualified facility which is an offshore wind facility, the adjusted percentage shall be 20 percent.

"(10) PHASEOUT FOR ELECTIVE PAYMENT.—

"(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with—

"(i) the value of such credit (determined without regard to this paragraph), multiplied by

"(ii) the applicable percentage.

"(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN QUALIFIED FACILITIES.—In the case of any qualified facility—

"(i) which satisfies the requirements under paragraph (9)(B) ~~with respect to the construction of such facility~~, or

"(ii) with a maximum net output of less than 1 megawatt (as measured in alternating current),

the applicable percentage shall be 100 percent.

"(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be—

"(i) if construction of such facility began before January 1, 2024, 100 percent, and

"(ii) if construction of such facility began in calendar year 2024, 90 percent.

"(D) EXCEPTION.—

"(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall provide exceptions to the requirements under this paragraph ~~for the construction of qualified facilities~~ if—

"(I) the inclusion of steel, iron, or manufactured products which are produced in the United States increases the overall costs of construction of qualified facilities by more than 25 percent, or

"(II) relevant steel, iron, or manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

"(ii) APPLICABLE PERCENTAGE.—In any case in which the Secretary provides an exception pursuant to clause (i), the applicable percentage shall be 100 percent.

"(11) SPECIAL RULE FOR QUALIFIED FACILITY LOCATED IN ENERGY COMMUNITY.—

"(A) IN GENERAL.—In the case of a qualified facility which is located in an energy community, the credit determined under subsection (a) (determined after the application of paragraphs (1) through (10), without the application of paragraph (9)) shall be increased by an amount equal to 10 percent of the amount so determined.

"(B) ENERGY COMMUNITY.—For purposes of this paragraph, the term 'energy community' means—

"(i) a brownfield site (as defined in subparagraphs (A), (B), and (D)(ii)(III) of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39))),

"(ii) ~~an area which~~ **a metropolitan statistical area or non-metropolitan statistical area which—**

"(I) has (or, at any time during the period beginning after December 31, ~~1999, had) significant employment~~ **2009, had) 0.17 percent or greater direct employment or 25 percent or greater local tax revenues** related to the extraction, processing, transport, or storage of coal, oil, or natural gas (as determined by the Secretary), **and**

"(II) has an unemployment rate at or above the national average unemployment rate for the previous year (as determined by the Secretary), or

"(iii) a census tract—

"(I) in which—

"(aa) after December 31, 1999, a coal mine has closed, or

"(bb) after December 31, 2009, a coal-fired electric generating unit has been retired, or

"(II) which is directly adjoining to any census tract described in subclause (I).".

(h) Credit Reduced for Tax-exempt Bonds.—Section 45(b)(3) is amended to read as follows:

"(3) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and the lesser of 15 percent or a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of proceeds of an issue of any obligations the interest on which is exempt from tax under section 103 and which is used to provide financing for the qualified facility, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the qualified facility for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.".

(i) Rounding Adjustment.—

(1) IN GENERAL.—Section 45(b)(2) is amended by striking the second sentence and inserting the following: "If the 0.3 cent amount as increased under the preceding sentence is not a multiple of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05 cent. In any other case, if an amount as increased under this paragraph is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.".

(2) CONFORMING AMENDMENT.—Section 45(b)(4)(A) is amended by striking "last sentence" and inserting "last two sentences".

(j) Hydropower.—

(1) ELIMINATION OF CREDIT RATE REDUCTION FOR QUALIFIED HYDROELECTRIC PRODUCTION AND MARINE AND HYDROKINETIC RENEWABLE ENERGY.—Section 45(b)(4)(A), as amended by the preceding provisions of this section, is amended by striking "(7), (9), or (11)" and inserting "or (7)".

(2) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—Section 45 is amended—

(A) in subsection (c)(10)(A)—

(i) in clause (iii), by striking "or",

(ii) in clause (iv), by striking the period at the end and inserting ", or" and

(iii) by adding at the end the following:

"(v) pressurized water used in a pipeline (or similar man-made water conveyance) which is operated—

"(I) for the distribution of water for agricultural, municipal, or industrial consumption, and

"(II) not primarily for the generation of electricity.", and

(B) in subsection (d)(11)(A), by striking "150" and inserting "25".

(k) Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to facilities placed in service after December 31, 2021.

(2) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—The amendment made by subsection (h) shall apply to facilities the construction of which begins after the date of enactment of this Act.

(3) DOMESTIC CONTENT, PHASEOUT, ENERGY COMMUNITIES, AND HYDROPOWER.—The amendments made by subsections (g) and (j) shall apply to facilities placed in service after December 31, 2022.

SEC. 13102. EXTENSION AND MODIFICATION OF ENERGY CREDIT.

(a) Extension of Credit.—The following provisions of section 48 are each amended by striking "January 1, 2024" each place it appears and inserting "January 1, 2025":

(1) Subsection (a)(2)(A)(i)(II).

(2) Subsection (a)(3)(A)(ii).

(3) Subsection (c)(1)(D).

(4) Subsection (c)(2)(D).

(5) Subsection (c)(3)(A)(iv).

(6) Subsection (c)(4)(C).

(7) Subsection (c)(5)(D).

(b) Further Extension for Certain Energy Property.—Section 48(a)(3)(A)(vii) is amended by striking "January 1, 2024" and inserting "January 1, 2035".

(c) Phaseout of Credit.—Section 48(a) is amended by striking paragraphs (6) and (7) and inserting the following new paragraph:

"(6) PHASEOUT FOR CERTAIN ENERGY PROPERTY.—In the case of any qualified fuel cell property, qualified small wind property, or energy property described in clause (i) or clause (ii) of paragraph (3)(A) the construction of which begins after December 31, 2019, and which is placed in service before January 1, 2022, the energy percentage determined under paragraph (2) shall be equal to 26 percent.".

(d) Base Energy Percentage ~~Amount.—Section 48(a) is amended—~~ **Amount; Phaseout of Certain Energy Property.—**

~~(1)~~(1) BASE ENERGY PERCENTAGE AMOUNT.—Section 48(a) is amended—

(A) in paragraph (2)(A)—

~~(A)~~**(i)** in clause (i), by striking "30 percent" and inserting "6 percent", and

~~(B)~~**(ii)** in clause (ii), by striking "10 percent" and inserting "2 percent", and

~~(2)~~**(B)** in paragraph (5)(A)(ii), by striking "30 percent" and inserting "6 percent".

**** 5** ~~(5)~~**(2)** PHASEOUT OF CERTAIN ENERGY PROPERTY.—Section 48(a), as amended by

the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

**** 6** "(7) PHASEOUT FOR CERTAIN ENERGY PROPERTY.—In the case of any energy property described in clause (vii) of paragraph (3)(A), the energy percentage determined under paragraph (2) shall be equal to—

**** 7** "(A) in the case of any property the construction of which begins before January 1, 2033, and which is placed in service after December 31, 2021, 6 percent,

**** 8** "(B) in the case of any property the construction of which begins after December 31, 2032, and before January 1, 2034, 5.2 percent, and

**** 9** "(C) in the case of any property the construction of which begins after December 31, 2033, and before January 1, 2035, 4.4 percent.".

(e) 6 Percent Credit for Geothermal.—Section 48(a)(2)(A)(i)(II) is amended by striking "paragraph (3)(A)(i)" and inserting "clause (i) or (iii) of paragraph (3)(A)".

(f) Energy Storage Technologies; Qualified Biogas Property; Microgrid Controllers; Extension of Other Property.—

(1) IN GENERAL.—Section 48(a)(3)(A) is amended by striking "or" at the end of clause (vii), and by adding at the end the following new clauses:

"(ix) energy storage technology,

"(x) qualified biogas property, or

"(xi) microgrid controllers,".

(2) APPLICATION OF 6 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking "and" at the end of subclauses (IV) and (V) and adding at the end the following new subclauses:

"(VI) energy storage technology,

"(VII) qualified biogas property,

"(VIII) microgrid controllers, and

"(IX) energy property described in clauses (v) and (vii) of paragraph (3)(A), and".

(3) DEFINITIONS.—Section 48(c) is amended by adding at the end the following new paragraphs:

"(6) ENERGY STORAGE TECHNOLOGY.—

"(A) IN GENERAL.—The term 'energy storage technology' means—

"(i) property (other than property primarily used in the transportation of goods or individuals and not for the production of electricity) which receives, stores, and delivers energy for conversion to electricity (or, in the case of hydrogen, which stores energy), and has a nameplate capacity of not less than 5 kilowatt hours, and

"(ii) thermal energy storage property.

"(B) MODIFICATIONS OF CERTAIN PROPERTY.—In the case of any property which either—

"(i) was placed in service before the date of enactment of this section and would be described in subparagraph (A)(i), except that such property has a capacity of less than 5 kilowatt hours and is modified in a manner that such property (after such modification) has a nameplate capacity of not less than 5 kilowatt hours, or

"(ii) is described in subparagraph (A)(i) and is modified in a manner that such property (after such modification) has an increase in nameplate capacity of not less than 5 kilowatt hours,

such property shall be treated as described in subparagraph (A)(i) except that the basis of any existing property prior to such modification shall not be taken into account for purposes of this section. In the case of any property to which this subparagraph applies, subparagraph (D) shall be applied by substituting 'modification' for 'construction'.

"(C) THERMAL ENERGY STORAGE PROPERTY.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, the term 'thermal energy storage property' means **property comprising** a system which—

"(I) is directly connected to a heating, ventilation, or air conditioning system,

"(II) removes heat from, or adds heat to, a storage medium for subsequent use, and

"(III) provides energy for the heating or cooling of the interior of a residential or commercial building.

"(ii) EXCLUSION.—The term 'thermal energy storage property' shall not include—

"(I) a swimming pool,

"(II) combined heat and power system property, or

"(III) a building or its structural components.

"(D) TERMINATION.—The term 'energy storage technology' shall not include any property the construction of which begins after December 31, 2024.

"(7) QUALIFIED BIOGAS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified biogas property' means property comprising a system which—

"(i) converts biomass (as defined in section 45K(c)(3), as in effect on the date of enactment of this paragraph) into a gas which—

"(I) consists of not less than 52 percent methane by volume, or

"(II) is concentrated by such system into a gas which consists of not less than 52 percent methane, and

"(ii) captures such gas for sale or productive use, and not for disposal via combustion.

"(B) INCLUSION OF CLEANING AND CONDITIONING PROPERTY.—The term 'qualified biogas property' includes any property which is part of such system which cleans or conditions such gas.

"(C) TERMINATION.—The term 'qualified biogas property' shall not include any property the construction of which begins after December 31, 2024.

"(8) MICROGRID CONTROLLER.—

"(A) IN GENERAL.—The term 'microgrid controller' means equipment which is—

"(i) part of a qualified microgrid, and

"(ii) designed and used to monitor and control the energy resources and loads on such microgrid.

"(B) QUALIFIED MICROGRID.—The term 'qualified microgrid' means an electrical system which—

"(i) includes equipment which is capable of generating not less than 4 kilowatts and not greater than 20 megawatts of electricity,

"(ii) is capable of operating—

"(I) in connection with the electrical grid and as a single controllable entity with respect to such grid, and

"(II) independently (and disconnected) from such grid, and

"(iii) is not part of a bulk-power system (as defined in section 215 of the Federal Power Act (16 U.S.C. 824o)).

"(C) TERMINATION.—The term 'microgrid controller' shall not include any property the construction of which begins after December 31, 2024.".

(4) DENIAL OF DOUBLE BENEFIT FOR QUALIFIED BIOGAS PROPERTY.—Section 45(e) is amended by adding at the end the following new paragraph:

"(12) COORDINATION WITH ENERGY CREDIT FOR QUALIFIED BIOGAS PROPERTY.—The term 'qualified facility' shall not include any facility which produces electricity from gas produced by qualified biogas property (as defined in section 48(c)(7)) if a credit is allowed under section 48 with respect to such property for the taxable year or any prior taxable year.".

~~* 5 (5) Phaseout of certain energy property.—Section 48(a), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:~~

~~* 6 "(7) Phaseout for certain energy property.—In the case of any energy property described in clause (vii) of paragraph (3)(A), the energy percentage determined under paragraph (2) shall be equal to—~~

~~* 7 "(A) in the case of any property the construction of which begins before January 1, 2033, and which is placed in service after December 31, 2021, 6 percent,~~

~~* 8 "(B) in the case of any property the construction of which begins after December 31, 2032, and before January 1, 2034, 5.2 percent, and~~

~~* 9 "(C) in the case of any property the construction of which begins after December 31, 2033, and before January 1, 2035, 4.4 percent.".~~

~~(6)~~**(5)** PUBLIC UTILITY PROPERTY.—Paragraph (2) of section 50(d) is amended—

(A) by adding after the first sentence the following new sentence: "At the election of a taxpayer, this paragraph shall not apply to any energy storage technology (as defined in section 48(c)(6)), provided—", and

(B) by adding the following new subparagraphs:

"(A) no election under this paragraph shall be permitted if the making of such election is prohibited by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision that regulates public utilities as described in section 7701(a)(33)(A),

"(B) an election under this paragraph shall be made separately with respect to each energy storage technology by the due date (including extensions) of the Federal tax return for the taxable year in which the energy storage technology is placed in service by the taxpayer, and once made, may be revoked only with the consent of the Secretary, and

"(C) an election shall not apply with respect to any energy storage technology if such energy storage technology has a maximum capacity equal to or less than 500 kilowatt hours.".

(g) Fuel Cells Using Electromechanical Processes.—

(1) IN GENERAL.—Section 48(c)(1) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting "or electromechanical" after "electrochemical", and

(ii) by inserting "(1 kilowatt in the case of a fuel cell power plant with a linear generator assembly)" after "0.5 kilowatt", and

(B) in subparagraph (C)—

(i) by inserting ", or linear generator assembly," after "a fuel cell stack assembly", and

(ii) by inserting "or electromechanical" after "electrochemical".

(2) LINEAR GENERATOR ASSEMBLY LIMITATION.—Section 48(c)(1) is amended by

redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) LINEAR GENERATOR ASSEMBLY.—The term 'linear generator assembly' does not include any assembly which contains rotating parts.".

(h) Dynamic Glass.—Section 48(a)(3)(A)(ii) is amended by inserting ", or electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure," after "sunlight".

(i) Coordination With Low Income Housing Tax Credit.—Paragraph (3) of section 50(c) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) paragraph (1) shall not apply for purposes of determining eligible basis under section 42.".

(j) Interconnection Property.—Section 48(a), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(8) INTERCONNECTION PROPERTY.—

"(A) IN GENERAL.—For purposes of determining the credit under subsection (a), energy property shall include amounts paid or incurred by the taxpayer for qualified interconnection property in connection with the installation of energy property (as defined in paragraph (3)) which has a maximum net output of not greater than 5 megawatts (as measured in alternating current), to provide for the transmission or distribution of the electricity produced or stored by such property, and which are properly chargeable to the capital account of the taxpayer.

"(B) QUALIFIED INTERCONNECTION PROPERTY.—The term 'qualified interconnection property' means, with respect to an energy project which is not a microgrid controller, any tangible property—

"(i) which is part of an addition, modification, or upgrade to a transmission or distribution system which is required at or beyond the point at which the energy project interconnects to such transmission or distribution system in order to accommodate such interconnection,

"(ii) either—

"(I) which is constructed, reconstructed, or erected by the taxpayer, or

"(II) for which the cost with respect to the construction, reconstruction, or erection of such property is paid or incurred by such taxpayer, and

"(iii) the original use of which, pursuant to an interconnection agreement, commences with a utility.

"(C) INTERCONNECTION AGREEMENT.—The term 'interconnection agreement' means an agreement with a utility for the purposes of interconnecting the energy

property owned by such taxpayer to the transmission or distribution system of such utility.

"(D) UTILITY.—For purposes of this paragraph, the term 'utility' means the owner or operator of an electrical transmission or distribution system which is subject to the regulatory authority of a State or political subdivision thereof, any agency or instrumentality of the United States, a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or ratemaking body of an electric cooperative.

"(E) SPECIAL RULE FOR INTERCONNECTION PROPERTY.—In the case of expenses paid or incurred for interconnection property, amounts otherwise chargeable to capital account with respect to such expenses shall be reduced under rules similar to the rules of section 50(c).".

(k) Energy Projects, Wage Requirements, and Apprenticeship Requirements.—Section 48(a), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraphs:

"(9) INCREASED CREDIT AMOUNT FOR ENERGY PROJECTS.—

"(A) IN GENERAL.—

"(i) RULE.—In the case of any energy project which satisfies the requirements of subparagraph (B), the amount of the credit determined under this subsection (determined after the application of paragraphs (1) through (8) and without regard to this clause) shall be equal to such amount multiplied by 5.

"(ii) ENERGY PROJECT DEFINED.—For purposes of this subsection, the term 'energy project' means a project consisting of one or more energy properties that are part of a single project.

"(B) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(i) A project with a maximum net output of less than 1 megawatt **of electrical** (as measured in alternating current) ~~of electrical~~ or thermal energy.

"(ii) A project the construction of which begins before the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (10)(A) and (11).

"(iii) A project which satisfies the requirements of paragraphs (10)(A) and (11).

"(10) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any energy project are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in—

"(i) the construction of such energy project, and

"(ii) for the 5-year period beginning on the date such project is originally placed in service, the alteration or repair of such project,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such project is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. Subject to subparagraph (C), for purposes of any determination under paragraph (9)(A)(i) for the taxable year in which the energy project is placed in service, the taxpayer shall be deemed to satisfy the requirement under clause (ii) at the time such project is placed in service.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(C) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under this subsection by reason of this paragraph with respect to any project which does not satisfy the requirements under subparagraph (A) (after application of subparagraph (B)) for the period described in clause (ii) of subparagraph (A) (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a).

"(11) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.".

(l) Domestic Content; Phaseout for Elective Payment.—Section 48(a), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraphs:

"(12) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any energy project which satisfies the requirement under subparagraph (B), for purposes of applying paragraph (2) with respect to such property, the energy percentage shall be increased by the applicable credit rate increase.

"(B) REQUIREMENT.—Rules similar to the rules of section 45(b)(9)(B) shall apply.

"(C) APPLICABLE CREDIT RATE INCREASE.—For purposes of subparagraph (A), the applicable credit rate increase shall be—

"(i) in the case of an energy project which does not satisfy the requirements of paragraph (9)(B), 2 percentage points, and

"(ii) in the case of an energy project which satisfies the requirements of paragraph (9)(B), 10 percentage points.

"(13) PHASEOUT FOR ELECTIVE PAYMENT.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, rules similar to the rules of section 45(b)(10) shall apply.".

(m) Special Rule for Property Financed by Tax-exempt Bonds.—Section 48(a)(4) is amended to read as follows:

"(4) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.—Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section.".

(n) Treatment of Certain Contracts Involving Energy Storage.—Section 7701(e) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(i), by striking "or" at the end of subclause (II), by striking "and" at the end of subclause (III) and inserting "or", and by adding at the end the following new subclause:

"(IV) the operation of a storage facility, and", and

(B) by adding at the end the following new subparagraph:

"(F) STORAGE FACILITY.—For purposes of subparagraph (A), the term 'storage facility' means a facility which uses energy storage technology within the meaning of section 48(c)(6).", and

(2) in paragraph (4), by striking "or water treatment works facility" and inserting "water treatment works facility, or storage facility".

(o) Increase in Credit Rate for Energy Communities.—Section 48(a), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(14) INCREASE IN CREDIT RATE FOR ENERGY COMMUNITIES.—

"(A) IN GENERAL.—In the case of any energy project that is placed in service within an energy community (as defined in section 45(b)(11)(B), as applied by substituting 'energy project' for 'qualified facility' each place it appears), for purposes of applying paragraph (2) with respect to energy property which is part of such project, the energy percentage shall be increased by the applicable credit rate increase.

"(B) APPLICABLE CREDIT RATE INCREASE.—For purposes of subparagraph (A), the applicable credit rate increase shall be equal to—

"(i) in the case of any energy project which does not satisfy the requirements of paragraph (9)(B), 2 percentage points, and

"(ii) in the case of any energy project which satisfies the requirements of paragraph (9)(B), 10 percentage points.".

(p) Regulations.—Section 48(a), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(15) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.".

(q) Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to property placed in service after December 31, 2021.

(2) OTHER PROPERTY.—The amendments made by subsections (f), (g), (h), (i), (j), (l), (n), and (o) shall apply to property placed in service after December 31, 2022.

(3) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.—The amendments

made by subsection (m) shall apply to property the construction of which begins after the date of enactment of this Act.

SEC. 13103. INCREASE IN ENERGY CREDIT FOR SOLAR AND WIND FACILITIES PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME COMMUNITIES.

(a) In General.—Section 48 is amended by adding at the end the following new subsection:

"(e) Special Rules for Certain Solar and Wind Facilities Placed in Service in Connection With Low-income Communities.—

"(1) IN GENERAL.—In the case of any qualified solar and wind facility with respect to which the Secretary makes an allocation of environmental justice solar and wind capacity limitation under paragraph (4)—

"(A) the energy percentage otherwise determined under paragraph (2) or (5) of subsection (a) with respect to any eligible property which is part of such facility shall be increased by—

"(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii) and not described in subclause (II) of such paragraph, 10 percentage points, and

"(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii), 20 percentage points, and

"(B) the increase in the credit determined under subsection (a) by reason of this subsection for any taxable year with respect to all property which is part of such facility shall not exceed the amount which bears the same ratio to the amount of such increase (determined without regard to this subparagraph) as—

"(i) the environmental justice solar and wind capacity limitation allocated to such facility, bears to

"(ii) the total megawatt nameplate capacity of such facility, as measured in direct current.

"(2) QUALIFIED SOLAR AND WIND FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified solar and wind facility' means any facility —

"(i) which generates electricity solely from property described in section 45(d)(1) or in clause (i) or (vi) of subsection (a)(3)(A),

"(ii) which has a maximum net output of less than 5 megawatts (as measured in alternating current), and

"(iii) which—

"(I) is located in a low-income community (as defined in section 45D(e)) or on Indian land (as defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2))), or

"(II) is part of a qualified low-income residential building project or a

qualified low-income economic benefit project.

"(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.—A facility shall be treated as part of a qualified low-income residential building project if—

"(i) such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a housing assistance program administered by the Department of Agriculture under title V of the Housing Act of 1949, a housing program administered by a tribally designated housing entity (as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))) or such other affordable housing programs as the Secretary may provide, and

"(ii) the financial benefits of the electricity produced by such facility are allocated equitably among the occupants of the dwelling units of such building.

"(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.—A facility shall be treated as part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of—

"(i) less than 200 percent of the poverty line (as defined in section 36B(d)(3)(A)) applicable to a family of the size involved, or

"(ii) less than 80 percent of area median gross income (as determined under section 142(d)(2)(B)).

"(D) FINANCIAL BENEFIT.—For purposes of subparagraphs (B) and (C), electricity acquired at a below-market rate shall not fail to be taken into account as a financial benefit.

"(3) ELIGIBLE PROPERTY.—For purposes of this section, the term 'eligible property' means energy property which—

"(A) is part of a facility described in section 45(d)(1) for which an election was made under subsection (a)(5), or

"(B) is described in clause (i) or (vi) of subsection (a)(3)(A),

including energy storage technology (as described in subsection (a)(3)(A)(ix)) installed in connection with such energy property.

"(4) ALLOCATIONS.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish a program to allocate amounts of environmental justice solar and wind capacity limitation to qualified solar and wind facilities. In establishing such program and to carry out the purposes of this subsection, the Secretary shall provide procedures to allow for an efficient allocation process, including, when determined appropriate, consideration of multiple projects in a single application if such projects will be placed in service by a single taxpayer.

"(B) LIMITATION.—The amount of environmental justice solar and wind capacity

limitation allocated by the Secretary under subparagraph (A) during any calendar year shall not exceed the annual capacity limitation with respect to such year.

"(C) ANNUAL CAPACITY LIMITATION.—For purposes of this paragraph, the term 'annual capacity limitation' means 1.8 gigawatts of direct current capacity for each of calendar years 2023 and 2024, and zero thereafter.

"(D) CARRYOVER OF UNUSED LIMITATION.—If the annual capacity limitation for any calendar year exceeds the aggregate amount allocated for such year under this paragraph, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2024 except as provided in section ~~48D(h)(4)(D)(ii)~~ **48E(h)(4)(D)(ii)**.

"(E) PLACED IN SERVICE DEADLINE.—

"(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any property which is placed in service after the date that is 4 years after the date of the allocation with respect to the facility of which such property is a part.

"(ii) APPLICATION OF CARRYOVER.—Any amount of environmental justice solar and wind capacity limitation which expires under clause (i) during any calendar year shall be taken into account as an excess described in subparagraph (D) (or as an increase in such excess) for such calendar year, subject to the limitation imposed by the last sentence of such subparagraph.

"(5) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of this subsection with respect to any property which ceases to be property eligible for such increase (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture may not apply with respect to any property if, within 12 months after the date the taxpayer becomes aware (or reasonably should have become aware) of such property ceasing to be property eligible for such increase, the eligibility of such property for such increase is restored. The preceding sentence shall not apply more than once with respect to any facility.".

(b) Effective Date.—The amendments made by this section shall take effect on January 1, 2023.

SEC. 13104. EXTENSION AND MODIFICATION OF CREDIT FOR CARBON OXIDE SEQUESTRATION.

(a) Modification of Carbon Oxide Capture Requirements.—

(1) IN GENERAL.—Section 45Q(d) is amended to read as follows:

"(d) Qualified Facility.—For purposes of this section, the term 'qualified facility' means any industrial facility or direct air capture facility—

"(1) the construction of which begins before January 1, 2033, and either—

"(A) construction of carbon capture equipment begins before such date, or

"(B) the original planning and design for such facility includes installation of carbon capture equipment, and

"(2) which—

"(A) in the case of a direct air capture facility, captures not less than 1,000 metric tons of qualified carbon oxide during the taxable year,

"(B) in the case of an electricity generating facility—

"(i) captures not less than 18,750 metric tons of qualified carbon oxide during the taxable year, and

"(ii) with respect to any carbon capture equipment for the applicable electric generating unit at such facility, has a capture design capacity of not less than 75 percent of the baseline carbon oxide production of such unit, or

"(C) in the case of any other facility, captures not less than 12,500 metric tons of qualified carbon oxide during the taxable year.".

(2) DEFINITIONS.—

(A) IN GENERAL.—Section 45Q(e) is amended—

(i) by redesignating paragraphs (1) through (3) as paragraphs (3) through (5), respectively, and

(ii) by inserting after "For purposes of this section—" the following new paragraphs:

"(1) APPLICABLE ELECTRIC GENERATING UNIT.—The term 'applicable electric generating unit' means the principal electric generating unit for which the carbon capture equipment is originally planned and designed.

"(2) BASELINE CARBON OXIDE PRODUCTION.—

"(A) IN GENERAL.—The term 'baseline carbon oxide production' means either of the following:

"(i) In the case of an applicable electric generating unit which was originally placed in service more than 1 year prior to the date on which construction of the carbon capture equipment begins, the average annual carbon oxide production, by mass, from such unit ~~during the shorter of either the following periods:~~ **during—**

~~"(I) The period beginning on the date such unit was placed in service and ending on~~**"(I) in the case of an applicable electric generating unit which was originally placed in service more than 1 year prior to** the date on which construction of **the carbon capture equipment begins and on or after the date which is 3 years prior to the date on which construction of such equipment begins, the period beginning on the date such unit was placed in service and ending on the date on which construction of** such equipment began**, and**~~.~~

~~"(II) The 6~~**"(II) in the case of an applicable electric generating unit**

which was originally placed in service more than 3 years prior to the date on which construction of the carbon capture equipment begins, the 3 years with the highest annual carbon oxide production during the 12-year period preceding the date on which construction of such equipment began.

"(ii) In the case of an applicable electric generating unit which—

"(I) as of the date on which construction of the carbon capture equipment begins, is not yet placed in service, or

"(II) was placed in service during the 1-year period prior to the date on which construction of the carbon capture equipment begins,

the designed annual carbon oxide production, by mass, as determined based on an assumed capacity factor of 60 percent.

"(B) CAPACITY FACTOR.—The term 'capacity factor' means the ratio (expressed as a percentage) of the actual electric output from the applicable electric generating unit to the potential electric output from such unit.".

(B) CONFORMING AMENDMENT.—Section 142(o)(1)(B) is amended by striking "section 45Q(e)(1)" and inserting "section 45Q(e)(3)".

(b) Modified Applicable Dollar Amount.—Section 45Q(b)(1)(A) is amended—

(1) in clause (i)—

(A) in subclause (I), by striking "the dollar amount" and all that follows through "such period" and inserting "$17", and

(B) in subclause (II), by striking "the dollar amount" and all that follows through "such period" and inserting "$12", and

(2) in clause (ii)—

(A) in subclause (I), by striking "$50" and inserting "$17", and

(B) in subclause (II), by striking "$35" and inserting "$12".

(c) Determination of Applicable Dollar Amount.—

(1) IN GENERAL.—Section 45Q(b)(1), as amended by the preceding provisions of this Act, is amended—

(A) by redesignating subparagraph (B) as subparagraph (D), and

(B) by inserting after subparagraph (A) the following new subparagraphs:

"(B) SPECIAL RULE FOR DIRECT AIR CAPTURE FACILITIES.—In the case of any qualified facility described in subsection (d)(2)(A) which is placed in service after December 31, 2022, the applicable dollar amount shall be an amount equal to the applicable dollar amount otherwise determined with respect to such qualified facility under subparagraph (A), except that such subparagraph shall be applied—

"(i) by substituting '$36' for '$17' each place it appears, and

"(ii) by substituting '$26' for '$12' each place it appears.

"(C) APPLICABLE DOLLAR AMOUNT FOR ADDITIONAL CARBON CAPTURE EQUIPMENT.—In the case of any qualified facility which is placed in service before January 1, 2023, if any additional carbon capture equipment is installed at such facility and such equipment is placed in service after December 31, 2022, the applicable dollar amount shall be an amount equal to the applicable dollar amount otherwise determined under this paragraph, except that subparagraph (B) shall be applied—

"(i) by substituting 'before January 1, 2023' for 'after December 31, 2022', and

"(ii) by substituting 'the additional carbon capture equipment installed at such qualified facility' for 'such qualified facility'.".

(2) CONFORMING AMENDMENTS.—

(A) Section 45Q(b)(1)(A) is amended by striking "The applicable dollar amount" and inserting "Except as provided in subparagraph (B) or (C), the applicable dollar amount".

(B) Section 45Q(b)(1)(D), as redesignated by paragraph (1)(A), is amended by striking "subparagraph (A)" and inserting "subparagraph (A), (B), or (C)".

(d) ~~Installation of Additional Carbon Capture Equipment on Certain Facilities.—~~

~~(1) In general.—Section 45Q(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:~~

~~"(3) Installation of additional carbon capture equipment on certain facilities.—In the case of a qualified facility described in paragraph (1)(C), the amount of qualified carbon oxide which is captured by the taxpayer for purposes of subsection (a) shall be determined pursuant to paragraph (2), as applied—~~

~~"(A) in the matter preceding subparagraph (A)—~~

~~"(i) by substituting 'January 1, 2023' for 'the date of the enactment of the Bipartisan Budget Act of 2018', and~~

~~"(ii) by substituting 'after December 31, 2022' for 'on or after the date of the enactment of such Act', and~~

~~"(B) in subparagraph (A)(ii), by substituting 'December 31, 2022' for 'the day before the date of the enactment of the Bipartisan Budget Act of 2018'.".~~

~~(2) Conforming amendment.—Section 45Q(b)(2) is amended by striking "In the case" and inserting "Subject to paragraph (3), in the case".~~

~~(e)~~ Wage and Apprenticeship Requirements.—Section 45Q is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) following new subsection:

"(h) Increased Credit Amount for Qualified Facilities and Carbon Capture Equipment.—

"(1) IN GENERAL.—In the case of any qualified facility or any carbon capture equipment which satisfy the requirements of paragraph (2), the amount of the credit determined under subsection (a) shall be equal to such amount (determined without regard to this sentence) multiplied by 5.

"(2) REQUIREMENTS.—The requirements described in this paragraph are that—

"(A) with respect to any qualified facility the construction of which begins on or after the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3)(A) and (4), as well as any carbon capture equipment placed in service at such facility—

"(i) subject to subparagraph (B) of paragraph (3), the taxpayer satisfies the requirements under subparagraph (A) of such paragraph with respect to such facility and equipment, and

"(ii) the taxpayer satisfies the requirements under paragraph (4) with respect to the construction of such facility and equipment,

"(B) with respect to any carbon capture equipment the construction of which begins **on or** after the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3)(A) and (4), and which is installed at a qualified facility the construction of which began prior to such date—

"(i) subject to subparagraph (B) of paragraph (3), the taxpayer satisfies the requirements under subparagraph (A) of such paragraph with respect to such equipment, and

"(ii) the taxpayer satisfies the requirements under paragraph (4) with respect to the construction of such equipment, or

"(C) the construction of carbon capture equipment begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3)(A) and (4), and such equipment is installed at a qualified facility the construction of which begins prior to such date.

"(3) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified facility and any carbon capture equipment placed in service at such facility are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in —

"(i) the construction of such facility or equipment, and

"(ii) with respect to any taxable year, for any portion of such taxable year which is within the period described in paragraph (3)(A) or (4)(A) of subsection (a), the alteration or repair of such facility or such equipment,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such facility and equipment are located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. For purposes of determining an increased credit amount under paragraph (1) for a taxable year, the requirement under clause (ii) of this subparagraph is applied to such taxable year in which the alteration or repair of qualified facility occurs.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.

"(5) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.".

~~(f)~~**(e)** Credit Reduced for Tax-exempt Bonds.—Section 45Q(f) is amended—

(1) by striking the second paragraph (3), as added at the end of such section by section 80402(e) of the Infrastructure Investment and Jobs Act (Public Law 117-58), and

(2) by adding at the end the following new paragraph:

"(8) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section.".

~~(g)~~**(f)** Application of Section for Certain Carbon Capture Equipment.—Section 45Q(g) is amended by inserting "the earlier of January 1, 2023, and" before "the end of the calendar year".

~~(h)~~**(g)** Election.—Section 45Q(f), as amended by subsection ~~(f)~~**(e)**, is amended by adding at the end the following new paragraph:

"(9) ELECTION.—For purposes of paragraphs (3) and (4) of subsection (a), a person described in paragraph (3)(A)(ii) may elect, at such time and in such manner as the Secretary may prescribe, to have the 12–year period begin on the first day of the first taxable year in which a credit under this section is claimed with respect to carbon capture equipment which is originally placed in service at a qualified facility on or after the date of the enactment of the Bipartisan Budget Act of 2018 (after application of ~~subsection (f)~~ **paragraph** (6), where applicable) if—

"(A) no taxpayer claimed a credit under this section with respect to such carbon capture equipment for any prior taxable year,

"(B) the qualified facility at which such carbon capture equipment is placed in service is located in an area affected by a federally-declared disaster (as defined by section 165(i)(5)(A)) after the carbon capture equipment is originally placed in service, and

"(C) such federally-declared disaster results in a cessation of the operation of the qualified facility or the carbon capture equipment after such equipment is originally placed in service.".

~~(i)~~**(h)** Regulations for Baseline Carbon Oxide Production.—Subsection (i) of section 45Q, as redesignated by subsection ~~(e)~~**(d)**, is amended—

(1) in paragraph (1), by striking "and",

(2) in paragraph (2), by striking the period at the end and inserting ", and", and

(3) by adding at the end the following new paragraph:

"(3) for purposes of subsection (d)(2)(B)(ii), adjust the baseline carbon oxide production with respect to any applicable electric generating unit at any electricity generating facility **if,**

~~if—~~

~~"(A)~~ after the date on which the carbon capture equipment is placed in service, modifications **which are chargeable to capital account** are made to such unit which result in a significant increase or decrease in carbon oxide ~~production, or~~ **production.".**

~~"(B) for any reason other than a modification described in subparagraph (A), there is a significant increase or decrease in carbon oxide production with respect to such unit.".~~

~~(j)~~**(i)** Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), the amendments made by this section shall apply to facilities or equipment placed in service after December 31, 2022.

(2) MODIFICATION OF CARBON OXIDE CAPTURE REQUIREMENTS.—The amendments made by subsection (a) shall apply to facilities or equipment the construction of which begins after the date of enactment of this Act.

(3) APPLICATION OF SECTION FOR CERTAIN CARBON CAPTURE EQUIPMENT.—The amendments made by subsection ~~(g)~~**(f)** shall take effect on the date of enactment of this Act.

(4) ELECTION.—The amendments made by subsection ~~(h)~~**(g)** shall apply to carbon oxide captured and disposed of after December 31, 2021.

SEC. 13105. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

"SEC. 45U. ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.

"(a) Amount of Credit.—For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—

"(1) the product of—

"(A) 0.3 cents, multiplied by

"(B) the kilowatt hours of electricity—

"(i) produced by the taxpayer at a qualified nuclear power facility, and

"(ii) sold by the taxpayer to an unrelated person during the taxable year,

exceeds

"(2) the reduction amount for such taxable year.

"(b) Definitions.—

"(1) QUALIFIED NUCLEAR POWER FACILITY.—For purposes of this section, the term 'qualified nuclear power facility' means any nuclear facility—

"(A) which is owned by the taxpayer and which uses nuclear energy to produce

electricity,

"(B) which is not an advanced nuclear power facility as defined in subsection (d)(1) of section 45J, and

"(C) which is placed in service before the date of the enactment of this section.

"(2) REDUCTION AMOUNT.—

"(A) IN GENERAL.—For purposes of this section, the term 'reduction amount' means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of—

"(i) the amount determined under subsection (a)(1), or

"(ii) the amount equal to ~~80~~ **16** percent of the excess of—

"(I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year, over

"(II) the amount equal to the product of—

"(aa) 2.5 cents, multiplied by

"(bb) the amount determined under subsection (a)(1)(B).

"(B) TREATMENT OF CERTAIN RECEIPTS.—

"(i) IN ~~GENERAL.—THE~~ **GENERAL.—Subject to clause (iii), the** amount determined under subparagraph (A)(ii)(I) shall include any amount received by the taxpayer during the taxable year with respect to the qualified nuclear power facility from a zero-emission credit program. **For purposes of determining the amount received during such taxable year, the taxpayer shall take into account any reductions required under such program.**

"(ii) ZERO-EMISSION CREDIT PROGRAM.—For purposes of this subparagraph, the term 'zero-emission credit program' means any payments with respect to a qualified nuclear power facility as a result of any Federal, State or local government program for, in whole or in part, the zero-emission, zero-carbon, or air quality attributes of any portion of the electricity produced by such facility.

"(iii) EXCLUSION.—For purposes of clause (i), any amount received by the taxpayer from a zero-emission credit program shall be excluded from the amount determined under subparagraph (A)(ii)(I) if the full amount of the credit calculated pursuant to subsection (a) (determined without regard to this subparagraph) is used to reduce payments from such zero-emission credit program.

"(3) ELECTRICITY.—For purposes of this section, the term 'electricity' means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.

"(c) Other Rules.—

"(1) INFLATION ADJUSTMENT.—The 0.3 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting 'calendar year 2023' for 'calendar year 1992' in subparagraph (B) thereof) for the calendar year in which the sale occurs. If the 0.3 cent amount as increased under this paragraph is not a multiple of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05 cent. If the 2.5 cent amount as increased under this paragraph is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(2) SPECIAL RULES.—Rules similar to the rules of paragraphs (1), (3), (4), and (5) of section 45(e) shall apply for purposes of this section.

"(d) Wage Requirements.—

"(1) INCREASED CREDIT AMOUNT FOR QUALIFIED NUCLEAR POWER FACILITIES.—In the case of any qualified nuclear power facility which satisfies the requirements of paragraph (2)(A), the amount of the credit determined under subsection (a) shall be equal to such amount (as determined without regard to this sentence) multiplied by 5.

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified nuclear power facility are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in the alteration or repair of such facility shall be paid wages at rates not less than the prevailing rates for alteration or repair of a similar character in the locality in which such facility is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(3) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

"(e) Termination.—This section shall not apply to taxable years beginning after December 31, 2032.".

(b) Conforming Amendments.—

(1) Section 38(b) is amended—

(A) in paragraph (32), by striking "plus" at the end,

(B) in paragraph (33), by striking the period at the end and inserting ", plus", and

(C) by adding at the end the following new paragraph:

"(34) the zero-emission nuclear power production credit determined under section 45U(a).".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec.45U.Zero-emission nuclear power production credit.".

(c) Effective Date.—This section shall apply to electricity produced and sold after December 31, 2023, in taxable years beginning after such date.

PART 2—CLEAN FUELS

SEC. 13201. EXTENSION OF INCENTIVES FOR BIODIESEL, RENEWABLE DIESEL AND ALTERNATIVE FUELS.

(a) Biodiesel and Renewable Diesel Credit.—Section 40A(g) is amended by striking "December 31, 2022" and inserting "December 31, 2024".

(b) Biodiesel Mixture Credit.—

(1) IN GENERAL.—Section 6426(c)(6) is amended by striking "December 31, 2022" and inserting "December 31, 2024".

(2) FUELS NOT USED FOR TAXABLE PURPOSES.—Section 6427(e)(6)(B) is amended by striking "December 31, 2022" and inserting "December 31, 2024".

(c) Alternative Fuel Credit.—Section 6426(d)(5) is amended by striking "December 31, 2021" and inserting "December 31, 2024".

(d) Alternative Fuel Mixture Credit.—Section 6426(e)(3) is amended by striking "December 31, 2021" and inserting "December 31, 2024".

(e) Payments for Alternative Fuels.—Section 6427(e)(6)(C) is amended by striking "December 31, 2021" and inserting "December 31, 2024".

(f) Effective Date.—The amendments made by this section shall apply to fuel sold or used after December 31, 2021.

(g) Special ~~Rule.—Notwithstanding any other provision of law, in~~ **Rule.—In** the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2022, and ending with the close of the last calendar quarter beginning before the date of the enactment of this Act, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

SEC. 13202. EXTENSION OF SECOND GENERATION BIOFUEL INCENTIVES.

(a) In General.—Section 40(b)(6)(J)(i) is amended by striking "2022" and inserting "2025".

(b) Effective Date.—The amendment made by subsection (a) shall apply to qualified second generation biofuel production after December 31, 2021.

SEC. 13203. SUSTAINABLE AVIATION FUEL CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 40A the following new section:

"SEC. 40B. SUSTAINABLE AVIATION FUEL CREDIT.

"(a) In General.—For purposes of section 38, the sustainable aviation fuel credit determined under this section for the taxable year is, with respect to any sale or use of a qualified mixture which occurs during such taxable year, an amount equal to the product of—

"(1) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

"(2) the sum of—

"(A) $1.25, plus

"(B) the applicable supplementary amount with respect to such sustainable aviation fuel.

"(b) Applicable Supplementary Amount.—For purposes of this section, the term 'applicable supplementary amount' means, with respect to any sustainable aviation fuel, an amount equal to $0.01 for each percentage point by which the lifecycle greenhouse gas emissions reduction percentage with respect to such fuel exceeds 50 percent. In no event shall the applicable supplementary amount determined under this subsection exceed $0.50.

"(c) Qualified Mixture.—For purposes of this section, the term 'qualified mixture' means a mixture of sustainable aviation fuel and kerosene if—

"(1) such mixture is produced by the taxpayer in the United States,

"(2) such mixture is used by the taxpayer (or sold by the taxpayer for use) in an aircraft,

"(3) such sale or use is in the ordinary course of a trade or business of the taxpayer, and

"(4) the transfer of such mixture to the fuel tank of such aircraft occurs in the United States.

"(d) Sustainable Aviation Fuel.—

"(1) IN GENERAL.—For purposes of this section, the term 'sustainable aviation fuel' means liquid fuel**, the portion of which is not kerosene,** which—

"(A) meets the requirements of—

"(i) ASTM International Standard D7566, or

"(ii) the Fischer Tropsch provisions of ASTM International Standard D1655,

Annex A1,

"(B) is not derived from coprocessing an applicable material (or materials derived from an applicable material) with a feedstock which is not biomass,

"(C) is not derived from palm fatty acid distillates or petroleum, and

"(D) has been certified in accordance with subsection (e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent.

"(2) DEFINITIONS.—In this subsection—

"(A) APPLICABLE MATERIAL.—The term 'applicable material' means—

"(i) monoglycerides, diglycerides, and triglycerides,

"(ii) free fatty acids, and

"(iii) fatty acid esters.

"(B) BIOMASS.—The term 'biomass' has the same meaning given such term in section 45K(c)(3).

"(e) Lifecycle Greenhouse Gas Emissions Reduction Percentage.—For purposes of this section, the term 'lifecycle greenhouse gas emissions reduction percentage' means, with respect to any sustainable aviation fuel, the percentage reduction in lifecycle greenhouse gas emissions achieved by such fuel as compared with petroleum-based jet fuel, as defined in accordance with —

"(1) the most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States, or

"(2) any similar methodology which satisfies the criteria under section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of enactment of this section.

"(f) Registration of Sustainable Aviation Fuel Producers.—No credit shall be allowed under this section with respect to any sustainable aviation fuel unless the producer **or importer** of such fuel—

"(1) is registered with the Secretary under section 4101, and

"(2) provides—

"(A) certification (in such form and manner as the Secretary shall prescribe) from an unrelated party demonstrating compliance with—

"(i) any general requirements, supply chain traceability requirements, and information transmission requirements established under the Carbon Offsetting and Reduction Scheme for International Aviation described in paragraph (1) of subsection (e), or

"(ii) in the case of any methodology established under paragraph (2) of such subsection, requirements similar to the requirements described in clause (i), and

"(B) such other information with respect to such fuel as the Secretary may require

for purposes of carrying out this section.

"(g) Coordination With Credit Against Excise Tax.—The amount of the credit determined under this section with respect to any sustainable aviation fuel shall, under rules prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such sustainable aviation fuel solely by reason of the application of section 6426 or 6427(e).

"(h) Termination.—This section shall not apply to any sale or use after December 31, 2024.".

(b) Credit Made Part of General Business Credit.— Section 38(b), as amended by the preceding provisions of this Act, is amended by striking "plus" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", plus", and by inserting after paragraph (34) the following new paragraph:

"(35) the sustainable aviation fuel credit determined under section 40B.".

(c) Coordination With Biodiesel Incentives.—

(1) IN GENERAL.—Section 40A(d)(1) is amended by inserting "or 40B" after "determined under section 40".

(2) CONFORMING AMENDMENT.—Section 40A(f) is amended by striking paragraph (4).

(d) Sustainable Aviation Fuel Added to Credit for Alcohol Fuel, Biodiesel, and Alternative Fuel Mixtures.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

"(k) Sustainable Aviation Fuel Credit.—

"(1) IN GENERAL.—For purposes of this section, the sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture, an amount equal to the product of—

"(A) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

"(B) the sum of—

"(i) $1.25, plus

"(ii) the applicable supplementary amount with respect to such sustainable aviation fuel.

"(2) DEFINITIONS.—Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(3) REGISTRATION REQUIREMENT.—For purposes of this subsection, rules similar to the rules of section 40B(f) shall apply.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6426 is amended—

(i) in subsection (a)(1), by striking "and (e)" and inserting "(e), and (k)", and

(ii) in subsection (h), by striking "under section 40 or 40A" and inserting

"under section 40, 40A, or 40B".

(B) Section 6427(e) is amended—

(i) in the heading, by striking "or Alternative Fuel" and inserting, "Alternative Fuel, or Sustainable Aviation Fuel",

(ii) in paragraph (1), by inserting "or the sustainable aviation fuel mixture credit" after "alternative fuel mixture credit", and

(iii) in paragraph (6)—

(I) in subparagraph (C), by striking "and" at the end,

(II) in subparagraph (D), by striking the period at the end and inserting ", and", and

(III) by adding at the end the following new subparagraph:

"(E) any qualified mixture of sustainable aviation fuel (as defined in section 6426(k)(3)) sold or used after December 31, 2024.".

(C) Section 4101(a)(1) is amended by inserting "every person producing **or importing** sustainable aviation fuel (as defined in section 40B)," before "and every person producing second generation biofuel".

(D) The table of sections for subpart D of subchapter A of chapter 1 is amended by inserting after the item relating to section 40A the following new item:

"Sec.40B.Sustainable aviation fuel credit.".

(e) Amount of Credit Included in Gross Income.—Section 87 is amended by striking "and" in paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the sustainable aviation fuel credit determined with respect to the taxpayer for the taxable year under section 40B(a).".

(f) Effective Date.—The amendments made by this section shall apply to fuel sold or used after December 31, 2022.

SEC. 13204. CLEAN HYDROGEN.

(a) Credit for Production of Clean Hydrogen.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 45V. CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.

"(a) Amount of Credit.—For purposes of section 38, the clean hydrogen production credit for any taxable year is an amount equal to the product of—

"(1) the kilograms of qualified clean hydrogen produced by the taxpayer during such

taxable year at a qualified clean hydrogen production facility during the 10-year period beginning on the date such facility was originally placed in service, multiplied by

"(2) the applicable amount (as determined under subsection (b)) with respect to such hydrogen.

"(b) Applicable Amount.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the applicable amount shall be an amount equal to the applicable percentage of $0.60. If any amount as determined under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

"(A) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—

"(i) not greater than 4 kilograms of CO2e per kilogram of hydrogen, and

"(ii) not less than 2.5 kilograms of CO2e per kilogram of hydrogen,

the applicable percentage shall be 20 percent.

"(B) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—

"(i) less than 2.5 kilograms of CO2e per kilogram of hydrogen, and

"(ii) not less than 1.5 kilograms of CO2e per kilogram of hydrogen,

the applicable percentage shall be 25 percent.

"(C) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—

"(i) less than 1.5 kilograms of CO2e per kilogram of hydrogen, and

"(ii) not less than 0.45 kilograms of CO2e per kilogram of hydrogen,

the applicable percentage shall be 33.4 percent.

"(D) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of less than 0.45 kilograms of CO2e per kilogram of hydrogen, the applicable percentage shall be 100 percent.

"(3) INFLATION ADJUSTMENT.—The $0.60 amount in paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), determined by substituting '2022' for '1992' in subparagraph (B) thereof) for the calendar year in which the qualified clean hydrogen is produced. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(c) Definitions.—For purposes of this section—

"(1) LIFECYCLE GREENHOUSE GAS EMISSIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'lifecycle greenhouse gas emissions' has the same meaning given such term under subparagraph (H) of section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of enactment of this section.

"(B) GREET MODEL.—The term 'lifecycle greenhouse gas emissions' shall only include emissions through the point of production (well-to-gate), as determined under the most recent Greenhouse gases, Regulated Emissions, and Energy use in Transportation model (commonly referred to as the 'GREET model') developed by Argonne National Laboratory, or a successor model (as determined by the Secretary).

"(2) QUALIFIED CLEAN HYDROGEN.—

"(A) IN GENERAL.—The term 'qualified clean hydrogen' means hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of not greater than 4 kilograms of CO2e per kilogram of hydrogen.

"(B) ADDITIONAL REQUIREMENTS.—Such term shall not include any hydrogen unless—

"(i) such hydrogen is produced—

"(I) in the United States (as defined in section 638(1)) or a possession of the United States (as defined in section 638(2)),

"(II) in the ordinary course of a trade or business of the taxpayer, and

"(III) for sale or use, and

"(ii) the production and sale or use of such hydrogen is verified by an unrelated party.

"(C) PROVISIONAL EMISSIONS RATE.—In the case of any hydrogen for which a lifecycle greenhouse gas emissions rate has not been determined for purposes of this section, a taxpayer producing such hydrogen may file a petition with the Secretary for determination of the lifecycle greenhouse gas emissions rate with respect to such hydrogen.

"(3) QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—The term 'qualified clean hydrogen production facility' means a facility—

"(A) owned by the taxpayer,

"(B) which produces qualified clean hydrogen, and

"(C) the construction of which begins before January 1, 2033.

"(d) Special Rules.—

"(1) TREATMENT OF FACILITIES OWNED BY MORE THAN 1 TAXPAYER.—Rules similar to the rules section 45(e)(3) shall apply for purposes of this section.

"(2) COORDINATION WITH CREDIT FOR CARBON OXIDE SEQUESTRATION.—No credit shall be allowed under this section with respect to any qualified clean hydrogen produced at a facility which includes carbon capture equipment for which a credit is allowed to any taxpayer under section 45Q for the taxable year or any prior taxable year.

"(e) Increased Credit Amount for Qualified Clean Hydrogen Production Facilities.—

"(1) IN GENERAL.—In the case of any qualified clean hydrogen production facility which satisfies the requirements of paragraph (2), the amount of the credit determined under subsection (a) with respect to qualified clean hydrogen described in subsection (b)(2) shall be equal to such amount (determined without regard to this sentence) multiplied by 5.

"(2) REQUIREMENTS.—A facility meets the requirements of this paragraph if it is one of the following:

"(A) A facility—

"(i) the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3)(A) and (4), and

"(ii) which meets the requirements of paragraph (3)(A) with respect to alteration or repair of such facility which occurs after such date.

"(B) A facility which satisfies the requirements of paragraphs (3)(A) and (4).

"(3) PREVAILING WAGE REQUIREMENTS.—

~~* 4 "(A) In general.—The requirements described in this subparagraph with respect to any qualified clean hydrogen production facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—~~

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified clean hydrogen production facility are that the taxpayer shall ensure that any laborers and mechanics employed by the taxpayer or any contractor or subcontractor in—

"(i) the construction of such facility, and

"(ii) with respect to any taxable year, for any portion of such taxable year which is within the period described in subsection (a)(2), the alteration or repair of such facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such facility is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. For purposes of determining an increased credit amount under paragraph (1) for a taxable year, the requirement under clause (ii) of this subparagraph is applied to such taxable year in which the alteration or repair of qualified facility occurs.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.

"(5) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of

this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

"(f) Regulations.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations or other guidance to carry out the purposes of this section, including regulations or other guidance for determining lifecycle greenhouse gas emissions.".

(2) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Section 45V(d), as added by this section, is amended by adding at the end the following new paragraph:

"(3) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section.".

(3) MODIFICATION OF EXISTING FACILITIES.—Section 45V(d), as added and amended by the preceding provisions of this section, is amended by adding at the end the following new paragraph:

"(4) MODIFICATION OF EXISTING FACILITIES.—For purposes of subsection ~~(a)(2)~~**(a)(1)**, in the case of any facility which—

"(A) was originally placed in service before January 1, 2023, and, prior to the modification described in subparagraph (B), did not produce qualified clean hydrogen, and

"(B) after the date such facility was originally placed in service—

"(i) is modified to produce qualified clean hydrogen, and

"(ii) amounts paid or incurred with respect to such modification are properly chargeable to capital account of the taxpayer,

such facility shall be deemed to have been originally placed in service as of the date that the property required to complete the modification described in subparagraph (B) is placed in service.".

(4) CONFORMING AMENDMENTS.—

(A) Section 38(b), as amended by the preceding provisions of this Act, is amended —

(i) in paragraph (34), by striking "plus" at the end,

(ii) in paragraph (35), by striking the period at the end and inserting ", plus", and

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

"(36) the clean hydrogen production credit determined under section 45V(a).".

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new item:

"Sec.45V.Credit for production of clean hydrogen.".

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by paragraphs (1) and (4) of this subsection shall apply to hydrogen produced after December 31, 2022.

(B) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—The amendment made by paragraph (2) shall apply to facilities the construction of which begins after the date of enactment of this Act.

(C) MODIFICATION OF EXISTING FACILITIES.—The amendment made by paragraph (3) shall apply to modifications made after December 31, 2022.

(b) Credit for Electricity Produced From Renewable Resources Allowed if Electricity Is Used to Produce Clean Hydrogen.—

(1) IN GENERAL.—Section 45(e), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(13) SPECIAL RULE FOR ELECTRICITY USED AT A QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—Electricity produced by the taxpayer shall be treated as sold by such taxpayer to an unrelated person during the taxable year if—

"(A) such electricity is used during such taxable year by the taxpayer or a person related to the taxpayer at a qualified clean hydrogen production facility (as defined in section 45V(c)(3)) to produce qualified clean hydrogen (as defined in section 45V(c)(2)), and

"(B) such use and production is verified (in such form or manner as the Secretary may prescribe) by an unrelated third party.".

(2) SIMILAR RULE FOR ZERO-EMISSION NUCLEAR POWER PRODUCTION CREDIT.—Subsection (c)(2) of section 45U, as added by section 13105 of this Act, is amended by striking "and (5)" and inserting "(5), and (13)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity produced after December 31, 2022.

(c) Election to Treat Clean Hydrogen Production Facilities as Energy Property.—

(1) IN GENERAL.—Section 48(a), as amended by the preceding provisions of this Act, is amended—

(A) by redesignating paragraph (15) as paragraph (16), and

(B) by inserting after paragraph (14) the following new paragraph:

"(15) ELECTION TO TREAT CLEAN HYDROGEN PRODUCTION FACILITIES AS ENERGY PROPERTY.—

"(A) IN GENERAL.—In the case of any qualified property (as defined in paragraph (5)(D)) which is part of a specified clean hydrogen production facility—

"(i) such property shall be treated as energy property for purposes of this section, and

"(ii) the energy percentage with respect to such property is—

"(I) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (A)

of section 45V(b)(2), 1.2 percent,

"(II) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (B) of such section, 1.5 percent,

"(III) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (C) of such section, 2 percent, and

"(IV) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in subparagraph (D) of such section, 6 percent.

"(B) DENIAL OF PRODUCTION CREDIT.—No credit shall be allowed under section 45V or section 45Q for any taxable year with respect to any specified clean hydrogen production facility or any carbon capture equipment included at such facility.

"(C) SPECIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—For purposes of this paragraph, the term 'specified clean hydrogen production facility' means any qualified clean hydrogen production facility (as defined in section 45V(c)(3))—

"(i) which is placed in service after December 31, 2022,

"(ii) with respect to which—

"(I) no credit has been allowed under section 45V or 45Q, and

"(II) the taxpayer makes an irrevocable election to have this paragraph apply, and

"(iii) for which an unrelated third party has verified (in such form or manner as the Secretary may prescribe) that such facility produces hydrogen through a process which results in lifecycle greenhouse gas emissions which are consistent with the hydrogen that such facility was designed and expected to produce under subparagraph (A)(ii).

"(D) QUALIFIED CLEAN HYDROGEN.—For purposes of this paragraph, the term 'qualified clean hydrogen' has the meaning given such term by section 45V(c)(2).

"(E) REGULATIONS.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this section, including regulations or other guidance which recaptures so much of any credit allowed under this section as exceeds the amount of the credit which would have been allowed if the expected production were consistent with the actual verified production (or all of the credit so allowed in the absence of such verification).".

(2) CONFORMING AMENDMENT.—Paragraph (9)(A)(i) of section 48(a), as added by section 13102, is amended by inserting "and paragraph (15)" after "paragraphs (1) through (8)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2022, and, for any property the construction of which begins prior to January 1, 2023, only to the extent of the basis thereof attributable to the

construction, reconstruction, or erection after December 31, 2022.

(d) Termination of Excise Tax Credit for Hydrogen.—

(1) IN GENERAL.—Section 6426(d)(2) is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) CONFORMING AMENDMENT.—Section 6426(e)(2) is amended by striking "(F)" and inserting "(E)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to fuel sold or used after December 31, 2022.

PART 3—CLEAN ENERGY AND EFFICIENCY INCENTIVES FOR INDIVIDUALS

SEC. 13301. EXTENSION, INCREASE, AND MODIFICATIONS OF NONBUSINESS ENERGY PROPERTY CREDIT.

(a) Extension of Credit.—Section 25C(g)(2) is amended by striking "December 31, 2021" and inserting "December 31, 2032".

(b) Allowance of Credit.—Section 25C(a) is amended to read as follows:

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the sum of—

"(1) the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

"(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.".

(c) Application of Annual Limitation in Lieu of Lifetime Limitation.—Section 25C(b) is amended to read as follows:

"(b) Limitations.—

"(1) IN GENERAL.—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed $1,200.

"(2) ENERGY PROPERTY.—The credit allowed under this section by reason of subsection (a)(2) with respect to any taxpayer for any taxable year shall not exceed, with respect to any item of qualified energy property, $600.

"(3) WINDOWS.—The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer for any taxable year shall not exceed, in the aggregate with respect to all exterior windows and skylights, $600.

"(4) DOORS.—The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer for any taxable year shall not exceed—

"(A) $250 in the case of any exterior door, and

"(B) $500 in the aggregate with respect to all exterior doors.

"(5) HEAT PUMP AND HEAT PUMP WATER HEATERS; BIOMASS STOVES AND BOILERS.—Notwithstanding paragraphs (1) and (2), the credit allowed under this section by reason of subsection (a)(2) with respect to any taxpayer for any taxable year shall not, in the aggregate, exceed $2,000 with respect to amounts paid or incurred for property described in clauses (i) and (ii) of subsection (d)(2)(A) and in subsection (d)(2)(B).".

(d) Modifications Related to Qualified Energy Efficiency Improvements.—

(1) STANDARDS FOR ENERGY EFFICIENT BUILDING ENVELOPE COMPONENTS.—Section 25C(c)(2) is amended by striking "meets—" and all that follows through the period at the end and inserting the following: "meets—

"(A) in the case of an exterior window or skylight, Energy Star most efficient certification requirements,

"(B) in the case of an exterior door, applicable Energy Star requirements, and

"(C) in the case of any other component, the prescriptive criteria for such component established by the most recent International Energy Conservation Code standard in effect as of the beginning of the calendar year which is 2 years prior to the calendar year in which such component is placed in service.".

(2) ROOFS NOT TREATED AS BUILDING ENVELOPE COMPONENTS.—Section 25C(c)(3) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(3) AIR SEALING INSULATION ADDED TO DEFINITION OF BUILDING ENVELOPE COMPONENT.—Section 25C(c)(3)(A) is amended by inserting ", including air sealing material or system," after "material or system".

(e) Modification of Residential Energy Property Expenditures.—Section 25C(d) is amended to read as follows:

"(d) Residential Energy Property Expenditures.—For purposes of this section—

"(1) IN GENERAL.—The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property which is—

"(A) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, and

"(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) QUALIFIED ENERGY PROPERTY.—The term 'qualified energy property' means any of the following:

"(A) Any of the following which meet or exceed the highest efficiency tier (not including any advanced tier) established by the Consortium for Energy Efficiency which is in effect as of the beginning of the calendar year in which the property is

placed in service:

"(i) An electric or natural gas heat pump water heater.

"(ii) An electric or natural gas heat pump.

"(iii) A central air conditioner.

"(iv) A natural gas, propane, or oil water heater.

"(v) A natural gas, propane, or oil furnace or hot water boiler.

"(B) A biomass stove or boiler which—

"(i) uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and

"(ii) has a thermal efficiency rating of at least 75 percent (measured by the higher heating value of the fuel).

"(C) Any oil furnace or hot water boiler which—

"(i) is placed in service after December 31, 2022, and before January 1, 2027, and—

"(I) meets or exceeds 2021 Energy Star efficiency criteria, and

"(II) is rated by the manufacturer for use with fuel blends at least 20 percent of the volume of which consists of an eligible fuel, or

"(ii) is placed in service after December 31, 2026, and—

"(I) achieves an annual fuel utilization efficiency rate of not less than 90, and

"(II) is rated by the manufacturer for use with ~~eligible fuel blends of 50 percent or more.~~ **fuel blends at least 50 percent of the volume of which consists of an eligible fuel.**

"(D) Any improvement to, or replacement of, a panelboard, sub-panelboard, branch circuits, or feeders which—

"(i) is installed in a manner consistent with the National Electric Code,

"(ii) has a load capacity of not less than 200 amps,

"(iii) is installed in conjunction with—

"(I) any qualified energy efficiency improvements, or

"(II) any qualified energy property described in subparagraphs (A) through (C) for which a credit is allowed under this section for expenditures with respect to such property, and

"(iv) enables the installation and use of any property described in subclause (I) or (II) of clause (iii).

"(3) ELIGIBLE FUEL.—For purposes of paragraph (2), the term 'eligible fuel' means—

"(A) biodiesel and renewable diesel (within the meaning of section 40A), and

"(B) second generation biofuel (within the meaning of section 40).".

(f) Home Energy Audits.—

(1) IN GENERAL.—Section 25C(a), as amended by subsection (b), is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the amount paid or incurred by the taxpayer during the taxable year for home energy audits.".

(2) LIMITATION.—Section 25C(b), as amended by subsection (c), is amended adding at the end the following new paragraph:

"(6) HOME ENERGY AUDITS.—

"(A) DOLLAR LIMITATION.—The amount of the credit allowed under this section by reason of subsection (a)(3) shall not exceed $150.

"(B) SUBSTANTIATION REQUIREMENT.—No credit shall be allowed under this section by reason of subsection (a)(3) unless the taxpayer includes with the taxpayer's return of tax such information or documentation as the Secretary may require.".

(3) HOME ENERGY AUDITS.—

(A) IN GENERAL.—Section 25C is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

"(e) Home Energy Audits.—For purposes of this section, the term 'home energy audit' means an inspection and written report with respect to a dwelling unit located in the United States and owned or used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121) which—

"(1) identifies the most significant and cost-effective energy efficiency improvements with respect to such dwelling unit, including an estimate of the energy and cost savings with respect to each such improvement, and

"(2) is conducted and prepared by a home energy auditor that meets the certification or other requirements specified by the Secretary in regulations or other guidance (as prescribed by the Secretary not later than 365 days after the date of the enactment of this subsection).".

(B) CONFORMING AMENDMENT.—Section 1016(a)(33) is amended by striking "section 25C(f)" and inserting "section 25C(g)".

(4) LACK OF SUBSTANTIATION TREATED AS MATHEMATICAL OR CLERICAL ERROR.—Section 6213(g)(2) is amended—

(A) in subparagraph (P), by striking "and" at the end,

(B) in subparagraph (Q), by striking the period at the end and inserting ", and", and

(C) by inserting after subparagraph (Q) the following:

"(R) an omission of information or documentation required under section 25C(b)(6)

(B) (relating to home energy audits) to be included on a return.".

(g) Identification Number Requirement.—

(1) IN GENERAL.—Section 25C, as amended by this section, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Product Identification Number Requirement.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to any item of specified property placed in service after December 31, 2024, unless—

"(A) such item is produced by a qualified manufacturer, and

"(B) the taxpayer includes the qualified product identification number of such item on the return of tax for the taxable year.

"(2) QUALIFIED PRODUCT IDENTIFICATION NUMBER.—For purposes of this section, the term 'qualified product identification number' means, with respect to any item of specified property, the product identification number assigned to such item by the qualified manufacturer pursuant to the methodology referred to in paragraph (3).

"(3) QUALIFIED MANUFACTURER.—For purposes of this section, the term 'qualified manufacturer' means any manufacturer of specified property which enters into an agreement with the Secretary which provides that such manufacturer will—

"(A) assign a product identification number to each item of specified property produced by such manufacturer utilizing a methodology that will ensure that such number (including any alphanumeric) is unique to each such item (by utilizing numbers or letters which are unique to such manufacturer or by such other method as the Secretary may provide),

"(B) label such item with such number in such manner as the Secretary may provide, and

"(C) make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) of the product identification numbers so assigned and including such information as the Secretary may require with respect to the item of specified property to which such number was so assigned.

"(4) SPECIFIED PROPERTY.—For purposes of this subsection, the term 'specified property' means any qualified energy property and any property described in subparagraph (B) or (C) of subsection (c)(3).".

(2) OMISSION OF CORRECT PRODUCT IDENTIFICATION NUMBER TREATED AS MATHEMATICAL OR CLERICAL ERROR.—Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (Q), by striking "and" at the end,

(B) in subparagraph (R), by striking the period at the end and inserting ", and", and

(C) by inserting after subparagraph (R) the following:

"(S) an omission of a correct product identification number required under section

25C(h) (relating to credit for nonbusiness energy property) to be included on a return.".

(h) Energy Efficient Home Improvement Credit.—

(1) IN GENERAL.—The heading for section 25C is amended by striking "nonbusiness energy property" and inserting "energy efficient home improvement credit".

(2) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 25C and inserting after the item relating to section 25B the following item:

"Sec.25C.Energy efficient home improvement credit.".

(i) Effective Dates.—

(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to property placed in service after December 31, 2022.

(2) EXTENSION OF CREDIT.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2021.

(3) IDENTIFICATION NUMBER REQUIREMENT.—The amendments made by subsection (g) shall apply to property placed in service after December 31, 2024.

SEC. 13302. RESIDENTIAL CLEAN ENERGY CREDIT.

(a) Extension of Credit.—

(1) IN GENERAL.—Section 25D(h) is amended by striking "December 31, 2023" and inserting "December 31, 2034".

(2) APPLICATION OF PHASEOUT.—Section 25D(g) is amended—

(A) in paragraph (2), by striking "before January 1, 2023, 26 percent, and" and inserting "before January 1, 2022, 26 percent,", and

(B) by striking paragraph (3) and by inserting after paragraph (2) the following new paragraphs:

"(3) in the case of property placed in service after December 31, 2021, and before January 1, 2033, 30 percent,

"(4) in the case of property placed in service after December 31, 2032, and before January 1, 2034, 26 percent, and

"(5) in the case of property placed in service after December 31, 2033, and before January 1, 2035, 22 percent.".

(b) Residential Clean Energy Credit for Battery Storage Technology; Certain Expenditures Disallowed.—

(1) ALLOWANCE OF CREDIT.—Paragraph (6) of section 25D(a) is amended to read as follows:

"(6) the qualified battery storage technology expenditures,".

(2) DEFINITION OF QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.—Paragraph (6) of section 25D(d) is amended to read as follows:

"(6) QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.—The term 'qualified battery storage technology expenditure' means an expenditure for battery storage technology which—

"(A) is installed in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, and

"(B) has a capacity of not less than 3 kilowatt hours.".

(c) Conforming Amendments.—

(1) **Section 25D(d)(3) is amended by inserting ", without regard to subparagraph (D) thereof" after "section 48(c)(1)".**

(2) The heading for section 25D is amended by striking "energy efficient property" and inserting "clean energy credit".

~~(2)~~**(3)** The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 25D and inserting the following:

"Sec.25D.Residential clean energy credit.".

(d) Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures made after December 31, 2021.

(2) RESIDENTIAL CLEAN ENERGY CREDIT FOR BATTERY STORAGE TECHNOLOGY; CERTAIN EXPENDITURES DISALLOWED.—The amendments made by subsection (b) shall apply to expenditures made after December 31, 2022.

SEC. 13303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) In General.—

(1) MAXIMUM AMOUNT OF DEDUCTION.—Subsection (b) of section 179D is amended to read as follows:

"(b) Maximum Amount of Deduction.—

"(1) IN GENERAL.—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—

"(A) the product of—

"(i) the applicable dollar value, and

"(ii) the square footage of the building, over

"(B) the aggregate amount of the deductions under subsections (a) and (f) with respect to the building for the 3 taxable years immediately preceding such taxable year (or, in the case of any such deduction allowable to a person other than the taxpayer, for any taxable year ending during the 4-taxable-year period ending with such taxable year).

"(2) APPLICABLE DOLLAR VALUE.—For purposes of paragraph (1)(A)(i), the applicable

dollar value shall be an amount equal to $0.50 increased (but not above $1.00) by $0.02 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25 percent.

"(3) INCREASED ~~CREDIT~~ **DEDUCTION** AMOUNT FOR CERTAIN PROPERTY.—

"(A) IN GENERAL.—In the case of any property which satisfies the requirements of subparagraph (B), paragraph (2) shall be applied by substituting '$2.50' for '$0.50', '$.10' for '$.02', and '$5.00' for '$1.00'.

"(B) PROPERTY REQUIREMENTS.—In the case of any energy efficient commercial building property, energy efficient building retrofit property, or property installed pursuant to a qualified retrofit plan, such property shall meet the requirements of this subparagraph if —

"(i) installation of such property begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (4)(A) and (5), or

"(ii) installation of such property satisfies the requirements of paragraphs (4)(A) and (5).

"(4) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any property are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in the installation of any property shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such property is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(5) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall ~~apply.".~~

apply.

"(6) REGULATIONS.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.".

(2) MODIFICATION OF EFFICIENCY STANDARD.—Section 179D(c)(1)(D) is amended by striking "50 percent" and inserting "25 percent".

(3) REFERENCE STANDARD.—Section 179D(c)(2) is amended by striking "the most recent" and inserting the following: "the more recent of—

"(A) Standard 90.1-2007 published by the American Society of Heating,

Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, or

"(B) the most recent".

(4) FINAL DETERMINATION; EXTENSION OF PERIOD; PLACED IN SERVICE DEADLINE.—Subparagraph (B) of section 179D(c)(2), as amended by paragraph (3), is amended—

(A) by inserting "for which the Department of Energy has issued a final determination and" before "which has been affirmed",

(B) by striking "2 years" and inserting "4 years", and

(C) by striking "that construction of such property begins" and inserting "such property is placed in service".

(5) ELIMINATION OF PARTIAL ALLOWANCE.—

(A) IN GENERAL.—Section 179D(d) is amended—

(i) by striking paragraph (1), and

(ii) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(B) CONFORMING AMENDMENTS.—

(i) Section 179D(c)(1)(D) is amended—

(I) by striking "subsection (d)(6)" and inserting "subsection (d)(5)", and

(II) by striking "subsection (d)(2)" and inserting "subsection (d)(1)".

(ii) Paragraph (2)(A) of section 179D(d), as redesignated by subparagraph (A), is amended by striking "paragraph (2)" and inserting "paragraph (1)".

(iii) Paragraph (4) of section 179D(d), as redesignated by subparagraph (A), is amended by striking "paragraph (3)(B)(iii)" and inserting "paragraph (2)(B)(iii)".

(iv) Section 179D is amended by striking subsection (f).

(v) Section 179D(h) is amended by striking "or (d)(1)(A)".

(6) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—Paragraph (3) of section 179D(d), as redesignated by paragraph (5)(A), is amended to read as follows:

"(3) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—

"(A) IN GENERAL.—In the case of energy efficient commercial building property installed on or in property owned by a specified tax-exempt entity, the Secretary shall promulgate regulations or guidance to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

"(B) SPECIFIED TAX-EXEMPT ENTITY.—For purposes of this paragraph, the term 'specified tax-exempt entity' means—

"(i) the United States, any State or ~~local government (or~~ political subdivision thereof~~)~~, any possession of the United States, or any agency or instrumentality of

any of the foregoing,

"(ii) an Indian tribal government (as defined in section 30D(g)(9)) or Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)), and

"(iii) any organization exempt from tax imposed by this chapter.".

(7) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT BUILDING RETROFIT PROPERTY.—Section 179D, as amended by the preceding provisions of this section, is amended by inserting after subsection (e) the following new subsection:

"(f) Alternative Deduction for Energy Efficient Building Retrofit Property.—

"(1) IN GENERAL.—In the case of a taxpayer which elects (at such time and in such manner as the Secretary may provide) the application of this subsection with respect to any qualified building, there shall be allowed as a deduction for the taxable year which includes the date of the qualifying final certification with respect to the qualified retrofit plan of such building, an amount equal to the lesser of—

"(A) the excess described in subsection (b) (determined by substituting 'energy use intensity' for 'total annual energy and power costs' in paragraph (2) thereof), or

"(B) the aggregate adjusted basis (determined after taking into account all adjustments with respect to such taxable year other than the reduction under subsection (e)) of energy efficient building retrofit property placed in service by the taxpayer pursuant to such qualified retrofit plan.

"(2) QUALIFIED RETROFIT PLAN.—For purposes of this subsection, the term 'qualified retrofit plan' means a written plan prepared by a qualified professional which specifies modifications to a building which, in the aggregate, are expected to reduce such building's energy use intensity by 25 percent or more in comparison to the baseline energy use intensity of such building. Such plan shall provide for a qualified professional to—

"(A) as of any date during the 1-year period ending on the date on which the property installed pursuant to such plan is placed in service, certify the energy use intensity of such building as of such date,

"(B) certify the status of property installed pursuant to such plan as meeting the requirements of subparagraphs (B) and (C) of paragraph (3), and

"(C) as of any date that is more than 1 year after the date on which the property installed pursuant to such plan is placed in service, certify the energy use intensity of such building as of such date.

"(3) ENERGY EFFICIENT BUILDING RETROFIT PROPERTY.—For purposes of this subsection, the term 'energy efficient building retrofit property' means property—

"(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(B) which is installed on or in any qualified building,

"(C) which is installed as part of—

"(i) the interior lighting systems,

"(ii) the heating, cooling, ventilation, and hot water systems, or

"(iii) the building envelope, and

"(D) which is certified in accordance with paragraph (2)(B) as meeting the requirements of subparagraphs (B) and (C).

"(4) QUALIFIED BUILDING.—For purposes of this subsection, the term 'qualified building' means any building which—

"(A) is located in the United States, and

"(B) was originally placed in service not less than 5 years before the establishment of the qualified retrofit plan with respect to such building.

"(5) QUALIFYING FINAL CERTIFICATION.—For purposes of this subsection, the term 'qualifying final certification' means, with respect to any qualified retrofit plan, the certification described in paragraph (2)(C) if the energy use intensity certified in such certification is not more than 75 percent of the baseline energy use intensity of the building.

"(6) BASELINE ENERGY USE INTENSITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'baseline energy use intensity' means the energy use intensity certified under paragraph (2)(A), as adjusted to take into account weather.

"(B) DETERMINATION OF ADJUSTMENT.—For purposes of subparagraph (A), the adjustments described in such subparagraph shall be determined in such manner as the Secretary may provide.

"(7) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ENERGY USE INTENSITY.—The term 'energy use intensity' means the annualized, measured site energy use intensity determined in accordance with such regulations or other guidance as the Secretary may provide and measured in British thermal units.

"(B) QUALIFIED PROFESSIONAL.—The term 'qualified professional' means an individual who is a licensed architect or a licensed engineer and meets such other requirements as the Secretary may provide.

"(8) COORDINATION WITH DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A).—

"(A) IN GENERAL.—In the case of any building with respect to which an election is made under paragraph (1), the term 'energy efficient commercial building property' shall not include any energy efficient building retrofit property with respect to which a deduction is allowable under this subsection.

"(B) CERTAIN RULES NOT APPLICABLE.—

"(i) IN GENERAL.—Except as provided in clause (ii), subsection (d) shall not apply for purposes of this subsection.

"(ii) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—Rules similar to subsection (d)(3) shall apply for purposes of this subsection.".

(8) INFLATION ADJUSTMENT.—Section 179D(g) is amended—

(A) by striking "2020" and inserting "2022",

(B) by striking "or subsection (d)(1)(A)", and

(C) by striking "2019" and inserting "2021".

(b) Application to Real Estate Investment Trust Earnings and Profits.—Section 312(k)(3)(B) is amended—

(1) by striking "For purposes of computing the earnings and profits of a corporation" and inserting the following:

"(i) IN GENERAL.—For purposes of computing the earnings and profits of a corporation, except as provided in clause (ii)", and

(2) by adding at the end the following new clause:

"(ii) SPECIAL RULE.—In the case of a corporation that is a real estate investment trust, any amount deductible under section 179D shall be allowed in the year in which the property giving rise to such deduction is placed in service (or, in the case of energy efficient building retrofit property, the year in which the qualifying final certification is made).".

(c) Conforming Amendment.—Paragraph (1) of section 179D(d), as redesignated by subsection (a)(5)(A), is amended by striking "not later than the date that is 2 years before the date that construction of such property begins" and inserting "not later than the date that is 4 years before the date such property is placed in service".

(d) Effective Date.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2022.

(2) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT BUILDING RETROFIT PROPERTY.—Subsection (f) of section 179D of the Internal Revenue Code of 1986 (as amended by this section), and any other provision of such section solely for purposes of applying such subsection, shall apply to property placed in service after December 31, 2022 (in taxable years ending after such date) if such property is placed in service pursuant to qualified retrofit plan (within the meaning of such section) established after such date.

SEC. 13304. EXTENSION, INCREASE, AND MODIFICATIONS OF NEW ENERGY EFFICIENT HOME CREDIT.

(a) Extension of Credit.—Section 45L(g) is amended by striking "December 31, 2021" and inserting "December 31, 2032".

(b) Increase in Credit ~~Amounts.—Section 45L(a)(2)~~ **Amounts.—Paragraph (2) of section 45L(a)** is amended to read as follows:

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

"(A) in the case of a dwelling unit which is eligible to participate in the Energy Star

Residential New Construction Program or the Energy Star Manufactured New Homes program—

"(i) which meets the requirements of subsection (c)(1)(A) (and which does not meet the requirements of subsection (c)(1)(B)), $2,500, and

"(ii) which meets the requirements of subsection (c)(1)(B), $5,000, and

"(B) in the case of a dwelling unit which is part of a building eligible to participate in the Energy Star Multifamily New Construction Program—

"(i) which meets the requirements of subsection (c)(1)(A) (and which does not meet the requirements of subsection (c)(1)(B)), $500, and

"(ii) which meets the requirements of subsection (c)(1)(B), $1,000.".

(c) Modification of Energy Saving Requirements.—Section 45L(c) is amended to read as follows:

"(c) Energy Saving Requirements.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—A dwelling unit meets the requirements of this subparagraph if such dwelling unit meets the requirements of paragraph (2) or (3) (whichever is applicable).

"(B) ZERO ENERGY READY HOME PROGRAM.—A dwelling unit meets the requirements of this subparagraph if such dwelling unit is certified as a zero energy ready home under the zero energy ready home program of the Department of Energy as in effect on January 1, 2023 (or any successor program determined by the Secretary).

"(2) SINGLE-FAMILY HOME REQUIREMENTS.—A dwelling unit meets the requirements of this paragraph if—

"(A) such dwelling unit meets—

"(i)(I) in the case of a dwelling unit acquired before January 1, 2025, the Energy Star Single-Family New Homes National Program Requirements 3.1, or

"(II) in the case of a dwelling unit acquired after December 31, 2024, the Energy Star Single-Family New Homes National Program Requirements 3.2, and

"(ii) the most recent Energy Star Single-Family New Homes Program Requirements applicable to the location of such dwelling unit (as in effect on the latter of January 1, 2023, or January 1 of two calendar years prior to the date the dwelling unit was acquired), or

"(B) such dwelling unit meets the most recent Energy Star Manufactured Home National program requirements as in effect on the latter of January 1, 2023, or January 1 of two calendar years prior to the date such dwelling unit is acquired.

"(3) MULTI-FAMILY HOME REQUIREMENTS.—A dwelling unit meets the requirements of this paragraph if—

"(A) such dwelling unit meets the most recent Energy Star Multifamily New

Construction National Program Requirements (as in effect on either January 1, 2023, or January 1 of three calendar years prior to the date the dwelling was acquired, whichever is later), and

"(B) such dwelling unit meets the most recent Energy Star Multifamily New Construction Regional Program Requirements applicable to the location of such dwelling unit (as in effect on either January 1, 2023, or January 1 of three calendar years prior to the date the dwelling was acquired, whichever is later).".

(d) Prevailing Wage Requirement.—Section 45L is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Prevailing Wage Requirement.—

"(1) IN GENERAL.—In the case of a qualifying residence described in subsection ~~(b)(2)(B)~~ **(a)(2)(B)** meeting the prevailing wage requirements of paragraph (2)(A), the credit amount allowed with respect to such residence shall be—

"(A) $2,500 in the case of a residence which meets the requirements of subparagraph (A) of subsection (c)(1) (and which does not meet the requirements of subparagraph (B) of such subsection), and

"(B) $5,000 in the case of a residence which meets the requirements of subsection (c)(1)(B).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified residence are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in the construction of such residence shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such residence is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(3) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.".

(e) Basis Adjustment.—Section 45L(e) is amended by inserting after the first sentence the following: "This subsection shall not apply for purposes of determining the adjusted basis of any building under section 42.".

(f) Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to dwelling units acquired after December 31, 2022.

(2) EXTENSION OF CREDIT.—The amendments made by subsection (a) shall apply to dwelling units acquired after December 31, 2021.

PART 4—CLEAN VEHICLES

SEC. 13401. CLEAN VEHICLE CREDIT.

(a) Per Vehicle Dollar Limitation.—Section 30D(b) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) CRITICAL MINERALS.—In the case of a vehicle with respect to which the requirement described in subsection (e)(1)(A) is satisfied, the amount determined under this paragraph is $3,750.

"(3) BATTERY COMPONENTS.—In the case of a vehicle with respect to which the requirement described in subsection (e)(2)(A) is satisfied, the amount determined under this paragraph is $3,750.".

(b) Final Assembly.—Section 30D(d) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking "and" at the end,

(B) in subparagraph (F)(ii), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(G) the final assembly of which occurs within North America.",

(2) by adding at the end the following:

"(5) FINAL ASSEMBLY.—For purposes of paragraph (1)(G), the term 'final assembly' means the process by which a manufacturer produces a new clean vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.".

(c) Definition of New Clean Vehicle.—

(1) IN GENERAL.—Section 30D(d), as amended by the preceding provisions of this section, is amended—

(A) in the heading, by striking "Qualified Plug-in Electric Drive Motor" and inserting "Clean",

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "qualified plug-in electric drive motor" and inserting "clean",

(ii) in subparagraph (C), by inserting "qualified" before "manufacturer",

(iii) in subparagraph (F)—

(I) in clause (i), by striking "4" and inserting "7", and

(II) in clause (ii), by striking "and" at the end,

(iv) in subparagraph (G), by striking the period at the end and inserting ", and", and

(v) by adding at the end the following:

"(H) for which the person who sells any vehicle to the taxpayer furnishes a report to the taxpayer and to the Secretary, at such time and in such manner as the Secretary shall provide, containing—

"(i) the name and taxpayer identification number of the taxpayer,

"(ii) the vehicle identification number of the vehicle, unless, in accordance with any applicable rules promulgated by the Secretary of Transportation, the vehicle is not assigned such a number,

"(iii) the battery capacity of the vehicle,

"(iv) verification that original use of the vehicle commences with the taxpayer, and

"(v) the maximum credit under this section allowable to the taxpayer with respect to the vehicle.",

(C) in paragraph (3)—

(i) in the heading, by striking "MANUFACTURER" and inserting "QUALIFIED MANUFACTURER",

(ii) by striking "The term 'manufacturer' has the meaning given such term in" and inserting "The term 'qualified manufacturer' means any manufacturer (within the meaning of the", and

(iii) by inserting ") which enters into a written agreement with the Secretary under which such manufacturer agrees to make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) providing vehicle identification numbers and such other information related to each vehicle manufactured by such manufacturer as the Secretary may require" before the period at the end, and

(D) by adding at the end the following:

"(6) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this section, the term 'new clean vehicle' shall include any new qualified fuel cell motor vehicle (as defined in section 30B(b)(3)) which meets the requirements under subparagraphs (G) and (H) of paragraph (1).".

(2) CONFORMING AMENDMENTS.—Section 30D is amended—

(A) in subsection (a), by striking "new qualified plug-in electric drive motor vehicle" and inserting "new clean vehicle", and

(B) in subsection (b)(1), by striking "new qualified plug-in electric drive motor vehicle" and inserting "new clean vehicle".

(d) Elimination of Limitation on Number of Vehicles Eligible for Credit.—Section 30D is amended by striking subsection (e).

(e) Critical Mineral and Battery Component Requirements.—

(1) IN GENERAL.—Section 30D, as amended by the preceding provisions of this section, is amended by inserting after subsection (d) the following:

"(e) Critical Mineral and Battery Component Requirements.—

"(1) CRITICAL MINERALS REQUIREMENT.—

"(A) IN GENERAL.—The requirement described in this subparagraph with respect to a vehicle is that, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the applicable critical minerals (as defined in section 45X(c)(6)) contained in such battery that were—

"(i) extracted or ~~processed~~ **processed—**

"(I) in the United States, or

"(II) in any country with which the United States has a free trade agreement in effect, or

"(ii) recycled in North America,

is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

"(i) in the case of a vehicle placed in service after the date on which the proposed guidance described in paragraph (3)(B) is issued by the Secretary and before January 1, 2024, 40 percent,

"(ii) in the case of a vehicle placed in service during calendar year 2024, 50 percent,

"(iii) in the case of a vehicle placed in service during calendar year 2025, 60 percent,

"(iv) in the case of a vehicle placed in service during calendar year 2026, 70 percent, and

"(v) in the case of a vehicle placed in service after December 31, 2026, 80 percent.

"(2) BATTERY COMPONENTS.—

"(A) IN GENERAL.—The requirement described in this subparagraph with respect to a vehicle is that, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the components contained in such battery that were manufactured or assembled in North America is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

"(i) in the case of a vehicle placed in service after the date on which the proposed guidance described in paragraph (3)(B) is issued by the Secretary and before January 1, 2024, 50 percent,

"(ii) in the case of a vehicle placed in service during calendar year 2024 or 2025, 60 percent,

"(iii) in the case of a vehicle placed in service during calendar year 2026, 70 percent,

"(iv) in the case of a vehicle placed in service during calendar year 2027, 80 percent,

"(v) in the case of a vehicle placed in service during calendar year 2028, 90 percent,

"(vi) in the case of a vehicle placed in service after December 31, 2028, 100 percent.

"(3) REGULATIONS AND GUIDANCE.—

"(A) IN GENERAL.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

"(B) DEADLINE FOR PROPOSED GUIDANCE.—Not later than December 31, 2022, the Secretary shall issue proposed guidance with respect to the requirements under this subsection.".

(2) EXCLUDED ENTITIES.—Section 30D(d), as amended by the preceding provisions of this section, is amended by adding at the end the following:

"(7) EXCLUDED ENTITIES.—For purposes of this section, the term 'new clean vehicle' shall not include—

"(A) any vehicle placed in service after December 31, 2024, with respect to which any of the applicable critical minerals contained in the battery of such vehicle (as described in subsection (e)(1)(A)) were extracted, processed, or recycled by a foreign entity of concern (as defined in section 40207(a)(5) of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)(5))), or

"(B) any vehicle placed in service after December 31, 2023, with respect to which any of the components contained in the battery of such vehicle (as described in subsection (e)(2)(A)) were manufactured or assembled by a foreign entity of concern (as so defined).".

(f) Special Rules.—Section 30D(f) is amended by adding at the end the following:

"(8) ONE CREDIT PER VEHICLE.—In the case of any vehicle, the credit described in subsection (a) shall only be allowed once with respect to such vehicle, as determined based

upon the vehicle identification number of such vehicle.

"(9) VIN REQUIREMENT.—No credit shall be allowed under this section with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(10) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any taxable year if—

"(i) the lesser of—

"(I) the modified adjusted gross income of the taxpayer for such taxable year, or

"(II) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds

"(ii) the threshold amount.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A)(ii), the threshold amount shall be—

"(i) in the case of a joint return or a surviving spouse (as defined in section 2(a)), $300,000,

"(ii) in the case of a head of household (as defined in section 2(b)), $225,000, and

"(iii) in the case of a taxpayer not described in clause (i) or (ii), $150,000.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(11) MANUFACTURER'S SUGGESTED RETAIL PRICE LIMITATION.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a vehicle with a manufacturer's suggested retail price in excess of the applicable limitation.

"(B) APPLICABLE LIMITATION.—For purposes of subparagraph (A), the applicable limitation for each vehicle classification is as follows:

"(i) VANS.—In the case of a van, $80,000.

"(ii) SPORT UTILITY VEHICLES.—In the case of a sport utility vehicle, $80,000.

"(iii) PICKUP TRUCKS.—In the case of a pickup truck, $80,000.

"(iv) OTHER.—In the case of any other vehicle, $55,000.

"(C) REGULATIONS AND GUIDANCE.—For purposes of this paragraph, the Secretary shall prescribe such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ for determining vehicle classifications using criteria similar to that employed by the Environmental Protection Agency and the Department of the Energy to determine size and class of vehicles.".

(g) Transfer of Credit.—

(1) IN GENERAL.—Section 30D is amended by striking subsection (g) and inserting the following:

"(g) Transfer of Credit.—

"(1) IN GENERAL.—Subject to such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~, if the taxpayer who acquires a new clean vehicle elects the application of this subsection with respect to such vehicle, the credit which would (but for this subsection) be allowed to such taxpayer with respect to such vehicle shall be allowed to the eligible entity specified in such election (and not to such taxpayer).

"(2) ELIGIBLE ENTITY.—For purposes of this subsection, the term 'eligible entity' means, with respect to the vehicle for which the credit is allowed under subsection (a), the dealer which sold such vehicle to the taxpayer and has—

"(A) subject to paragraph (4), registered with the Secretary for purposes of this paragraph, at such time, and in such form and manner, as the Secretary may prescribe,

"(B) prior to the election described in paragraph (1) and not later than at the time of such sale, disclosed to the taxpayer purchasing such vehicle—

"(i) the manufacturer's suggested retail price,

"(ii) the value of the credit allowed and any other incentive available for the purchase of such vehicle, and

"(iii) the amount provided by the dealer to such taxpayer as a condition of the election described in paragraph (1),

"(C) not later than at the time of such sale, made payment to such taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such vehicle) in an amount equal to the credit otherwise allowable to such taxpayer, and

"(D) with respect to any incentive otherwise available for the purchase of a vehicle for which a credit is allowed under this section, including any incentive in the form of a rebate or discount provided by the dealer or manufacturer, ensured that—

"(i) the availability or use of such incentive shall not limit the ability of a taxpayer to make an election described in paragraph (1), and

"(ii) such election shall not limit the value or use of such incentive.

"(3) TIMING.—An election described in paragraph (1) shall be made by the taxpayer not later than the date on which the vehicle for which the credit is allowed under subsection (a) is purchased.

"(4) REVOCATION OF REGISTRATION.—Upon determination by the Secretary that a dealer has failed to comply with the requirements described in paragraph (2), the Secretary may revoke the registration (as described in subparagraph (A) of such paragraph) of such dealer.

"(5) TAX TREATMENT OF PAYMENTS.—With respect to any payment described in paragraph (2)(C), such payment—

"(A) shall not be includible in the gross income of the taxpayer, and

"(B) with respect to the dealer, shall not be deductible under this title.

"(6) APPLICATION OF CERTAIN OTHER REQUIREMENTS.—In the case of any election under paragraph (1) with respect to any vehicle—

"(A) the requirements of paragraphs (1) and (2) of subsection (f) shall apply to the taxpayer who acquired the vehicle in the same manner as if the credit determined under this section with respect to such vehicle were allowed to such taxpayer,

"(B) paragraph (6) of such subsection shall not apply, and

"(C) the requirement of paragraph (9) of such subsection (f) shall be treated as satisfied if the eligible entity provides the vehicle identification number of such vehicle to the Secretary in such manner as the Secretary may provide.

"(7) ADVANCE PAYMENT TO REGISTERED DEALERS.—

"(A) IN GENERAL.—The Secretary shall establish a program to make advance payments to any eligible entity in an amount equal to the cumulative amount of the credits allowed under subsection (a) with respect to any vehicles sold by such entity for which an election described in paragraph (1) has been made.

"(B) EXCESSIVE PAYMENTS.—Rules similar to the rules of section ~~6417(c)(6)~~ **6417(d)(6)** shall apply for purposes of this paragraph.

"(C) TREATMENT OF ADVANCE PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under subparagraph (A) shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

"(8) DEALER.—For purposes of this subsection, the term 'dealer' means a person licensed by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, an Indian tribal government, or any Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) to engage in the sale of vehicles.

"(9) INDIAN TRIBAL GOVERNMENT.—For purposes of this subsection, the term 'Indian tribal government' means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this subsection pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. ~~5131).".~~

5131).

"(10) RECAPTURE.—In the case of any taxpayer who has made an election described in paragraph (1) with respect to a new clean vehicle and received a payment described in paragraph (2)(C) from an eligible entity, if the credit under subsection (a) would otherwise (but for this subsection) not be allowable to such taxpayer pursuant to the application of subsection (f)(10), the tax imposed on such taxpayer under this chapter for the taxable year in which such vehicle was placed in service shall be increased by the amount of the payment received by such taxpayer.".

(2) CONFORMING AMENDMENTS.—Section 30D, as amended by the preceding provisions

of this section, is amended—

(A) in subsection (d)(1)(H) of such section—

(i) in clause (iv), by striking "and" at the end,

(ii) in clause (v), by striking the period at the end and inserting ", and", and

(iii) by adding at the end the following:

"(vi) in the case of a taxpayer who makes an election under subsection (g)(1), any amount described in subsection (g)(2)(C) which has been provided to such taxpayer.", and

(B) in subsection (f)—

(i) by striking paragraph (3), and

(ii) in paragraph (8), by inserting ", including any vehicle with respect to which the taxpayer elects the application of subsection (g)" before the period at the end.

(h) Termination.—Section 30D is amended by adding at the end the following:

"(h) Termination.—No credit shall be allowed under this section with respect to any vehicle placed in service after December 31, 2032.".

(i) Additional Conforming Amendments.—

(1) The heading of section 30D is amended by striking "new qualified plug-in electric drive motor vehicles" and inserting "clean vehicle credit".

(2) Section 30B is amended—

(A) in subsection (h)(8), by striking ", except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle", and

(B) by striking subsection (i).

(3) Section 38(b)(30) is amended by striking "qualified plug-in electric drive motor" and inserting "clean".

(4) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended —

(A) in subparagraph (R), by striking "and" at the end,

(B) in subparagraph (S), by striking the period at the end and inserting ", and", and

(C) by inserting after subparagraph (S) the following:

"(T) an omission of a correct vehicle identification number required under section 30D(f)(9) (relating to credit for new clean vehicles) to be included on a return.".

(5) Section 6501(m) is amended by striking "30D(e)(4)" and inserting "30D(f)(6)".

(6) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30D and inserting after the item relating to section 30C the following item:

"Sec.30D.Clean vehicle credit.".

(j) Gross-up of Direct Spending.—Beginning in fiscal year 2023 and each fiscal year thereafter, the portion of any credit allowed to an eligible entity (as defined in section 30D(g)(2) of the Internal Revenue Code of 1986) pursuant to an election made under section 30D(g) of the Internal Revenue Code of 1986 that is direct spending shall be increased by 6.0445 percent.

(k) Effective Dates.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), the amendments made by this section shall apply to vehicles placed in service after December 31, 2022.

(2) FINAL ASSEMBLY.—The amendments made by subsection (b) shall apply to vehicles sold after the date of enactment of this Act.

(3) PER VEHICLE DOLLAR LIMITATION AND RELATED REQUIREMENTS.—The amendments made by subsections (a) and (e) shall apply to vehicles placed in service after the date on which the proposed guidance described in paragraph (3)(B) of section 30D(e) of the Internal Revenue Code of 1986 (as added by subsection (e)) is issued by the Secretary of the Treasury (or the Secretary's delegate).

(4) TRANSFER OF CREDIT.—The amendments made by subsection (g) shall apply to vehicles placed in service after December 31, 2023.

(5) ELIMINATION OF MANUFACTURER LIMITATION.—The amendment made by subsection (d) shall apply to vehicles sold after December 31, 2022.

(l) Transition Rule.—Solely for purposes of the application of section 30D of the Internal Revenue Code of 1986, in the case of a taxpayer that—

(1) after December 31, 2021, and before the date of enactment of this Act, purchased, or entered into a written binding contract to purchase, a new qualified plug-in electric drive motor vehicle (as defined in section 30D(d)(1) of the Internal Revenue Code of 1986, as in effect on the day before the date of enactment of this Act), and

(2) placed such vehicle in service on or after the date of enactment of this Act,

such taxpayer may elect (at such time, and in such form and manner, as the Secretary of the Treasury, or the Secretary's delegate, may prescribe) to treat such vehicle as having been placed in service on the day before the date of enactment of this Act.

SEC. 13402. CREDIT FOR PREVIOUSLY-OWNED CLEAN VEHICLES.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after section 25D the following new section:

"SEC. 25E. PREVIOUSLY-OWNED CLEAN VEHICLES.

"(a) Allowance of Credit.—In the case of a qualified buyer who during a taxable year places in service a previously-owned clean vehicle, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) $4,000, or

"(2) the amount equal to 30 percent of the sale price with respect to such vehicle.

"(b) Limitation Based on Modified Adjusted Gross Income.—

"(1) IN GENERAL.—No credit shall be allowed under subsection (a) for any taxable year if —

"(A) the lesser of—

"(i) the modified adjusted gross income of the taxpayer for such taxable year, or

"(ii) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds

"(B) the threshold amount.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1)(B), the threshold amount shall be—

"(A) in the case of a joint return or a surviving spouse (as defined in section 2(a)), $150,000,

"(B) in the case of a head of household (as defined in section 2(b)), $112,500, and

"(C) in the case of a taxpayer not described in subparagraph (A) or (B), $75,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(c) Definitions.—For purposes of this section—

"(1) PREVIOUSLY-OWNED CLEAN VEHICLE.—The term 'previously-owned clean vehicle' means, with respect to a taxpayer, a motor vehicle—

"(A) the model year of which is at least 2 years earlier than the calendar year in which the taxpayer acquires such vehicle,

"(B) the original use of which commences with a person other than the taxpayer,

"(C) which is acquired by the taxpayer in a qualified sale, and

"(D) which—

"(i) meets the requirements of subparagraphs (C), (D), (E), (F), and (H) (except for clause (iv) thereof) of section 30D(d)(1), or

"(ii) is a motor vehicle which—

"(I) satisfies the requirements under subparagraphs (A) and (B) of section 30B(b)(3), and

"(II) has a gross vehicle weight rating of less than 14,000 pounds.

"(2) QUALIFIED SALE.—The term 'qualified sale' means a sale of a motor vehicle—

"(A) by a dealer (as defined in section 30D(g)(8)),

"(B) for a sale price which does not exceed $25,000, and

"(C) which is the first transfer since the date of the enactment of this section to a qualified buyer other than the person with whom the original use of such vehicle commenced.

"(3) QUALIFIED BUYER.—The term 'qualified buyer' means, with respect to a sale of a motor vehicle, a taxpayer—

"(A) who is an individual,

"(B) who purchases such vehicle for use and not for resale,

"(C) with respect to whom no deduction is allowable with respect to another taxpayer under section 151, and

"(D) who has not been allowed a credit under this section for any sale during the 3-year period ending on the date of the sale of such vehicle.

"(4) MOTOR VEHICLE; CAPACITY.—The terms 'motor vehicle' and 'capacity' have the meaning given such terms in paragraphs (2) and (4) of section 30D(d), respectively.

"(d) VIN Number Requirement.—No credit shall be allowed under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(e) Application of Certain Rules.—For purposes of this section, rules similar to the rules of section 30D(f) (without regard to paragraph (10) or (11) thereof) shall apply for purposes of this section.

"(f) Termination.—No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2032.".

(b) Transfer of Credit.—Section 25E, as added by subsection (a), is amended—

(1) by redesignating subsection (f) as subsection (g), and

(2) by inserting after subsection (e) the following:

"(f) Transfer of Credit.—Rules similar to the rules of section 30D(g) shall apply.".

(c) Conforming Amendments.—Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(1) in subparagraph (S), by striking "and" at the end,

(2) in subparagraph (T), by striking the period at the end and inserting ", and", and

(3) by inserting after subparagraph (T) the following:

"(U) an omission of a correct vehicle identification number required under section 25E(d) (relating to credit for previously-owned clean vehicles) to be included on a return.".

(d) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25D the following new item:

"Sec.25E.Previously-owned clean vehicles.".

(e) Effective Date.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to vehicles acquired after December 31, 2022.

(2) TRANSFER OF CREDIT.—The amendments made by subsection (b) shall apply to vehicles acquired after December 31, 2023.

SEC. 13403. QUALIFIED COMMERCIAL CLEAN VEHICLES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 45W. CREDIT FOR QUALIFIED COMMERCIAL CLEAN VEHICLES.

"(a) In General.—For purposes of section 38, the qualified commercial clean vehicle credit for any taxable year is an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified commercial clean vehicle placed in service by the taxpayer during the taxable year.

"(b) Per Vehicle Amount.—

"(1) IN GENERAL.—Subject to paragraph (4), the amount determined under this subsection with respect to any qualified commercial clean vehicle shall be equal to the lesser of—

"(A) 15 percent of the basis of such vehicle (30 percent in the case of a vehicle not powered by a gasoline or diesel internal combustion engine), or

"(B) the incremental cost of such vehicle.

"(2) INCREMENTAL COST.—For purposes of paragraph (1)(B), the incremental cost of any qualified commercial clean vehicle is an amount equal to the excess of the purchase price for such vehicle over such price of a comparable vehicle.

"(3) COMPARABLE VEHICLE.—For purposes of this subsection, the term 'comparable vehicle' means, with respect to any qualified commercial clean vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in size and use to such vehicle.

"(4) LIMITATION.—The amount determined under this subsection with respect to any qualified commercial clean vehicle shall not exceed—

"(A) in the case of a vehicle which has a gross vehicle weight rating of less than 14,000 pounds, $7,500, and

"(B) in the case of a vehicle not described in subparagraph (A), $40,000.

"(c) Qualified Commercial Clean Vehicle.—For purposes of this section, the term 'qualified commercial clean vehicle' means any vehicle which—

"(1) meets the requirements of section 30D(d)(1)(C) and is acquired for use or lease by

the taxpayer and not for resale,

"(2) either—

"(A) meets the requirements of subparagraph (D) of section 30D(d)(1) and is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails), or

"(B) is mobile machinery, as defined in section 4053(8) (including vehicles that are not designed to perform a function of transporting a load over the public highways),

"(3) either—

"(A) is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than 15 kilowatt hours (or, in the case of a vehicle which has a gross vehicle weight rating of less than 14,000 pounds, 7 kilowatt hours) and is capable of being recharged from an external source of electricity, or

"(B) is a motor vehicle which satisfies the requirements under subparagraphs (A) and (B) of section 30B(b)(3), and

"(4) is of a character subject to the allowance for depreciation.

"(d) Special Rules.—

"(1) IN ~~GENERAL.—SUBJECT TO PARAGRAPH (2), RULES~~ **GENERAL.—Rules** similar to the rules under subsection (f) of section 30D **(without regard to paragraph (10) or (11) thereof)** shall apply for purposes of this section.

~~"(2) Recapture.—The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any credit allowed under subsection (a) with respect to any property which ceases to be property eligible for such credit.~~

~~"(3)~~**"(2)** VEHICLES PLACED IN SERVICE BY TAX-EXEMPT ENTITIES.—Subsection (c)(4) shall not apply to any vehicle which is not subject to a lease and which is placed in service by a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2)(A).

~~"(4)~~**"(3)** NO DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any vehicle for which a credit was allowed under section 30D.

"(e) VIN Number Requirement.—No credit shall be determined under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(f) Regulations and Guidance.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this section, including regulations or other guidance relating to determination of the incremental cost of any qualified commercial clean vehicle.

"(g) Termination.—No credit shall be determined under this section with respect to any vehicle acquired after December 31, 2032.".

(b) Conforming Amendments.—

(1) Section 38(b), as amended by the preceding provisions of this Act, is amended—

(A) in paragraph (35), by striking "plus" at the end,

(B) in paragraph (36), by striking the period at the end and inserting ", plus", and

(C) by adding at the end the following new paragraph:

"(37) the qualified commercial clean vehicle credit determined under section 45W.".

(2) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended —

(A) in subparagraph (T), by striking "and" at the end,

(B) in subparagraph (U), by striking the period at the end and inserting ", and", and

(C) by inserting after subparagraph (U) the following:

"(V) an omission of a correct vehicle identification number required under section 45W(e) (relating to commercial clean vehicle credit) to be included on a return.".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new item:

"Sec.45W.Qualified commercial clean vehicle credit.".

(c) Effective Date.—The amendments made by this section shall apply to vehicles acquired after December 31, 2022.

SEC. 13404. ALTERNATIVE FUEL REFUELING PROPERTY CREDIT.

(a) In General.—Section 30C(g) is amended by striking "December 31, 2021" and inserting "December 31, 2032".

(b) Credit for Property of a Character Subject to Depreciation.—

(1) IN GENERAL.—Section 30C(a) is amended by inserting "(6 percent in the case of property of a character subject to depreciation)" after "30 percent".

(2) MODIFICATION OF CREDIT LIMITATION.—Subsection (b) of section 30C is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "with respect to all" and inserting "with respect to any single item of", and

(ii) by striking "at a location", and

(B) in paragraph (1), by striking "$30,000 in the case of a property" and inserting "$100,000 in the case of any such item of property".

(3) BIDIRECTIONAL CHARGING EQUIPMENT INCLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—Section 30C(c) is amended to read as follows:

"(c) Qualified Alternative Fuel Vehicle Refueling Property.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning as the term 'qualified clean-fuel vehicle refueling property' would have under section 179A if—

"(A) paragraph (1) of section 179A(d) did not apply to property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, and

"(B) only the following were treated as clean-burning fuels for purposes of section 179A(d):

"(i) Any fuel at least 85 percent of the volume of which consists of one or more of the following: ethanol, natural gas, compressed natural gas, liquified natural gas, liquefied petroleum gas, or hydrogen.

"(ii) Any mixture—

"(I) which consists of two or more of the following: biodiesel (as defined in section 40A(d)(1)), diesel fuel (as defined in section 4083(a)(3)), or kerosene, and

"(II) at least 20 percent of the volume of which consists of biodiesel (as so defined) determined without regard to any kerosene in such mixture.

"(iii) Electricity.

"(2) BIDIRECTIONAL CHARGING EQUIPMENT.—Property shall not fail to be treated as qualified alternative fuel vehicle refueling property solely because such property—

"(A) is capable of charging the battery of a motor vehicle propelled by electricity, and

"(B) allows discharging electricity from such battery to an electric load external to such motor vehicle.".

(c) Certain Electric Charging Stations Included as Qualified Alternative Fuel Vehicle Refueling Property.—Section 30C is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following:

"(f) Special Rule for Electric Charging Stations for Certain Vehicles With 2 or 3 Wheels.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified alternative fuel vehicle refueling property' includes any property described in subsection (c) for the recharging of a motor vehicle described in paragraph (2), but only if such property—

"(A) meets the requirements of subsection (a)(2), and

"(B) is of a character subject to depreciation.

"(2) MOTOR VEHICLE.—A motor vehicle is described in this paragraph if the motor vehicle—

"(A) is manufactured primarily for use on public streets, roads, or highways (not including a vehicle operated exclusively on a rail or rails),

"(B) has ~~at least 2, but not more than 3,~~ **2 or 3** wheels, and

"(C) is propelled by electricity.".

(d) Wage and Apprenticeship Requirements.—Section 30C, as amended by this section, is further amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting after subsection (f) the following new subsection:

"(g) Wage and Apprenticeship Requirements.—

"(1) INCREASED CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling project which satisfies the requirements of subparagraph (C), the amount of the credit determined under subsection (a) for any qualified alternative fuel vehicle refueling property of a character subject to an allowance for depreciation which is part of such project shall be equal to such amount (determined without regard to this sentence) multiplied by 5.

"(B) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROJECT.—For purposes of this subsection, the term 'qualified alternative fuel vehicle refueling project' means a project consisting of one or more properties that are part of a single project.

"(C) PROJECT REQUIREMENTS.—A project meets the requirements of this subparagraph if it is one of the following:

"(i) A project the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (2)(A) and (3).

"(ii) A project which satisfies the requirements of paragraphs (2)(A) and (3).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to any qualified alternative fuel vehicle refueling project are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in the construction of any qualified alternative fuel vehicle refueling property which is part of such project shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such project is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(3) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.

"(4) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary ~~or appropriate~~ to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.".

(e) Eligible Census Tracts.—Subsection (c) of section 30C, as amended by subsection (b)(3), is amended by adding at the end the following:

"(3) PROPERTY REQUIRED TO BE LOCATED IN ELIGIBLE CENSUS TRACTS.—

"(A) IN GENERAL.—Property shall not be treated as qualified alternative fuel vehicle refueling property unless such property is placed in service in an eligible census tract.

"(B) ELIGIBLE CENSUS TRACT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible census tract' means any population census tract which—

"(I) is described in section 45D(e), or

"(II) is not an urban area.

"(ii) URBAN AREA.—For purposes of clause (i)(II), the term 'urban area' means a census tract (as defined by the Bureau of the Census) which, according to the most recent decennial census, has been designated as an urban area by the Secretary of Commerce.".

(f) Effective Date.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2022.

(2) EXTENSION.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2021.

PART 5—INVESTMENT IN CLEAN ENERGY MANUFACTURING AND ENERGY SECURITY

SEC. 13501. EXTENSION OF THE ADVANCED ENERGY PROJECT CREDIT.

(a) Extension of Credit.—Section 48C is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Additional Allocations.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish a program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.

"(2) **LIMITATION.—The** ~~Limitation.—~~

~~"(A) In general.—The~~ total amount of credits which may be allocated under the program established under paragraph (1) shall not exceed $10,000,000,000, of which not greater than $6,000,000,000 may be allocated to qualified investments which are not located within ~~energy communities~~ **a census tract which—**

"(A) is described in clause (iii) of section 45(b)(11)(B)**, and**~~.~~

~~"(B) No prior certification and allocation.—No credits may be allocated under the program established under paragraph (1) for any project which is located in a census tract which,~~**"(B)** prior to the date of enactment of this subsection, had **no project which** received a certification and allocation of credits under subsection (d).

"(3) CERTIFICATIONS.—

"(A) APPLICATION REQUIREMENT.—Each applicant for certification under this subsection shall submit an application at such time and containing such information as the Secretary may require.

"(B) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

"(C) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 2 years from the date of issuance of the certification in order to place the project in service and to notify the Secretary that such project has been so placed in service, and if such project is not placed in service by that time period, then the certification shall no longer be valid. If any certification is revoked under this subparagraph, the amount of the limitation under paragraph (2) shall be increased by the amount of the credit with respect to such revoked certification.

"(D) LOCATION OF PROJECT.—In the case of an applicant which receives a certification, if the Secretary determines that the project has been placed in service at a location which is materially different than the location specified in the application for such project, the certification shall no longer be valid.

"(4) CREDIT RATE CONDITIONED UPON WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(A) BASE RATE.—For purposes of allocations under this subsection, the amount of the credit determined under subsection (a) shall be determined by substituting '6 percent' for '30 percent'.

"(B) ALTERNATIVE RATE.—In the case of any project which satisfies the requirements of paragraphs (5)(A) and (6), subparagraph (A) shall not apply.

"(5) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements described in this subparagraph with respect to a project are that the taxpayer shall ensure that any laborers and mechanics employed by ~~contractors and subcontractors~~ **the taxpayer or any contractor or subcontractor** in the re-equipping, expansion, or establishment of a manufacturing facility shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such project is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7)(B) shall apply.

"(6) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8)

shall apply.

"(7) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.".

(b) Modification of Qualifying Advanced Energy Projects.—Section 48C(c)(1)(A) is amended —

(1) by inserting ", any portion of the qualified investment of which is certified by the Secretary under subsection (e) as eligible for a credit under this section" after "means a project",

(2) in clause (i)—

(A) by striking "a manufacturing facility for the production of" and inserting "an industrial or manufacturing facility for the production or recycling of",

(B) in clause (I), by inserting "water," after "sun,",

(C) in clause (II), by striking "an energy storage system for use with electric or hybrid-electric motor vehicles" and inserting "energy storage systems and components",

(D) in clause (III), by striking "grids to support the transmission of intermittent sources of renewable energy, including storage of such energy" and inserting "grid modernization equipment or components",

(E) in subclause (IV), by striking "and sequester carbon dioxide emissions" and inserting ", remove, use, or sequester carbon oxide emissions",

(F) by striking subclause (V) and inserting the following:

"(V) equipment designed to refine, electrolyze, or blend any fuel, chemical, or product which is—

"(aa) renewable, or

"(bb) low-carbon and low-emission,",

(G) by striking subclause (VI),

(H) by redesignating subclause (VII) as subclause (IX),

(I) by inserting after subclause (V) the following new subclauses:

"(VI) property designed to produce energy conservation technologies (including residential, commercial, and industrial applications),

"(VII) light-, medium-, or heavy-duty electric or fuel cell vehicles, as well as—

"(aa) technologies, components, or materials for such vehicles, and

"(bb) associated charging or refueling infrastructure,

"(VIII) hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds, as well as technologies, components, or materials for such

vehicles, or", and

(J) in subclause (IX), as so redesignated, by striking "and" at the end, and

(3) by striking clause (ii) and inserting the following:

"(ii) which re-equips an industrial or manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20 percent through the installation of—

"(I) low- or zero-carbon process heat systems,

"(II) carbon capture, transport, utilization and storage systems,

"(III) energy efficiency and reduction in waste from industrial processes, or

"(IV) any other industrial technology designed to reduce greenhouse gas emissions, as determined by the Secretary, or

"(iii) which re-equips, expands, or establishes an industrial facility for the processing, refining, or recycling of critical materials (as defined in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).".

(c) Conforming Amendment.—Subparagraph (A) of section 48C(c)(2) is amended to read as follows:

"(A) which is necessary for—

"(i) the production or recycling of property described in clause (i) of paragraph (1)(A),

"(ii) re-equipping an industrial or manufacturing facility described in clause (ii) of such paragraph, or

"(iii) re-equipping, expanding, or establishing an industrial facility described in clause (iii) of such paragraph,".

(d) Denial of Double Benefit.—48C(f), as redesignated by this section, is amended by striking "or 48B" and inserting "48B, ~~48D~~ **48E**, 45Q, or 45V".

(e) Effective Date.—The amendments made by this section shall take effect on January 1, 2023.

SEC. 13502. ADVANCED MANUFACTURING PRODUCTION CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 45X. ADVANCED MANUFACTURING PRODUCTION CREDIT.

"(a) In General.—

"(1) ALLOWANCE OF CREDIT.—For purposes of section 38, the advanced manufacturing

production credit for any taxable year is an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each eligible component which is—

"(A) produced by the taxpayer, and

"(B) during the taxable year, sold by such taxpayer to an unrelated person.

"(2) PRODUCTION AND SALE MUST BE IN TRADE OR BUSINESS.—Any eligible component produced and sold by the taxpayer shall be taken into account only if the production and sale described in paragraph (1) is in a trade or business of the taxpayer.

"(3) UNRELATED ~~PERSON.—FOR~~ **PERSON.—**

"(A) IN GENERAL.—For purposes of this subsection, a taxpayer shall be treated as selling components to an unrelated person if such component is sold to such person by a person related to the taxpayer.

"(B) ELECTION.—

"(i) IN GENERAL.—At the election of the taxpayer (in such form and manner as the Secretary may prescribe), a sale of components by such taxpayer to a related person shall be deemed to have been made to an unrelated person.

"(ii) REQUIREMENT.—As a condition of, and prior to, any election described in clause (i), the Secretary may require such information or registration as the Secretary deems necessary for purposes of preventing duplication, fraud, or any improper or excessive amount determined under paragraph (1).

"(b) Credit Amount.—

"(1) IN GENERAL.—Subject to paragraph (3), the amount determined under this subsection with respect to any eligible component, including any eligible component it incorporates, shall be equal to—

"(A) in the case of a thin film photovoltaic cell or a crystalline photovoltaic cell, an amount equal to the product of—

"(i) 4 cents, multiplied by

"(ii) the capacity of such cell (expressed on a per direct current watt basis),

"(B) in the case of a photovoltaic wafer, $12 per square meter,

"(C) in the case of solar grade polysilicon, $3 per kilogram,

"(D) in the case of a polymeric backsheet, 40 cents per square meter,

"(E) in the case of a solar module, an amount equal to the product of—

"(i) 7 cents, multiplied by

"(ii) the capacity of such module (expressed on a per direct current watt basis),

"(F) in the case of a wind energy component—

"(i) if such component is a related offshore wind vessel, an amount equal to 10

percent of the sales price of such vessel, and

"(ii) if such component is not described in clause (i), an amount equal to the product of—

"(I) the applicable amount with respect to such component (as determined under paragraph (2)(A)), multiplied by

"(II) the total rated capacity (expressed on a per watt basis) of the completed wind turbine for which such component is designed,

"(G) in the case of a torque tube, 87 cents per kilogram,

"(H) in the case of a structural fastener, $2.28 per kilogram,

"(I) in the case of an inverter, an amount equal to the product of—

"(i) the applicable amount with respect to such inverter (as determined under paragraph (2)(B)), multiplied by

"(ii) the capacity of such inverter (expressed on a per alternating current watt basis),

"(J) in the case of electrode active materials, an amount equal to 10 percent of the costs incurred by the taxpayer with respect to production of such materials,

"(K) in the case of a battery cell, an amount equal to the product of—

"(i) $35, multiplied by

"(ii) subject to paragraph (4), the capacity of such battery cell (expressed on a kilowatt-hour basis),

"(L) in the case of a battery module, an amount equal to the product of—

"(i) $10 (or, in the case of a battery module which does not use battery cells, $45), multiplied by

"(ii) subject to paragraph (4), the capacity of such battery module (expressed on a kilowatt-hour basis), and

"(M) in the case of any applicable critical mineral, an amount equal to 10 percent of the costs incurred by the taxpayer with respect to production of such mineral.

"(2) APPLICABLE AMOUNTS.—

"(A) WIND ENERGY COMPONENTS.—For purposes of paragraph (1)(F)(ii), the applicable amount with respect to any wind energy component shall be—

"(i) in the case of a blade, 2 cents,

"(ii) in the case of a nacelle, 5 cents,

"(iii) in the case of a tower, 3 cents, and

"(iv) in the case of an offshore wind foundation—

"(I) which uses a fixed platform, 2 cents, or

"(II) which uses a floating platform, 4 cents.

"(B) INVERTERS.—For purposes of paragraph (1)(I), the applicable amount with respect to any inverter shall be—

"(i) in the case of a central inverter, 0.25 cents,

"(ii) in the case of a utility inverter, 1.5 cents,

"(iii) in the case of a commercial inverter, 2 cents,

"(iv) in the case of a residential inverter, 6.5 cents, and

"(v) in the case of a microinverter or a distributed wind inverter, 11 cents.

"(3) PHASE OUT.—

"(A) IN GENERAL.—Subject to subparagraph (C), in the case of any eligible component sold after December 31, 2029, the amount determined under this subsection with respect to such component shall be equal to the product of—

"(i) the amount determined under paragraph (1) with respect to such component, as determined without regard to this paragraph, multiplied by

"(ii) the phase out percentage under subparagraph (B).

"(B) PHASE OUT PERCENTAGE.—The phase out percentage under this subparagraph is equal to—

"(i) in the case of an eligible component sold during calendar year 2030, 75 percent,

"(ii) in the case of an eligible component sold during calendar year 2031, 50 percent,

"(iii) in the case of an eligible component sold during calendar year 2032, 25 percent,

"(iv) in the case of an eligible component sold after December 31, 2032, 0 percent.

"(C) EXCEPTION.—For purposes of determining the amount under this subsection with respect to any applicable critical mineral, this paragraph shall not apply.

"(4) LIMITATION ON CAPACITY OF BATTERY CELLS AND BATTERY MODULES.—

"(A) IN GENERAL.—For purposes of subparagraph (K)(ii) or (L)(ii) of paragraph (1), the capacity determined under either subparagraph with respect to a battery cell or battery module shall not exceed a capacity-to-power ratio of 100:1.

"(B) CAPACITY-TO-POWER RATIO.—For purposes of this paragraph, the term 'capacity-to-power ratio' means, with respect to a battery cell or battery module, the ratio of the capacity of such cell or module to the maximum discharge amount of such cell or module.

"(c) Definitions.—For purposes of this section—

"(1) ELIGIBLE COMPONENT.—

"(A) IN GENERAL.—The term 'eligible component' means—

"(i) any solar energy component,

"(ii) any wind energy component,

"(iii) any inverter described in subparagraphs (B) through (G) of paragraph (2),

"(iv) any qualifying battery component, and

"(v) any applicable critical mineral.

"(B) APPLICATION WITH OTHER CREDITS.—The term 'eligible component' shall not include any property which is produced at a facility if the basis of any property which is part of such facility is taken into account for purposes of the credit allowed under section 48C after the date of the enactment of this section.

"(2) INVERTERS.—

"(A) IN GENERAL.—The term 'inverter' means an end product which is suitable to convert direct current electricity from 1 or more solar modules or certified distributed wind energy systems into alternating current electricity.

"(B) CENTRAL INVERTER.—The term 'central inverter' means an inverter which is suitable for large utility-scale systems and has a capacity which is greater than 1,000 kilowatts (expressed on a per alternating current watt basis).

"(C) COMMERCIAL INVERTER.—The term 'commercial inverter' means an inverter which—

"(i) is suitable for commercial or utility-scale applications,

"(ii) has a rated output of 208, 480, 600, or 800 volt three-phase power, and

"(iii) has a capacity which is not less than 20 kilowatts and not greater than 125 kilowatts (expressed on a per alternating current watt basis).

"(D) DISTRIBUTED WIND INVERTER.—

"(i) IN GENERAL.—The term 'distributed wind inverter' means an inverter which—

"(I) is used in a residential or non-residential system which utilizes 1 or more certified distributed wind energy systems, and

"(II) has a rated output of not greater than 150 kilowatts.

"(ii) CERTIFIED DISTRIBUTED WIND ENERGY SYSTEM.—The term 'certified distributed wind energy system' means a wind energy system which is certified by an accredited certification agency to meet Standard 9.1-2009 of the American Wind Energy Association (including any subsequent revisions to or modifications of such Standard which have been approved by the American National Standards Institute).

"(E) MICROINVERTER.—The term 'microinverter' means an inverter which—

"(i) is suitable to connect with one solar module,

"(ii) has a rated output of—

"(I) 120 or 240 volt single-phase power, or

"(II) 208 or 480 volt three-phase power, and

"(iii) has a capacity which is not greater than 650 watts (expressed on a per alternating current watt basis).

"(F) RESIDENTIAL INVERTER.—The term 'residential inverter' means an inverter which—

"(i) is suitable for a residence,

"(ii) has a rated output of 120 or 240 volt single-phase power, and

"(iii) has a capacity which is not greater than 20 kilowatts (expressed on a per alternating current watt basis).

"(G) UTILITY INVERTER.—The term 'utility inverter' means an inverter which—

"(i) is suitable for commercial or utility-scale systems,

"(ii) has a rated output of not less than 600 volt three-phase power, and

"(iii) has a capacity which is greater than 125 kilowatts and not greater than 1000 kilowatts (expressed on a per alternating current watt basis)

"(3) SOLAR ENERGY COMPONENT.—

"(A) IN GENERAL.—The term 'solar energy component' means any of the following:

"(i) Solar modules.

"(ii) Photovoltaic cells.

"(iii) Photovoltaic wafers.

"(iv) Solar grade polysilicon.

"(v) Torque tubes or structural fasteners.

"(vi) Polymeric backsheets.

"(B) ASSOCIATED DEFINITIONS.—

"(i) PHOTOVOLTAIC CELL.—The term 'photovoltaic cell' means the smallest semiconductor element of a solar module which performs the immediate conversion of light into electricity.

"(ii) PHOTOVOLTAIC WAFER.—The term 'photovoltaic wafer' means a thin slice, sheet, or layer of semiconductor material of at least 240 square centimeters —

"(I) produced by a single manufacturer either—

"(aa) directly from molten or evaporated solar grade polysilicon or deposition of solar grade thin film semiconductor photon absorber layer, or

"(bb) through formation of an ingot from molten polysilicon and subsequent slicing, and

"(II) which comprises the substrate or absorber layer of one or more photovoltaic cells.

"(iii) POLYMERIC BACKSHEET.—The term 'polymeric backsheet' means a sheet on the back of a solar module which acts as an electric insulator and protects the inner components of such module from the surrounding environment.

"(iv) SOLAR GRADE POLYSILICON.—The term 'solar grade polysilicon' means silicon which is—

"(I) suitable for use in photovoltaic manufacturing, and

"(II) purified to a minimum purity of 99.999999 percent silicon by mass.

"(v) SOLAR MODULE.—The term 'solar module' means the connection and lamination of photovoltaic cells into an environmentally protected final assembly which is—

"(I) suitable to generate electricity when exposed to sunlight, and

"(II) ready for installation without an additional manufacturing process.

"(vi) SOLAR TRACKER.—The term 'solar tracker' means a mechanical system that moves solar modules according to the position of the sun and to increase energy output.

"(vii) SOLAR TRACKER COMPONENTS.—

"(I) TORQUE TUBE.—The term 'torque tube' means a structural steel support element (including longitudinal purlins) which—

"(aa) is part of a solar tracker,

"(bb) is of any cross-sectional shape,

"(cc) may be assembled from individually manufactured segments,

"(dd) spans longitudinally between foundation posts,

"(ee) supports solar panels and is connected to a mounting attachment for solar panels (with or without separate module interface rails), and

"(ff) is rotated by means of a drive system.

"(II) STRUCTURAL FASTENER.—The term 'structural fastener' means a component which is used—

"(aa) to connect the mechanical and drive system components of a solar tracker to the foundation of such solar tracker,

"(bb) to connect torque tubes to drive assemblies, or

"(cc) to connect segments of torque tubes to one another.

"(4) WIND ENERGY COMPONENT.—

"(A) IN GENERAL.—The term 'wind energy component' means any of the following:

"(i) Blades.

"(ii) Nacelles.

"(iii) Towers.

"(iv) Offshore wind foundations.

"(v) Related offshore wind vessels.

"(B) ASSOCIATED DEFINITIONS.—

"(i) BLADE.—The term 'blade' means an airfoil-shaped blade which is responsible for converting wind energy to low-speed rotational energy.

"(ii) OFFSHORE WIND FOUNDATION.—The term 'offshore wind foundation' means the component (including transition piece) which secures an offshore wind tower and any above-water turbine components to the seafloor using—

"(I) fixed platforms, such as offshore wind monopiles, jackets, or gravity-based foundations, or

"(II) floating platforms and associated mooring systems.

"(iii) NACELLE.—The term 'nacelle' means the assembly of the drivetrain and other tower-top components of a wind turbine (with the exception of the blades and the hub) within their cover housing.

"(iv) RELATED OFFSHORE WIND VESSEL.—The term 'related offshore wind vessel' means any vessel which is purpose-built or retrofitted for purposes of the development, transport, installation, operation, or maintenance of offshore wind energy components.

"(v) TOWER.—The term 'tower' means a tubular or lattice structure which supports the nacelle and rotor of a wind turbine.

"(5) QUALIFYING BATTERY COMPONENT.—

"(A) IN GENERAL.—The term 'qualifying battery component' means any of the following:

"(i) Electrode active materials.

"(ii) Battery cells.

"(iii) Battery modules.

"(B) ASSOCIATED DEFINITIONS.—

"(i) ELECTRODE ACTIVE MATERIAL.—The term 'electrode active material' means cathode materials, anode materials, anode foils, and electrochemically active materials, including solvents, additives, and electrolyte salts that contribute to the electrochemical processes necessary for energy storage .

"(ii) BATTERY CELL.—The term 'battery cell' means an electrochemical cell—

"(I) comprised of 1 or more positive electrodes and 1 or more negative electrodes,

"(II) with an energy density of not less than 100 watt-hours per liter, and

"(III) capable of storing at least ~~20~~ **12** watt-hours of energy.

"(iii) BATTERY MODULE.—The term 'battery module' means a module—

"(I)(aa) in the case of a module using battery cells, with 2 or more battery cells which are configured electrically, in series or parallel, to create voltage or current, as appropriate, to a specified end use, or

"(bb) with no battery cells, and

"(II) with an aggregate capacity of not less than 7 kilowatt-hours (or, in the case of a module for a hydrogen fuel cell vehicle, not less than 1 kilowatt-hour).

"(6) APPLICABLE CRITICAL MINERALS.—The term 'applicable critical mineral' means any of the following:

"(A) ALUMINUM.—Aluminum which is—

"(i) converted ~~to metallurgical grade bauxite~~ **from bauxite to a minimum purity of 99 percent alumina by mass**, or

"(ii) purified to a minimum purity of ~~99.99~~ **99.9** percent aluminum by mass.

"(B) ANTIMONY.—Antimony which is—

"(i) converted to antimony trisulfide **concentrate with a minimum purity of 90 percent antimony trisulfide by mass**, or

"(ii) purified to a minimum purity of ~~99~~ **99.65** percent antimony by mass.

"(C) BARITE.—Barite which **is** ~~is—~~

~~"(i) converted to~~ barium sulfate~~, or~~

~~"(ii)~~ purified to a minimum purity of ~~99~~ **80** percent barite by mass.

"(D) BERYLLIUM.—Beryllium which is—

"(i) converted to copper-beryllium master alloy, or

"(ii) purified to a minimum purity of 99 percent beryllium by mass.

"(E) CERIUM.—Cerium which is—

"(i) converted to cerium oxide which is purified to a minimum purity of 99.9 percent cerium oxide by mass, or

"(ii) purified to a minimum purity of 99 percent cerium by mass.

"(F) CESIUM.—Cesium which is—

"(i) converted to cesium formate or cesium carbonate, or

"(ii) purified to a minimum purity of 99 percent cesium by mass.

"(G) CHROMIUM.—Chromium which is—

"(i) converted to ferrochromium consisting of not less than 60 percent chromium by mass, or

"(ii) purified to a minimum purity of 99 percent chromium by mass.

"(H) COBALT.—Cobalt which is—

"(i) converted to cobalt sulfate, or

"(ii) purified to a minimum purity of 99.6 percent cobalt by mass.

"(I) DYSPROSIUM.—Dysprosium which is—

"(i) converted to not less than 99 percent pure dysprosium iron alloy by mass, or

"(ii) purified to a minimum purity of 99 percent dysprosium by mass.

"(J) EUROPIUM.—Europium which is—

"(i) converted to europium oxide which is purified to a minimum purity of 99.9 percent europium oxide by mass, or

"(ii) purified to a minimum purity of 99 percent by mass.

"(K) FLUORSPAR.—Fluorspar which is—

"(i) converted to ~~acid grade~~ fluorspar which is purified to a minimum purity of 97 percent calcium fluoride by mass, or

"(ii) purified to a minimum purity of 99 percent fluorspar by mass.

"(L) GADOLINIUM.—Gadolinium which is—

"(i) converted to gadolinium oxide which is purified to a minimum purity of 99.9 percent gadolinium oxide by mass, or

"(ii) purified to a minimum purity of 99 percent gadolinium by mass.

"(M) GERMANIUM.—Germanium which is—

"(i) converted to germanium tetrachloride, or

"(ii) purified to a minimum purity of ~~99~~ **99.99** percent germanium by mass.

"(N) GRAPHITE.—Graphite which is purified to a minimum purity of 99.9 percent graphitic carbon by mass.

"(O) INDIUM.—Indium which is—

"(i) converted to—

"(I) indium tin oxide, or

"(II) indium oxide which is purified to a minimum purity of 99.9 percent indium oxide by mass, or

"(ii) purified to a minimum purity of 99 percent indium by mass.

"(P) LITHIUM.—Lithium which is—

"(i) converted to lithium carbonate or lithium hydroxide, or

"(ii) purified to a minimum purity of 99.9 percent lithium by mass.

"(Q) MANGANESE.—Manganese which is—

"(i) converted to manganese sulphate, or

"(ii) purified to a minimum purity of 99.7 percent manganese by mass.

"(R) NEODYMIUM.—Neodymium which is—

"(i) converted to neodymium-praseodymium oxide~~, or~~

~~"(ii)~~ **which is purified to a minimum purity of 99 percent neodymium-praseodymium oxide by mass,**

"(ii) converted to neodymium oxide which is purified to a minimum purity of 99.5 percent neodymium oxide by mass

"(iii) purified to a minimum purity of ~~99~~ **99.9** percent neodymium by mass.

"(S) NICKEL.—Nickel which is—

"(i) converted to nickel sulphate, or

"(ii) purified to a minimum purity of 99 percent nickel by mass.

"(T) NIOBIUM.—Niobium which is—

"(i) converted to ferronibium, or

"(ii) purified to a minimum purity of 99 percent niobium by mass.

"(U) TELLURIUM.—Tellurium which is—

"(i) converted to cadmium telluride, or

"(ii) purified to a minimum purity of 99 percent tellurium by mass.

"(V) TIN.—Tin which **is** ~~is—~~

~~"(i) converted to indium tin oxide, or~~

~~"(ii)~~ purified to low alpha emitting tin which—

~~"(I)~~**"(i)** has a purity of greater than 99.99 percent by mass, and

~~"(II)~~**"(ii)** possesses an alpha emission rate of not greater than 0.01 counts per hour per centimeter square.

"(W) TUNGSTEN.—Tungsten which is converted to ammonium paratungstate or ferrotungsten.

"(X) VANADIUM.—Vanadium which is converted to ferrovanadium or vanadium pentoxide.

"(Y) YTTRIUM.—Yttrium which is—

"(i) converted to yttrium oxide which is purified to a minimum purity of ~~99.9~~ **99.999** percent yttrium oxide by mass, or

"(ii) purified to a minimum purity of ~~99~~ **99.9** percent yttrium by mass.

"(Z) OTHER MINERALS.—Any of the following minerals, provided that such mineral is purified to a minimum purity of 99 percent by mass:

"(i) Arsenic.

"(ii) Bismuth.

"(iii) Erbium.

"(iv) Gallium.

"(v) Hafnium.

"(vi) Holmium.

"(vii) Iridium.

"(viii) Lanthanum.

"(ix) Lutetium.

"(x) Magnesium.

"(xi) Palladium.

"(xii) Platinum.

"(xiii) Praseodymium.

"(xiv) Rhodium.

"(xv) Rubidium.

"(xvi) Ruthenium.

"(xvii) Samarium.

"(xviii) Scandium.

"(xix) Tantalum.

"(xx) Terbium.

"(xxi) Thulium.

"(xxii) Titanium.

"(xxiii) Ytterbium.

"(xxiv) Zinc.

"(xxv) Zirconium.

"(d) Special Rules.—In this section—

"(1) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

"(2) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to eligible components the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(4) SALE OF INTEGRATED COMPONENTS.—For purposes of this section, a person shall be treated as having sold an eligible component to an unrelated person if such component is integrated, incorporated, or assembled into another eligible component which is sold to an unrelated person.".

(b) Conforming Amendments.—

(1) Section 38(b) of the Internal Revenue Code of 1986, as amended by the preceding provisions of this Act, is amended—

(A) in paragraph (36), by striking "plus" at the end,

(B) in paragraph (37), by striking the period at the end and inserting ", plus", and

(C) by adding at the end the following new paragraph:

"(38) the advanced manufacturing production credit determined under section 45X(a).".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new item:

"Sec.45X.Advanced manufacturing production credit.".

(c) Effective Date.—The amendments made by this section shall apply to components produced and sold after December 31, 2022.

PART 6—SUPERFUND

SEC. 13601. REINSTATEMENT OF SUPERFUND.

(a) Hazardous Substance Superfund Financing Rate.—

(1) EXTENSION.—Section 4611 is amended by striking subsection (e).

(2) ADJUSTMENT FOR INFLATION.—

(A) Section 4611(c)(2)(A) is amended by striking "9.7 cents" and inserting "16.4 cents".

(B) Section 4611(c) is amended by adding at the end the following:

"(3) ADJUSTMENT FOR INFLATION.—

"(A) IN GENERAL.—In the case of a year beginning after 2023, the amount in paragraph (2)(A) shall be increased by an amount equal to—

"(i) such amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2022' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of $0.01, such amount shall be rounded to the next lowest multiple of $0.01.".

(b) Authority for Advances.—Section 9507(d)(3)(B) is amended by striking "December 31, 1995" and inserting "December 31, 2032".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 2023.

PART 7—INCENTIVES FOR CLEAN ELECTRICITY AND CLEAN TRANSPORTATION

SEC. 13701. CLEAN ELECTRICITY PRODUCTION CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 45Y. CLEAN ELECTRICITY PRODUCTION CREDIT.

"(a) Amount of Credit.—

"(1) IN GENERAL.—For purposes of section 38, the clean electricity production credit for any taxable year is an amount equal to the product of—

"(A) the kilowatt hours of electricity—

"(i) produced by the taxpayer at a qualified facility, and

"(ii)(I) sold by the taxpayer to an unrelated person during the taxable year, or

"(II) in the case of a qualified facility which is equipped with a metering device which is owned and operated by an unrelated person, sold, consumed, or stored by the taxpayer during the taxable year, multiplied by

"(B) the applicable amount with respect to such qualified facility.

"(2) APPLICABLE AMOUNT.—

"(A) BASE AMOUNT.—Subject to subsection (g)(7), in the case of any qualified facility which is not described in clause (i) or (ii) of subparagraph (B) and does not satisfy the requirements described in clause (iii) of such subparagraph, the applicable amount shall be 0.3 cents.

"(B) ALTERNATIVE AMOUNT.—Subject to subsection (g)(7), in the case of any qualified facility—

"(i) with a maximum net output of less than 1 megawatt (as measured in alternating current),

"(ii) the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (9) and (10) of subsection (g), or

"(iii) which—

"(I) satisfies the requirements under paragraph (9) of subsection (g), and

"(II) with respect to the construction of such facility, satisfies the requirements under paragraph (10) of subsection (g),

the applicable amount shall be 1.5 cents.

"(b) Qualified Facility.—

"(1) IN GENERAL.—

"(A) DEFINITION.—Subject to subparagraphs (B), (C), and (D), the term 'qualified facility' means a facility owned by the taxpayer—

"(i) which is used for the generation of electricity,

"(ii) which is placed in service after December 31, 2024, and

"(iii) for which the greenhouse gas emissions rate (as determined under paragraph (2)) is not greater than zero.

"(B) 10-YEAR PRODUCTION CREDIT.—For purposes of this section, a facility shall only be treated as a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

"(C) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.—The term 'qualified facility' shall include either of the following in connection with a facility described in subparagraph (A) (without regard to clause (ii) of such subparagraph) which was placed in service before January 1, 2025, but only to the extent of the increased amount of electricity produced at the facility by reason of the following:

"(i) A new unit which is placed in service after December 31, 2024.

"(ii) Any additions of capacity which are placed in service after December 31, 2024.

"(D) COORDINATION WITH OTHER CREDITS.—The term 'qualified facility' shall not include any facility for which a credit determined under section 45, 45J, 45Q, 45U, 48, 48A, or ~~48D~~ **48E** is allowed under section 38 for the taxable year or any prior taxable year.

"(2) GREENHOUSE GAS EMISSIONS RATE.—

"(A) IN GENERAL.—For purposes of this section, the term 'greenhouse gas emissions rate' means the amount of greenhouse gases emitted into the atmosphere by a facility in the production of electricity, expressed as grams of CO2e per KWh.

"(B) FUEL COMBUSTION AND GASIFICATION.—In the case of a facility which produces electricity through combustion or gasification, the greenhouse gas emissions rate for such facility shall be equal to the net rate of greenhouse gases emitted into the atmosphere by such facility (taking into account lifecycle greenhouse gas emissions, as described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H))) in the production of electricity, expressed as grams of CO2e per KWh.

"(C) ESTABLISHMENT OF EMISSIONS RATES FOR FACILITIES.—

"(i) PUBLISHING EMISSIONS RATES.—The Secretary shall annually publish a table that sets forth the greenhouse gas emissions rates for types or categories of

facilities, which a taxpayer shall use for purposes of this section.

"(ii) PROVISIONAL EMISSIONS RATE.—In the case of any facility for which an emissions rate has not been established by the Secretary, a taxpayer which owns such facility may file a petition with the Secretary for determination of the emissions rate with respect to such facility.

"(D) CARBON CAPTURE AND SEQUESTRATION EQUIPMENT.—For purposes of this subsection, the amount of greenhouse gases emitted into the atmosphere by a facility in the production of electricity shall not include any qualified carbon dioxide that is captured by the taxpayer and—

"(i) pursuant to any regulations established under paragraph (2) of section 45Q(f), disposed of by the taxpayer in secure geological storage, or

"(ii) utilized by the taxpayer in a manner described in paragraph (5) of such section.

"(c) Inflation Adjustment.—

"(1) IN GENERAL.—In the case of a calendar year beginning after 2024, the 0.3 cent amount in paragraph (2)(A) of subsection (a) and the 1.5 cent amount in paragraph (2)(B) of such subsection shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale, consumption, or storage of the electricity occurs. If the 0.3 cent amount as increased under this paragraph is not a multiple of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05 cent. If the 1.5 cent amount as increased under this paragraph is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(2) ANNUAL COMPUTATION.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor for such calendar year in accordance with this subsection.

"(3) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(d) Credit Phase-out.—

"(1) IN GENERAL.—The amount of the clean electricity production credit under subsection (a) for any qualified facility the construction of which begins during a calendar year described in paragraph (2) shall be equal to the product of—

"(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

"(B) the phase-out percentage under paragraph (2).

"(2) PHASE-OUT PERCENTAGE.—The phase-out percentage under this paragraph is equal to—

"(A) for a facility the construction of which begins during the first calendar year following the applicable year, 100 percent,

"(B) for a facility the construction of which begins during the second calendar year following the applicable year, 75 percent,

"(C) for a facility the construction of which begins during the third calendar year following the applicable year, 50 percent, and

"(D) for a facility the construction of which begins during any calendar year subsequent to the calendar year described in subparagraph (C), 0 percent.

"(3) APPLICABLE YEAR.—For purposes of this subsection, the term 'applicable year' means the later of—

"(A) the calendar year in which the Secretary determines that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than 25 percent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022, or

"(B) 2032.

"(e) Definitions.—For purposes of this section:

"(1) CO2e PER KWH.—The term 'CO2e per KWh' means, with respect to any greenhouse gas, the equivalent carbon dioxide (as determined based on global warming potential) per kilowatt hour of electricity produced.

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' has the same meaning given such term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section.

"(3) QUALIFIED CARBON DIOXIDE.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

"(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas,

"(B) is measured at the source of capture and verified at the point of disposal or utilization, and

"(C) is captured and disposed or utilized within the United States (within the meaning of section 638(1)) or a possession of the United States (within the meaning of section 638(2)).

"(f) Guidance.—Not later than January 1, 2025, the Secretary shall issue guidance regarding implementation of this section, including calculation of greenhouse gas emission rates for qualified facilities and determination of clean electricity production credits under this section.

"(g) Special Rules.—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Consumption, sales, or storage shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

"(A) IN GENERAL.—For purposes of subsection (a)—

"(i) the kilowatt hours of electricity produced by a taxpayer at a qualified facility shall include any production in the form of useful thermal energy by any combined heat and power system property within such facility, and

"(ii) the amount of greenhouse gases emitted into the atmosphere by such facility in the production of such useful thermal energy shall be included for purposes of determining the greenhouse gas emissions rate for such facility.

"(B) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this paragraph, the term 'combined heat and power system property' has the same meaning given such term by section 48(c)(3) (without regard to subparagraphs (A)(iv), (B), and (D) thereof).

"(C) CONVERSION FROM BTU TO KWH.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the amount of kilowatt hours of electricity produced in the form of useful thermal energy shall be equal to the quotient of—

"(I) the total useful thermal energy produced by the combined heat and power system property within the qualified facility, divided by

"(II) the heat rate for such facility.

"(ii) HEAT RATE.—For purposes of this subparagraph, the term 'heat rate' means the amount of energy used by the qualified facility to generate 1 kilowatt hour of electricity, expressed as British thermal units per net kilowatt hour generated.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(6) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at

the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

"(D) ELIGIBLE COOPERATIVE DEFINED.—For purposes of this section, the term 'eligible cooperative' means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.

"(7) INCREASE IN CREDIT IN ENERGY COMMUNITIES.—In the case of any qualified facility which is located in an energy community (as defined in section 45(b)(11)(B)), for purposes of determining the amount of the credit under subsection (a) with respect to any electricity produced by the taxpayer at such facility during the taxable year, the applicable amount under paragraph (2) of such subsection shall be increased by an amount equal to 10 percent of the amount otherwise in effect under such paragraph~~(without application of subparagraph (B))~~.

"(8) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—Rules similar to the rules of section 45(b)(3) shall apply.

"(9) WAGE REQUIREMENTS.—Rules similar to the rules of section 45(b)(7) shall apply.

"(10) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.

"(11) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

"(A) IN GENERAL.—In the case of any qualified facility which satisfies the requirement under subparagraph (B)(i), the amount of the credit determined under subsection (a) shall be increased by an amount equal to 10 percent of the amount so determined **(as determined without application of paragraph (7))**.

"(B) REQUIREMENT.—

"(i) IN GENERAL.—The requirement described in this subclause is satisfied with respect to any qualified facility if the taxpayer certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that any steel, iron, or manufactured product which is a component of such facility (upon completion of construction) was produced in the United States (as determined under section 661 of title 49, Code of Federal Regulations).

"(ii) STEEL AND IRON.—In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5 of title 49, Code of Federal Regulations.

"(iii) MANUFACTURED PRODUCT.—For purposes of clause (i), the manufactured products which are components of a qualified facility upon completion of construction shall be deemed to have been produced in the United States if not less than the adjusted percentage (as determined under subparagraph (C)) of the total costs of all such manufactured products of such facility are attributable to manufactured products (including components) which are mined, produced, or manufactured in the United States.

"(C) ADJUSTED PERCENTAGE.—

"(i) IN GENERAL.—Subject to subclause (ii), for purposes of subparagraph (B)(iii), the adjusted percentage shall be—

"(I) **in the case of a facility the construction of which begins before January 1, 2025, 40 percent,**

"(II) in the case of a facility the construction of which begins after December 31, 2024, and before January 1, 2026, 45 percent,

~~"(II)~~**"(III)** in the case of a facility the construction of which begins after December 31, 2025, and before January 1, 2027, 50 percent, and

~~"(III)~~**"(IV)** in the case of a facility the construction of which begins after December 31, 2026, 55 percent.

"(ii) OFFSHORE WIND FACILITY.—For purposes of subparagraph (B)(iii), in the case of a qualified facility which is an offshore wind facility, the adjusted percentage shall be—

"(I) **in the case of a facility the construction of which begins before January 1, 2025, 20 percent,**

"(II) in the case of a facility the construction of which begins after December 31, 2024, and before January 1, 2026, 27.5 percent,

~~"(II)~~**"(III)** in the case of a facility the construction of which begins after December 31, 2025, and before January 1, 2027, 35 percent,

~~"(III)~~**"(IV)** in the case of a facility the construction of which begins after December 31, 2026, and before January 1, 2028, 45 percent, and

~~"(IV)~~**"(V)** in the case of a facility the construction of which begins after December 31, 2027, 55 percent.

"(12) PHASEOUT FOR ELECTIVE PAYMENT.—

"(A) IN GENERAL.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with—

"(i) the value of such credit (determined without regard to this paragraph), multiplied by

"(ii) the applicable percentage.

"(B) 100 PERCENT APPLICABLE PERCENTAGE FOR CERTAIN QUALIFIED FACILITIES.—In the case of any qualified facility—

"(i) which satisfies the requirements under paragraph (11)(B) ~~with respect to the construction of such facility~~, or

"(ii) with a maximum net output of less than 1 megawatt (as measured in alternating current),

the applicable percentage shall be 100 percent.

"(C) PHASED DOMESTIC CONTENT REQUIREMENT.—Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be—

"(i) **if construction of such facility began before January 1, 2024, 100 percent,**

"(ii) if construction of such facility began in calendar year 2024, 90 percent,

"(iii) if construction of such facility began in calendar year 2025, 85 percent, and

~~"(ii)~~**"(iv)** if construction of such facility began after December 31, 2025, 0 percent.

"(D) EXCEPTION.—

"(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall provide exceptions to the requirements under this paragraph ~~for the construction of qualified facilities~~ if—

"(I) the inclusion of steel, iron, or manufactured products which are

produced in the United States increases the overall costs of construction of qualified facilities by more than 25 percent, or

"(II) relevant steel, iron, or manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.

"(ii) APPLICABLE PERCENTAGE.—In any case in which the Secretary provides an exception pursuant to clause (i), the applicable percentage shall be 100 percent.".

(b) Conforming Amendments.—

(1) Section 38(b), as amended by the preceding provisions of this Act, is amended—

(A) in paragraph (37), by striking "plus" at the end,

(B) in paragraph (38), by striking the period at the end and inserting ", plus", and

(C) by adding at the end the following new paragraph:

"(39) the clean electricity production credit determined under section 45Y(a).".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new item:

"Sec.45Y.Clean electricity production credit.".

(c) Effective Date.—The amendments made by this section shall apply to facilities placed in service after December 31, 2024.

SEC. 13702. CLEAN ELECTRICITY INVESTMENT CREDIT.

(a) In General.—Subpart E of part IV of subchapter A of chapter 1**, as amended by section 107(a) of the CHIPS Act of 2022,** is amended by inserting after section ~~48C~~ **48D** the following new section:

"SEC. ~~48D~~ **48E**. CLEAN ELECTRICITY INVESTMENT CREDIT.

"(a) Investment Credit for Qualified Property.—

"(1) IN GENERAL.—For purposes of section 46, the clean electricity investment credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year with respect to—

"(A) any qualified facility, and

"(B) any energy storage technology.

"(2) APPLICABLE PERCENTAGE.—

"(A) QUALIFIED FACILITIES.—Subject to paragraph (3)—

"(i) BASE RATE.—In the case of any qualified facility which is not described in subclause (I) or (II) of clause (ii) and does not satisfy the requirements described in subclause (III) of such clause, the applicable percentage shall be 6 percent.

"(ii) ALTERNATIVE RATE.—In the case of any qualified facility—

"(I) with a maximum net output of less than 1 megawatt (as measured in alternating current),

"(II) the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3) and (4) of subsection (d), or

"(III) which—

"(aa) satisfies the requirements of subsection (d)(3), and

"(bb) with respect to the construction of such facility, satisfies the requirements of subsection (d)(4),

the applicable percentage shall be 30 percent.

"(B) ENERGY STORAGE TECHNOLOGY.—Subject to paragraph (3)—

"(i) BASE RATE.—In the case of any energy storage technology which is not described in subclause (I) or (II) of clause (ii) and does not satisfy the requirements described in subclause (III) of such clause, the applicable percentage shall be 6 percent.

"(ii) ALTERNATIVE RATE.—In the case of any energy storage technology—

"(I) with a capacity of less than 1 megawatt,

"(II) the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3) and (4) of subsection (d), or

"(III) which—

"(aa) satisfies the requirements of subsection (d)(3), and

"(bb) with respect to the construction of such property, satisfies the requirements of subsection (d)(4),

the applicable percentage shall be 30 percent.

"(3) INCREASE IN CREDIT RATE IN CERTAIN CASES.—

"(A) ENERGY COMMUNITIES.—

"(i) IN GENERAL.—In the case of any qualified investment with respect to a qualified facility or with respect to energy storage technology which is placed in service within an energy community (as defined in section 45(b)(11)(B)), for purposes **of** applying paragraph (2) with respect to such property or investment, the applicable percentage shall be increased by the applicable credit rate increase.

"(ii) APPLICABLE CREDIT RATE INCREASE.—For purposes of clause (i), the applicable credit rate increase shall be an amount equal to—

"(I) in the case of any qualified investment with respect to a qualified facility described in paragraph (2)(A)(i) or with respect to energy storage technology described in paragraph (2)(B)(i), 2 percentage points, and

"(II) in the case of any qualified investment with respect to a qualified facility described in paragraph (2)(A)(ii) or with respect to energy storage technology described in paragraph (2)(B)(ii), 10 percentage points.

"(B) DOMESTIC CONTENT.—Rules similar to the rules of section 48(a)(12) shall apply.

"(b) Qualified Investment With Respect to a Qualified Facility.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment with respect to any qualified facility for any taxable year is the sum of—

"(A) the basis of any qualified property placed in service by the taxpayer during such taxable year which is part of a qualified facility, plus

"(B) the amount of any expenditures which are—

"(i) paid or incurred by the taxpayer for qualified interconnection property—

"(I) in connection with a qualified facility which has a maximum net output of not greater than 5 megawatts (as measured in alternating current), and

"(II) placed in service during the taxable year of the taxpayer, and

"(ii) properly chargeable to capital account of the taxpayer.

"(2) QUALIFIED PROPERTY.—For purposes of this section, the term 'qualified property' means property—

"(A) which is—

"(i) tangible personal property, or

"(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified facility,

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(3) QUALIFIED FACILITY.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified facility' means a facility—

"(i) which is used for the generation of electricity,

"(ii) which is placed in service after December 31, 2024, and

"(iii) for which the anticipated greenhouse gas emissions rate (as determined under subparagraph (B)(ii)) is not greater than zero.

"(B) ADDITIONAL RULES.—

"(i) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.—Rules similar to the rules of section 45Y(b)(1)(C) shall apply for purposes of this paragraph.

"(ii) GREENHOUSE GAS EMISSIONS RATE.—Rules similar to the rules of section 45Y(b)(2) shall apply for purposes of this paragraph.

"(C) EXCLUSION.—The term 'qualified facility' shall not include any facility for which—

"(i) a renewable electricity production credit determined under section 45,

"(ii) an advanced nuclear power facility production credit determined under section 45J,

"(iii) a carbon oxide sequestration credit determined under section 45Q,

"(iv) a zero-emission nuclear power production credit determined under section 45U,

"(v) a clean electricity production credit determined under section 45Y,

"(vi) an energy credit determined under section 48, or

"(vii) a qualifying advanced coal project credit under section 48A,

is allowed under section 38 for the taxable year or any prior taxable year.

"(4) QUALIFIED INTERCONNECTION PROPERTY.—For purposes of this paragraph, the term 'qualified interconnection property' has the meaning given such term in section 48(a)(8)(B).

"(5) COORDINATION WITH REHABILITATION CREDIT.—The qualified investment with respect to any qualified facility for any taxable year shall not include that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)).

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'CO2e per KWh' and 'greenhouse gas emissions rate' have the same meaning given such terms under section 45Y.

"(c) Qualified Investment With Respect to Energy Storage Technology.—

"(1) QUALIFIED INVESTMENT.—For purposes of subsection (a), the qualified investment with respect to energy storage technology for any taxable year is the basis of any energy storage technology placed in service by the taxpayer during such taxable year.

"(2) ENERGY STORAGE TECHNOLOGY.—For purposes of this section, the term 'energy storage technology' has the meaning given such term in section 48(c)(6) (except that subparagraph (D) of such section shall not apply).

"(d) Special Rules.—

"(1) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of subsection (a).

"(2) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR PRIVATE ACTIVITY BONDS.—Rules similar to the rules of section 45(b)(3) shall apply.

"(3) PREVAILING WAGE REQUIREMENTS.—Rules similar to the rules of section 48(a)(10) shall apply.

"(4) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.

"(5) DOMESTIC CONTENT REQUIREMENT FOR ELECTIVE PAYMENT.—In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, rules similar to the rules of section ~~45(b)(10)~~ **45Y(g)(12)** shall apply.

"(e) Credit Phase-Out.—

"(1) IN GENERAL.—The amount of the clean electricity investment credit under subsection (a) for any qualified investment with respect to any qualified facility or energy storage technology the construction of which begins during a calendar year described in paragraph (2) shall be equal to the product of—

"(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

"(B) the phase-out percentage under paragraph (2).

"(2) PHASE-OUT PERCENTAGE.—The phase-out percentage under this paragraph is equal to—

"(A) for any qualified investment with respect to any qualified facility or energy storage technology the construction of which begins during the first calendar year following the applicable year, 100 percent,

"(B) for any qualified investment with respect to any qualified facility or energy storage technology the construction of which begins during the second calendar year following the applicable year, 75 percent,

"(C) for any qualified investment with respect to any qualified facility or energy storage technology the construction of which begins during the third calendar year following the applicable year, 50 percent, and

"(D) for any qualified investment with respect to any qualified facility or energy storage technology the construction of which begins during any calendar year subsequent to the calendar year described in subparagraph (C), 0 percent.

"(3) APPLICABLE YEAR.—For purposes of this subsection, the term 'applicable year' has the same meaning given such term in section 45Y(d)(3).

"(f) Greenhouse Gas.—In this section, the term 'greenhouse gas' has the same meaning given such term under section 45Y(e)(2).

"(g) Recapture of Credit.—For purposes of section 50, if the Secretary determines that the

greenhouse gas emissions rate for a qualified facility is greater than 10 grams of CO2e per KWh, any property for which a credit was allowed under this section with respect to such facility shall cease to be investment credit property in the taxable year in which the determination is made.

"(h) Special Rules for Certain Facilities Placed in Service in Connection With Low-income Communities.—

"(1) IN GENERAL.—In the case of any applicable facility with respect to which the Secretary makes an allocation of environmental justice capacity limitation under paragraph (4)—

"(A) the applicable percentage otherwise determined under subsection (a)(2) with respect to any eligible property which is part of such facility shall be increased by—

"(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii) and not described in subclause (II) of such paragraph, 10 percentage points, and

"(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii), 20 percentage points, and

"(B) the increase in the credit determined under subsection (a) by reason of this subsection for any taxable year with respect to all property which is part of such facility shall not exceed the amount which bears the same ratio to the amount of such increase (determined without regard to this subparagraph) as—

"(i) the environmental justice capacity limitation allocated to such facility, bears to

"(ii) the total megawatt nameplate capacity of such facility, as measured in direct current.

"(2) APPLICABLE FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable facility' means any qualified facility—

"(i) which is not described in section 45Y(b)(2)(B),

"(ii) which has a maximum net output of less than 5 megawatts (as measured in alternating current), and

"(iii) which—

"(I) is located in a low-income community (as defined in section 45D(e)) or on Indian land (as defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2))), or

"(II) is part of a qualified low-income residential building project or a qualified low-income economic benefit project.

"(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.—A facility shall be treated as part of a qualified low-income residential building project if—

"(i) such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a housing assistance program administered by the Department of Agriculture under title V of the

Housing Act of 1949, a housing program administered by a tribally designated housing entity (as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))) or such other affordable housing programs as the Secretary may provide, and

"(ii) the financial benefits of the electricity produced by such facility are allocated equitably among the occupants of the dwelling units of such building.

"(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.—A facility shall be treated as part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of—

"(i) less than 200 percent of the poverty line (as defined in section 36B(d)(3)(A)) applicable to a family of the size involved, or

"(ii) less than 80 percent of area median gross income (as determined under section 142(d)(2)(B)).

"(D) FINANCIAL BENEFIT.—For purposes of subparagraphs (B) and (C), electricity acquired at a below-market rate shall not fail to be taken into account as a financial benefit.

"(3) ELIGIBLE PROPERTY.—For purposes of this subsection, the term 'eligible property' means a qualified investment with respect to any applicable facility.

"(4) ALLOCATIONS.—

"(A) IN GENERAL.—Not later than January 1, 2025, the Secretary shall establish a program to allocate amounts of environmental justice capacity limitation to applicable facilities. In establishing such program and to carry out the purposes of this subsection, the Secretary shall provide procedures to allow for an efficient allocation process, including, when determined appropriate, consideration of multiple projects in a single application if such projects will be placed in service by a single taxpayer.

"(B) LIMITATION.—The amount of environmental justice capacity limitation allocated by the Secretary under subparagraph (A) during any calendar year shall not exceed the annual capacity limitation with respect to such year.

"(C) ANNUAL CAPACITY LIMITATION.—For purposes of this paragraph, the term 'annual capacity limitation' means 1.8 gigawatts of direct current capacity for each calendar year during the period beginning on January 1, 2025, and ending on December 31 of the applicable year (as defined in section 45Y(d)(3)), and zero thereafter.

"(D) CARRYOVER OF UNUSED LIMITATION.—

"(i) IN GENERAL.—If the annual capacity limitation for any calendar year exceeds the aggregate amount allocated for such year under this paragraph, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after the third calendar year following the applicable year (as defined in section 45Y(d)(3)).

"(ii) CARRYOVER FROM SECTION 48 FOR CALENDAR YEAR 2025.—If the annual capacity limitation for calendar year 2024 under section 48(e)(4)(D) exceeds the aggregate amount allocated for such year under such section, such excess amount may be carried over and applied to the annual capacity limitation under this subsection for calendar year 2025. The annual capacity limitation for calendar year 2025 shall be increased by the amount of such excess.

"(E) PLACED IN SERVICE DEADLINE.—

"(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any property which is placed in service after the date that is 4 years after the date of the allocation with respect to the facility of which such property is a part.

"(ii) APPLICATION OF CARRYOVER.—Any amount of environmental justice capacity limitation which expires under clause (i) during any calendar year shall be taken into account as an excess described in subparagraph (D)(i) (or as an increase in such excess) for such calendar year, subject to the limitation imposed by the last sentence of such subparagraph.

"(5) RECAPTURE.—The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of this subsection with respect to any property which ceases to be property eligible for such increase (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture may not apply with respect to any property if, within 12 months after the date the taxpayer becomes aware (or reasonably should have become aware) of such property ceasing to be property eligible for such increase, the eligibility of such property for such increase is restored. The preceding sentence shall not apply more than once with respect to any facility.

"(i) Guidance.—Not later than January 1, 2025, the Secretary shall issue guidance regarding implementation of this section.".

(b) Conforming Amendments.—

(1) ~~Paragraph (6) of section 46 is amended to read as follows:~~ **Section 46, as amended by section 107(d) of the CHIPS Act of 2022, is amended—**

(A) in paragraph (5), by striking "and" at the end,

**** 10** ~~(2)~~**(B)** in ~~clause (vii)~~ **paragraph (6)**, by striking the period at the end and inserting "~~;~~**,** and"~~;~~**,** and

(C) by adding at the end the following:

"(7)~~"(6)~~ the clean electricity investment credit.".

(2) Section 49(a)(1)(C)**, as amended by section 107(d) of the CHIPS Act of 2022,** is amended—

(A) by striking "and" at the end of clause ~~(iv)~~**(v)**,

(B) by striking the period at the end of clause ~~(v)~~**(vi)** and inserting a comma, and

(C) by adding at the end the following new clauses:

~~"(vi)~~**"(vii)** the basis of any qualified property which is part of a qualified facility under section ~~48D,~~ **48E,** and

~~"(vii)~~**"(viii)** the basis of any energy storage technology under section ~~48D."~~ **48E."**.

(3) Section 50(a)(2)(E)**, as amended by section 107(d) of the CHIPS Act of 2022,** is amended by striking "or ~~48C(b)(2)"~~ **48D(b)(5)"** and inserting ~~"48C(b)(2),~~**"48D(b)(5),** or ~~48D(e)"~~ **48E(e)"**.

(4) Section 50(c)(3) is amended by inserting "or clean electricity investment credit" after "In the case of any energy credit".

(5) The table of sections for subpart E of part IV of subchapter A of chapter 1**, as amended by section 107(d) of the CHIPS Act of 2022,** is amended by inserting after the item relating to section ~~48C~~ **48D** the following new item:

~~"48D~~**"48E**. Clean electricity investment credit.".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2024.

SEC. 13703. COST RECOVERY FOR QUALIFIED FACILITIES, QUALIFIED PROPERTY, AND ENERGY STORAGE TECHNOLOGY.

(a) In General.—Section 168(e)(3)(B) is amended—

(1) in clause (vi)(III), by striking "and" at the end,

(2) in clause (vii), by striking the period at the end and inserting ", and", and

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

"(viii) any qualified facility (as defined in section 45Y(b)(1)(A)), any qualified property (as defined in subsection (b)(2) of section ~~48D)~~ **48E)** which is a qualified investment (as defined in subsection (b)(1) of such section), or any energy storage technology (as defined in subsection (c)(2) of such section).".

(b) Effective Date.—The amendments made by this section shall apply to facilities and property placed in service after December 31, 2024.

SEC. 13704. CLEAN FUEL PRODUCTION CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new section:

"SEC. 45Z. CLEAN FUEL PRODUCTION CREDIT.

"(a) Amount of Credit.—

"(1) IN GENERAL.—For purposes of section 38, the clean fuel production credit for any taxable year is an amount equal to the product of—

"(A) the applicable amount per gallon (or gallon equivalent) with respect to any

transportation fuel which is—

"(i) produced by the taxpayer at a qualified facility, and

"(ii) sold by the taxpayer in a manner described in paragraph (4) during the taxable year, and

"(B) the emissions factor for such fuel (as determined under subsection (b)).

"(2) APPLICABLE AMOUNT.—

"(A) BASE AMOUNT.—In the case of any transportation fuel produced at a qualified facility which does not satisfy the requirements described in subparagraph (B), the applicable amount shall be 20 cents.

"(B) ALTERNATIVE AMOUNT.—In the case of any transportation fuel produced at a qualified facility which satisfies the requirements under paragraphs (6) and (7) of subsection (f), the applicable amount shall be $1.00.

"(3) SPECIAL RATE FOR SUSTAINABLE AVIATION FUEL.—

"(A) IN GENERAL.—In the case of a transportation fuel which is sustainable aviation fuel, paragraph (2) shall be applied—

"(i) in the case of fuel produced at a qualified facility described in paragraph (2)(A), by substituting '35 cents' for '20 cents', and

"(ii) in the case of fuel produced at a qualified facility described in paragraph (2)(B), by substituting '$1.75' for '$1.00'.

"(B) SUSTAINABLE AVIATION FUEL.—For purposes of this subparagraph (A), the term 'sustainable aviation fuel' means liquid fuel**, the portion of which is not kerosene,** which is sold for use in an aircraft and which—

"(i) meets the requirements of—

"(I) ASTM International Standard D7566, or

"(II) the Fischer Tropsch provisions of ASTM International Standard D1655, Annex A1, and

"(ii) is not derived from palm fatty acid distillates or petroleum.

"(4) SALE.—For purposes of paragraph (1), the transportation fuel is sold in a manner described in this paragraph if such fuel is sold by the taxpayer to an unrelated person—

"(A) for use by such person in the production of a fuel mixture,

"(B) for use by such person in a trade or business, or

"(C) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person.

"(5) ROUNDING.—If any amount determined under paragraph (1) is not a multiple of 1 cent, such amount shall be rounded to the nearest cent.

"(b) Emissions Factors.—

"(1) EMISSIONS FACTOR.—

"(A) CALCULATION.—

"(i) IN GENERAL.—The emissions factor of a transportation fuel shall be an amount equal to the quotient of—

"(I) an amount equal to—

"(aa) 50 kilograms of CO2e per mmBTU, minus

"(bb) the emissions rate for such fuel, divided by

"(II) 50 kilograms of CO2e per mmBTU.

"(B) ESTABLISHMENT OF EMISSIONS RATE.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall annually publish a table which sets forth the emissions rate for similar types and categories of transportation fuels based on the amount of lifecycle greenhouse gas emissions (as described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of the enactment of this section) for such fuels, expressed as kilograms of CO2e per mmBTU, which a taxpayer shall use for purposes of this section.

"(ii) NON-AVIATION FUEL.—In the case of any transportation fuel which is not a sustainable aviation fuel, the lifecycle greenhouse gas emissions of such fuel shall be based on the most recent determinations under the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model developed by Argonne National Laboratory, or a successor model (as determined by the Secretary).

"(iii) AVIATION FUEL.—In the case of any transportation fuel which is a sustainable aviation fuel, the lifecycle greenhouse gas emissions of such fuel shall be determined in accordance with—

"(I) the most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States, or

"(II) any similar methodology which satisfies the criteria under section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of enactment of this section.

"(C) ROUNDING OF EMISSIONS RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may round the emissions rates under subparagraph (B) to the nearest multiple of 5 kilograms of CO2e per mmBTU.

"(ii) EXCEPTION.—In the case of an emissions rate that is between 2.5 kilograms of CO2e per mmBTU and -2.5 kilograms of CO2e per mmBTU, the Secretary may round such rate to zero.

"(D) PROVISIONAL EMISSIONS RATE.—In the case of any transportation fuel for which an emissions rate has not been established under subparagraph (B), a taxpayer producing such fuel may file a petition with the Secretary for determination of the

emissions rate with respect to such fuel.

"(2) ROUNDING.—If any amount determined under paragraph (1)(A) is not a multiple of 0.1, such amount shall be rounded to the nearest multiple of 0.1.

"(c) Inflation Adjustment.—

"(1) IN GENERAL.—In the case of calendar years beginning after 2024, the 20 cent amount in subsection (a)(2)(A), the $1.00 amount in subsection (a)(2)(B), the 35 cent amount in subsection (a)(3)(A)(i), and the $1.75 amount in subsection (a)(3)(A)(ii) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale of the transportation fuel occurs. If any amount as increased under the preceding sentence is not a multiple of 1 cent, such amount shall be rounded to the nearest multiple of 1 cent.

"(2) INFLATION ADJUSTMENT FACTOR.—For purposes of paragraph (1), the inflation adjustment factor shall be the inflation adjustment factor determined and published by the Secretary pursuant to section 45Y(c), determined by substituting 'calendar year 2022' for 'calendar year 1992' in paragraph (3) thereof.

"(d) Definitions.—In this section:

"(1) MMBTU.—The term 'mmBTU' means 1,000,000 British thermal units.

"(2) CO2E.—The term 'CO2e' means, with respect to any greenhouse gas, the equivalent carbon dioxide (as determined based on relative global warming potential).

"(3) GREENHOUSE GAS.—The term 'greenhouse gas' has the same meaning given that term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section.

"(4) QUALIFIED FACILITY.—The term 'qualified facility'—

"(A) means a facility used for the production of transportation fuels, and

"(B) does not include any facility for which one of the following credits is allowed under section 38 for the taxable year:

"(i) The credit for production of clean hydrogen under section 45V.

"(ii) The credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48 with respect to any specified clean hydrogen production facility for which an election is made under subsection ~~(a)(16)~~**(a)(15)** of such section.

"(iii) The credit for carbon oxide sequestration under section 45Q.

"(5) TRANSPORTATION FUEL.—

"(A) IN GENERAL.—The term 'transportation fuel' means a fuel which—

"(i) is suitable for use as a fuel in a highway vehicle or aircraft,

"(ii) has an emissions rate which is not greater than 50 kilograms of CO2e per mmBTU, and

"(iii) is not derived from coprocessing an applicable material (or materials

derived from an applicable material) with a feedstock which is not biomass.

"(B) DEFINITIONS.—In this paragraph—

"(i) APPLICABLE MATERIAL.—The term 'applicable material' means—

"(I) monoglycerides, diglycerides, and triglycerides,

"(II) free fatty acids, and

"(III) fatty acid esters.

"(ii) BIOMASS.—The term 'biomass' has the same meaning given such term in section 45K(c)(3).

"(e) Guidance.—Not later than January 1, 2025, the Secretary shall issue guidance regarding implementation of this section, including calculation of emissions factors for transportation fuel, the table described in subsection (b)(1)(B)(i), and the determination of clean fuel production credits under this section.

"(f) Special Rules.—

"(1) ONLY REGISTERED PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—No clean fuel production credit shall be determined under subsection (a) with respect to any transportation fuel unless—

"(i) the taxpayer—

"(I) is registered as a producer of clean fuel under section 4101 at the time of production, and

"(II) in the case of any transportation fuel which is a sustainable aviation fuel, provides—

"(aa) certification (in such form and manner as the Secretary shall prescribe) from an unrelated party demonstrating compliance with—

"(AA) any general requirements, supply chain traceability requirements, and information transmission requirements established under the Carbon Offsetting and Reduction Scheme for International Aviation described in subclause (I) of subsection (b)(1)(B)(iii), or

"(BB) in the case of any methodology described in subclause (II) of such subsection, requirements similar to the requirements described in subitem (AA), and

"(bb) such other information with respect to such fuel as the Secretary may require for purposes of carrying out this section, and

"(ii) such fuel is produced in the United States.

"(B) UNITED STATES.—For purposes of this paragraph, the term 'United States' includes any possession of the United States.

"(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such

persons in proportion to their respective ownership interests in the gross sales from such facility.

"(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling fuel to an unrelated person if such fuel is sold to such a person by another member of such group.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(5) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—Rules similar to the rules of section 45Y(g)(6) shall apply.

"(6) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), rules similar to the rules of section 45(b)(7) shall apply.

"(B) SPECIAL RULE FOR FACILITIES PLACED IN SERVICE BEFORE JANUARY 1, 2025.—For purposes of subparagraph (A), in the case of any qualified facility placed in service before January 1, 2025—

"(i) clause (i) of section 45(b)(7)(A) shall not apply, and

"(ii) clause (ii) of such section shall be applied by substituting 'with respect to any taxable year beginning after December 31, 2024, for which the credit is allowed under this section' for 'with respect to any taxable year, for any portion of such taxable year which is within the period described in subsection (a)(2)(A)(ii)'.

"(7) APPRENTICESHIP REQUIREMENTS.—Rules similar to the rules of section 45(b)(8) shall apply.

"(g) Termination.—This section shall not apply to transportation fuel sold after December 31, 2027.".

(b) Conforming Amendments.—

(1) Section 25C(d)(3), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (A), by striking "and" at the end,

(B) in subparagraph (B), by striking the period at the end and inserting ", and", and

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

"(C) transportation fuel (as defined in section 45Z(d)(5)).".

(2) Section 30C(c)(1)(B), as amended by the preceding provisions of this Act, is amended by adding at the end the following new clause:

"(iv) Any transportation fuel (as defined in section 45Z(d)(5)).".

(3) Section 38(b), as amended by the preceding provisions of this Act, is amended—

(A) in paragraph (38), by striking "plus" at the end,

(B) in paragraph (39), by striking the period at the end and inserting ", plus", and

(C) by adding at the end the following new paragraph:

"(40) the clean fuel production credit determined under section 45Z(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by adding at the end the following new item:

"Sec.45Z.Clean fuel production credit.".

(5) Section 4101(a)(1), as amended by the preceding provisions of this Act, is amended by inserting "every person producing a fuel eligible for the clean fuel production credit (pursuant to section 45Z)," after "section 6426(k)(3)),".

(c) Effective Date.—The amendments made by this section shall apply to transportation fuel produced after December 31, 2024.

PART 8—CREDIT MONETIZATION AND APPROPRIATIONS

SEC. 13801. ELECTIVE PAYMENT FOR ENERGY PROPERTY AND ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES, ETC.

(a) In General.—Subchapter B of chapter 65 is amended by inserting after section 6416 the following new section:

"SEC. 6417. ELECTIVE PAYMENT OF APPLICABLE CREDITS.

"(a) In General.—In the case of an applicable entity making an election (at such time and in such manner as the Secretary may provide) under this section with respect to any applicable credit determined with respect to such entity, such entity shall be treated as making a payment against the tax imposed by subtitle A (for the taxable year with respect to which such credit was determined) equal to the amount of such credit.

"(b) Applicable Credit.—The term 'applicable credit' means each of the following:

"(1) So much of the credit for alternative fuel vehicle refueling property allowed under section 30C which, pursuant to subsection (d)(1) of such section, is treated as a credit listed in section 38(b).

"(2) So much of the renewable electricity production credit determined under section 45(a) as is attributable to qualified facilities which are originally placed in service after December 31, 2022.

"(3) So much of the credit for carbon oxide sequestration determined under section 45Q(a) as is attributable to carbon capture equipment which is originally placed in service after December 31, 2022.

"(4) The zero-emission nuclear power production credit determined under section 45U(a).

"(5) So much of the credit for production of clean hydrogen determined under section 45V(a) as is attributable to qualified clean hydrogen production facilities which are originally placed in service after December 31, 2012.

"(6) In the case of a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2)(A), the credit for qualified commercial vehicles determined under section 45W by reason of subsection (d)(3) thereof.

"(7) The credit for advanced manufacturing production under section 45X(a).

"(8) The clean electricity production credit determined under section 45Y(a).

"(9) The clean fuel production credit determined under section 45Z(a).

"(10) The energy credit determined under section 48.

"(11) The qualifying advanced energy project credit determined under section 48C.

"(12) The clean electricity investment credit determined under section ~~48D.~~ **48E.**

~~"(c)~~ **"(c) Application to Partnerships and S Corporations.—**

"(1) IN GENERAL.—In the case of any applicable credit determined with respect to any facility or property held directly by a partnership or S corporation, any election under subsection (a) shall be made by such partnership or S corporation. If such partnership or S corporation makes an election under such subsection (in such manner as the Secretary may provide) with respect to such credit—

"(A) the Secretary shall make a payment to such partnership or S corporation equal to the amount of such credit,

"(B) subsection (e) shall be applied with respect to such credit before determining any partner's distributive share, or shareholder's pro rata share, of such credit,

"(C) any amount with respect to which the election in subsection (a) is made shall be treated as tax exempt income for purposes of sections 705 and 1366, and

"(D) a partner's distributive share of such tax exempt income shall be based on such partner's distributive share of the otherwise applicable credit for each taxable year.

"(2) COORDINATION WITH APPLICATION AT PARTNER OR SHAREHOLDER LEVEL.—In the case of any facility or property held directly by a partnership or S corporation, no election by any partner or shareholder shall be allowed under subsection (a) with respect to any applicable credit determined with respect to such facility or property.

"(3) TREATMENT OF PAYMENTS TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of section 1324 of title 31, United States Code, the payments under paragraph (1)(A) shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

"(d) Special Rules.—For purposes of this section—

"(1) APPLICABLE ENTITY.—

"(A) IN GENERAL.—The term 'applicable entity' ~~means~~ **means—**

"(i) any organization exempt from the tax imposed by subtitle A,

"(ii) any State or ~~local government (or~~ political subdivision thereof~~),~~**,**

"(iii) the Tennessee Valley Authority,

"(iv) an Indian tribal government (as defined in section 30D(g)(9)),

~~or~~**"(v)** any Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m))**, or**

"(vi) any corporation operating on a cooperative basis which is engaged in furnishing electric energy to persons in rural areas.

"(B) ELECTION WITH RESPECT TO CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.—If a taxpayer other than an entity described in subparagraph (A) makes an election under this subparagraph with respect to any taxable year in which such taxpayer has placed in service a qualified clean hydrogen production facility (as defined in section 45V(c)(3)), such taxpayer shall be treated as an applicable entity for purposes of this section for such taxable year, but only with respect to the credit described in subsection (b)(5).

"(C) ELECTION WITH RESPECT TO CREDIT FOR CARBON OXIDE SEQUESTRATION.—If a taxpayer other than an entity described in subparagraph (A) makes an election under this subparagraph with respect to any taxable year in which such taxpayer has, after December 31, 2022, placed in service carbon capture equipment at a qualified facility (as defined in section 45Q(d)), such taxpayer shall be treated as an applicable entity for purposes of this section for such taxable year, but only with respect to the credit described in subsection (b)(3).

"(D) ELECTION WITH RESPECT TO ADVANCED MANUFACTURING PRODUCTION CREDIT.—

"(i) IN GENERAL.—If a taxpayer other than an entity described in subparagraph (A) makes an election under this subparagraph with respect to any taxable year in which such taxpayer has, after December 31, 2022, produced eligible components (as defined in section 45X(c)(1)), such taxpayer shall be treated as an applicable entity for purposes of this section for such taxable year, but only with respect to the credit described in subsection (b)(7).

"(ii) LIMITATION.—

"(I) IN GENERAL.—Except as provided in subclause (II), if a taxpayer makes an election under this subparagraph with respect to any taxable year, such taxpayer shall be treated as having made such election for each of the 4 succeeding taxable years ending before January 1, 2033.

"(II) EXCEPTION.—A taxpayer may elect to revoke the application of the election made under this subparagraph to any taxable year described in subclause (I). Any such election, if made, shall apply to the applicable year

specified in such election and each subsequent taxable year within the period described in subclause (I). Any election under this subclause may not be subsequently revoked.

"(iii) PROHIBITION ON TRANSFER.—For any taxable year described in clause (ii)(I), no election may be made by the taxpayer under section 6418(a) for such taxable year with respect to eligible components for purposes of the credit described in subsection (b)(7).

"(E) OTHER RULES.—

"(i) IN GENERAL.—An election made under subparagraph (B), (C), or (D) shall be made at such time and in such manner as the Secretary may provide.

"(ii) LIMITATION.—No election may be made under subparagraph (B), (C), or (D) with respect to any taxable year beginning after December 31, 2032.

"(2) APPLICATION.—In the case of any applicable entity which makes the election described in subsection (a), any applicable credit shall be determined—

"(A) without regard to paragraphs (3) and (4)(A)(i) of section 50(b), and

"(B) by treating any property with respect to which such credit is determined as used in a trade or business of the applicable entity.

"(3) ELECTIONS.—

"(A) IN GENERAL.—

"(i) DUE DATE.—Any election under subsection (a) shall be made not later than —

"(I) in the case of any government, or political subdivision, described in paragraph (1) and for which no return is required under section 6011 or 6033(a), such date as is determined appropriate by the Secretary, or

"(II) in any other case, the due date (including extensions of time) for the return of tax for the taxable year for which the election is made, but in no event earlier than 180 days after the date of the enactment of this section.

"(ii) ADDITIONAL RULES.—Any election under subsection (a), once made, shall be irrevocable and shall apply (except as otherwise provided in this paragraph) with respect to any credit for the taxable year for which the election is made.

"(B) RENEWABLE ELECTRICITY PRODUCTION CREDIT.—In the case of the credit described in subsection (b)(2), any election under subsection (a) shall—

"(i) apply separately with respect to each qualified facility,

"(ii) be made for the taxable year in which such qualified facility is originally placed in service, and

"(iii) shall apply to such taxable year and to any subsequent taxable year which is within the period described in subsection (a)(2)(A)(ii) of section 45 with respect to such qualified facility.

"(C) CREDIT FOR CARBON OXIDE SEQUESTRATION.—

"(i) IN GENERAL.—In the case of the credit described in subsection (b)(3), any election under subsection (a) shall—

"(I) apply separately with respect to the carbon capture equipment originally placed in service by the applicable entity during a taxable year, and

"(II)(aa) in the case of a taxpayer who makes an election described in paragraph (1)(C), apply to the taxable year in which such equipment is placed in service and the 4 subsequent taxable years with respect to such equipment which end before January 1, 2033, and

"(bb) in any other case, apply to such taxable year and to any subsequent taxable year which is within the period described in paragraph (3)(A) or (4)(A) of section 45Q(a) with respect to such equipment.

"(ii) PROHIBITION ON TRANSFER.—For any taxable year described in clause (i)(II)(aa) with respect to carbon capture equipment, no election may be made by the taxpayer under section 6418(a) for such taxable year with respect to such equipment for purposes of the credit described in subsection (b)(3).

"(iii) REVOCATION OF ELECTION.—In the case of a taxpayer who makes an election described in paragraph (1)(C) with respect to carbon capture equipment, such taxpayer may, at any time during the period described in clause (i)(II)(aa), revoke the application of such election with respect to such equipment for any subsequent taxable years during such period. Any such election, if made, shall apply to the applicable year specified in such election and each subsequent taxable year within the period described in clause (i)(II)(aa). Any election under this subclause may not be subsequently revoked.

"(D) CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.—

"(i) IN GENERAL.—In the case of the credit described in subsection (b)(5), any election under subsection (a) shall—

"(I) apply separately with respect to each qualified clean hydrogen production facility,

"(II) be made for the taxable year in which such facility is placed in service (or within the 1-year period subsequent to the date of enactment of this section in the case of facilities placed in service before December 31, 2022), and

"(III)(aa) in the case of a taxpayer who makes an election described in paragraph (1)(B), apply to such taxable year and the 4 subsequent taxable years with respect to such facility which end before January 1, 2033, and

"(bb) in any other case, apply to such taxable year and all subsequent taxable years with respect to such facility.

"(ii) PROHIBITION ON TRANSFER.—For any taxable year described in clause (i)(III)(aa) with respect to a qualified clean hydrogen production facility, no election may be made by the taxpayer under section 6418(a) for such taxable year with

respect to such facility for purposes of the credit described in subsection (b)(5).

"(iii) REVOCATION OF ELECTION.—In the case of a taxpayer who makes an election described in paragraph (1)(B) with respect to a qualified clean hydrogen production facility, such taxpayer may, at any time during the period described in clause (i)(III)(aa), revoke the application of such election with respect to such facility for any subsequent taxable years during such period. Any such election, if made, shall apply to the applicable year specified in such election and each subsequent taxable year within the period described in clause (i)(II)(aa). Any election under this subclause may not be subsequently revoked.

"(E) CLEAN ELECTRICITY PRODUCTION CREDIT.—In the case of the credit described in subsection (b)(8), any election under subsection (a) shall—

"(i) apply separately with respect to each qualified facility,

"(ii) be made for the taxable year in which such facility is placed in service, and

"(iii) shall apply to such taxable year and to any subsequent taxable year which is within the period described in subsection (b)(1)(B) of section 45Y with respect to such facility.

"(4) TIMING.—The payment described in subsection (a) shall be treated as made on—

"(A) in the case of any government, or political subdivision, described in paragraph (1) and for which no return is required under section 6011 or 6033(a), the later of the date that a return would be due under section 6033(a) if such government or subdivision were described in that section or the date on which such government or subdivision submits a claim for credit or refund (at such time and in such manner as the Secretary shall provide), and

"(B) in any other case, the later of the due date (determined without regard to extensions) of the return of tax for the taxable year or the date on which such return is filed.

"(5) ADDITIONAL INFORMATION.—As a condition of, and prior to, any amount being treated as a payment which is made by an applicable entity under subsection (a), the Secretary may require such information or registration as the Secretary deems necessary ~~or appropriate~~ for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section.

"(6) EXCESSIVE PAYMENT.—

"(A) IN GENERAL.—In the case of any amount treated as a payment which is made by the applicable entity under subsection (a)**, or the amount of the payment made pursuant to subsection (c),** which the Secretary determines constitutes an excessive payment, the tax imposed on such entity by chapter 1 (regardless of whether such entity would otherwise be subject to tax under such chapter) for the taxable year in which such determination is made shall be increased by an amount equal to the sum of —

"(i) the amount of such excessive payment, plus

"(ii) an amount equal to 20 percent of such excessive payment.

"(B) REASONABLE CAUSE.—Subparagraph (A)**(ii)** shall not apply if the applicable entity demonstrates to the satisfaction of the Secretary that the excessive payment resulted from reasonable cause.

"(C) EXCESSIVE PAYMENT DEFINED.—For purposes of this paragraph, the term 'excessive payment' means, with respect to a facility or property for which an election is made under this section for any taxable year, an amount equal to the excess of—

"(i) the amount treated as a payment which is made by the applicable entity under subsection (a)**, or the amount of the payment made pursuant to subsection (c),** with respect to such facility or property for such taxable year, over

"(ii) the amount of the credit which, without application of this section, would be otherwise allowable (as determined pursuant to paragraph (2) and without regard to section 38(c)) under this title with respect to such facility or property for such taxable year.

~~"(d)~~**"(e)** Denial of Double Benefit.—In the case of an applicable entity making an election under this section with respect to an applicable credit, such credit shall be reduced to zero and shall, for any other purposes under this title, be deemed to have been allowed to such entity for such taxable year.

~~"(e)~~**"(f)** Mirror Code Possessions.—In the case of any possession of the United States with a mirror code tax system (as defined in section 24(k)), this section shall not be treated as part of the income tax laws of the United States for purposes of determining the income tax law of such possession unless such possession elects to have this section be so treated.

~~"(f)~~**"(g)** Basis Reduction and Recapture.—Except as otherwise provided in subsection (c)(2)(A), rules similar to the rules of section 50 shall apply for purposes of this section.

~~"(g)~~**"(h)** Regulations.—The Secretary shall issue such regulations or other guidance as may be necessary ~~or appropriate~~ to carry out the purposes of this section, including guidance to ensure that the amount of the payment or deemed payment made under this section is commensurate with the amount of the credit that would be otherwise allowable (determined without regard to section 38(c)).".

(b) Transfer of Certain Credits.—Subchapter B of chapter 65, as amended by subsection (a), is amended by inserting after section 6417 the following new section:

"SEC. 6418. TRANSFER OF CERTAIN CREDITS.

"(a) In General.—In the case of an eligible taxpayer which elects to transfer all (or any portion specified in the election) of an eligible credit determined with respect to such taxpayer for any taxable year to a taxpayer (referred to in this section as the 'transferee taxpayer') which is not related (within the meaning of section 267(b) or 707(b)(1)) to the eligible taxpayer, the transferee taxpayer specified in such election (and not the eligible taxpayer) shall be treated as the taxpayer for purposes of this title with respect to such credit (or such portion thereof).

"(b) Treatment of Payments Made in Connection With Transfer.—With respect to any amount paid by a transferee taxpayer to an eligible taxpayer as consideration for a transfer described in subsection (a), such consideration—

"(1) shall be required to be paid in cash,

"(2) shall not be includible in gross income of the eligible taxpayer, and

"(3) with respect to the transferee taxpayer, shall not be deductible under this title.

"(c) Application to Partnerships and S Corporations.—

"(1) IN GENERAL.—In the case of any eligible credit determined with respect to any facility or property held directly by a partnership or S corporation, if such partnership or S corporation makes an election under subsection (a) (in such manner as the Secretary may provide) with respect to such credit—

"(A) any amount received as consideration for a transfer described in such subsection shall be treated as tax exempt income for purposes of sections 705 and 1366, and

"(B) a partner's distributive share of such tax exempt income shall be based on such partner's distributive share of the otherwise eligible credit for each taxable year.

"(2) COORDINATION WITH APPLICATION AT PARTNER OR SHAREHOLDER LEVEL.—In the case of any facility or property held directly by a partnership or S corporation, no election by any partner or shareholder shall be allowed under subsection (a) with respect to any eligible credit determined with respect to such facility or property.

"(d) Taxable Year in Which Credit Taken Into Account.—In the case of any credit (or portion thereof) with respect to which an election is made under subsection (a), such credit shall be taken into account in the first taxable year of the transferee taxpayer ending with, or after, the taxable year of the eligible taxpayer with respect to which the credit was determined.

"(e) Limitations on Election.—

"(1) TIME FOR ELECTION.—An election under subsection (a) to transfer any portion of an eligible credit shall be made not later than the due date (including extensions of time) for the return of tax for the taxable year for which the credit is determined, but in no event earlier than 180 days after the date of the enactment of this section. Any such election, once made, shall be irrevocable.

"(2) NO ADDITIONAL TRANSFERS.—No election may be made under subsection (a) by a transferee taxpayer with respect to any portion of an eligible credit which has been previously transferred to such taxpayer pursuant to this section.

"(f) Definitions.—For purposes of this section—

"(1) ELIGIBLE CREDIT.—

"(A) IN GENERAL.—The term 'eligible credit' means each of the following:

"(i) So much of the credit for alternative fuel vehicle refueling property allowed under section 30C which, pursuant to subsection (d)(1) of such section, is treated as a credit listed in section 38(b).

"(ii) The renewable electricity production credit determined under section 45(a).

"(iii) The credit for carbon oxide sequestration determined under section 45Q(a).

"(iv) The zero-emission nuclear power production credit determined under section 45U(a).

"(v) The clean hydrogen production credit determined under section 45V(a).

"(vi) The advanced manufacturing production credit determined under section 45X(a).

"(vii) The clean electricity production credit determined under section 45Y(a).

"(viii) The clean fuel production credit determined under section 45Z(a).

"(ix) The energy credit determined under section 48.

"(x) The qualifying advanced energy project credit determined under section 48C.

"(xi) The clean electricity investment credit determined under section ~~48D~~ **48E**.

"(B) ELECTION FOR CERTAIN CREDITS.—In the case of any eligible credit described in clause (ii), (iii), (v), or (vii) of subparagraph (A), an election under subsection (a) shall be made—

"(i) separately with respect to each facility for which such credit is determined, and

"(ii) for each taxable year during the 10-year period beginning on the date such facility was originally placed in service (or, in the case of the credit described in clause (iii), for each year during the 12-year period beginning on the date the carbon capture equipment was originally placed in service at such facility).

"(C) EXCEPTION FOR BUSINESS CREDIT CARRYFORWARDS OR CARRYBACKS.—The term 'eligible credit' shall not include any business credit carryforward or business credit carryback determined under section 39.

"(2) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any taxpayer which is not described in section ~~6417(c)(1)(A)~~ **6417(d)(1)(A)**.

"(g) Special Rules.—For purposes of this section—

"(1) ADDITIONAL INFORMATION.—As a condition of, and prior to, any transfer of any portion of an eligible credit pursuant to subsection (a), the Secretary may require such information (including, in such form or manner as is determined appropriate by the Secretary, such information returns) or registration as the Secretary deems necessary ~~or appropriate~~ for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section.

"(2) EXCESSIVE ~~PAYMENT.—~~ **CREDIT TRANSFER.—**

"(A) IN GENERAL.—In the case of any portion of an eligible credit which is transferred to a transferee taxpayer pursuant to subsection (a) which the Secretary determines constitutes an excessive ~~payment~~ **credit transfer**, the tax imposed on the transferee taxpayer by chapter 1 (regardless of whether such entity would otherwise be subject to tax under such chapter) for the taxable year in which such determination is made shall be increased by an amount equal to the sum of—

"(i) the amount of such excessive ~~payment~~ **credit transfer**, plus

"(ii) an amount equal to 20 percent of such excessive ~~payment~~ **credit transfer**.

"(B) REASONABLE CAUSE.—Subparagraph (A)**(ii)** shall not apply if the transferee taxpayer demonstrates to the satisfaction of the Secretary that the excessive ~~payment~~ **credit transfer** resulted from reasonable cause.

"(C) EXCESSIVE ~~PAYMENT~~ **CREDIT TRANSFER** DEFINED.—For purposes of this paragraph, the term 'excessive ~~payment'~~ **credit transfer'** means, with respect to a facility or property for which an election is made under subsection (a) for any taxable year, an amount equal to the excess of—

"(i) the amount of the eligible credit claimed by the transferee taxpayer with respect to such facility or property for such taxable year, over

"(ii) the amount of such credit which, without application of this section, would be otherwise allowable ~~(determined without regard to section 38(c))~~ under this title with respect to such facility or property for such taxable year.

"(3) BASIS ~~REDUCTION.—IN~~ **REDUCTION; NOTIFICATION OF RECAPTURE.—In** the case of any election under subsection (a) with respect to any portion of an eligible credit described in clauses (ix) through (xi) of subsection ~~(f)(1)(A),~~**(f)(1)(A)—**

"(A) subsection (c) of section 50 shall apply to the applicable investment credit property (as defined in subsection (a)(5) of such section) as if such eligible credit was allowed to the eligible taxpayer**, and**

"(B) if, during any taxable year, the applicable investment credit property (as defined in subsection (a)(5) of section 50) is disposed of, or otherwise ceases to be investment credit property with respect to the eligible taxpayer, before the close of the recapture period (as described in subsection (a)(1) of such section)—

"(i) such eligible taxpayer shall provide notice of such occurrence to the transferee taxpayer (in such form and manner as the Secretary shall prescribe), and

"(ii) the transferee taxpayer shall provide notice of the recapture amount (as defined in subsection (c)(2) of such section), if any, to the eligible taxpayer (in such form and manner as the Secretary shall prescribe).

"(4) PROHIBITION ON ELECTION OR TRANSFER WITH RESPECT TO PROGRESS EXPENDITURES.—This section shall not apply with respect to any amount of an eligible credit which is allowed pursuant to rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

"(h) Regulations.—The Secretary shall issue such regulations or other guidance as may be necessary ~~or appropriate~~ to carry out the purposes of this section, including regulations or other guidance providing rules for determining a partner's distributive share of the tax exempt income described in subsection (c)(1).".

(c) Real Estate Investment Trusts.—Section 50(d) is amended by adding at the end the following: "In the case of a real estate investment trust making an election under section 6418,

paragraphs (1)(B) and (2)(B) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any investment credit property of such real estate investment trust to which such election applies.".

(d) 3-year Carryback for Applicable Credits.—Section 39(a) is amended by adding at the end the following:

"(4) 3-YEAR CARRYBACK FOR APPLICABLE CREDITS.—Notwithstanding subsection (d), in the case of any applicable credit (as defined in section 6417(b))—

"(A) this section shall be applied separately from the business credit (other than the applicable credit),

"(B) paragraph (1) shall be applied by substituting 'each of the 3 taxable years' for 'the taxable year' in subparagraph (A) thereof, and

"(C) paragraph (2) shall be applied—

"(i) by substituting '23 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

"(ii) by substituting '22 taxable years' for '20 taxable years' in subparagraph (B) thereof.".

(e) Clerical Amendment.—The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6416 the following new items:

"Sec.6417.Elective payment of applicable credits.

"Sec.6418.Transfer of certain credits.".

(f) **Gross-up of Direct Spending.—Beginning in fiscal year 2023 and each fiscal year thereafter, the portion of any payment made to a taxpayer pursuant to an election under section 6417 of the Internal Revenue Code of 1986, or any amount treated as a payment which is made by the taxpayer under subsection (a) of such section, that is direct spending shall be increased by 6.0445 percent.**

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

SEC. 13802. APPROPRIATIONS.

Immediately upon the enactment of this Act, in addition to amounts otherwise available, there are appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000 to remain available until September 30, 2031, for necessary expenses for the Internal Revenue Service to carry out this subtitle (and the amendments made by this subtitle), which shall supplement and not supplant any other appropriations that may be available for this purpose.

PART ~~IX—OTHER~~ **9—OTHER** PROVISIONS

SEC. 13901. PERMANENT EXTENSION OF TAX RATE TO FUND BLACK LUNG DISABILITY TRUST FUND.

(a) In General.—Section 4121 is amended by striking subsection (e).

(b) Effective Date.—The amendment made by this section shall apply to sales in calendar quarters beginning after the date of the enactment of this Act.

SEC. 13902. INCREASE IN RESEARCH CREDIT AGAINST PAYROLL TAX FOR SMALL BUSINESSES.

(a) In General.—Clause (i) of section 41(h)(4)(B) is amended—

(1) by striking "AMOUNT.—The amount" and inserting "AMOUNT.—

"(I) IN GENERAL.—The amount", and

(2) by adding at the end the following new subclause:

"(II) INCREASE.—In the case of taxable years beginning after December 31, 2022, the amount in subclause (I) shall be increased by $250,000.".

(b) Allowance of Credit.—

(1) IN GENERAL.—Paragraph (1) of section 3111(f) is amended—

(A) by striking "for a taxable year, there shall be allowed" and inserting "for a taxable year—

"(A) there shall be allowed",

(B) by striking "equal to the" and inserting "equal to so much of the",

(C) by striking the period at the end and inserting "as does not exceed the limitation of subclause (I) of section 41(h)(4)(B)(i) (applied without regard to subclause (II) thereof), and", and

(D) by adding at the end the following new subparagraph:

"(B) there shall be allowed as a credit against the tax imposed by subsection (b) for the first calendar quarter which begins after the date on which the taxpayer files the return specified in section 41(h)(4)(A)(ii) an amount equal to so much of the payroll tax credit portion determined under section 41(h)(2) as is not allowed as a credit under subparagraph (A).".

(2) LIMITATION.—Paragraph (2) of section 3111(f) is amended—

(A) by striking "paragraph (1)" and inserting "paragraph (1)(A)", and

(B) by inserting ", and the credit allowed by paragraph (1)(B) shall not exceed the tax imposed by subsection (b) for any calendar quarter," after "calendar quarter".

(3) CARRYOVER.—Paragraph (3) of section 3111(f) is amended by striking "the credit" and inserting "any credit".

(4) DEDUCTION ALLOWED.—Paragraph (4) of section 3111(f) is amended—

(A) by striking "credit" and inserting "credits", and

(B) by striking "subsection (a)" and inserting "subsection (a) or (b)".

(c) Aggregation Rules.—Clause (ii) of section 41(h)(5)(B) is amended by striking "the $250,000 amount" and inserting "each of the $250,000 amounts".

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

SEC. 13903. TAX TREATMENT OF CERTAIN ASSISTANCE TO FARMERS, ETC.

For purposes of the Internal Revenue Code of 1986, in the case of any payment described in section 1006(e) of the American Rescue Plan Act of 2021 (as amended by section 22007 of this Act) or section 22006 of this Act—

(1) such payment shall not be included in the gross income of the person on whose behalf, or to whom, such payment is made,

(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and

(3) in the case of a partnership or S corporation on whose behalf, or to whom, such a payment is made—

(A) any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of such Code, and

(B) except as provided by the Secretary of the Treasury (or the Secretary's delegate), any increase in the adjusted basis of a partner's interest in a partnership under section 705 of such Code with respect to any amount described in subparagraph (A) shall equal the partner's distributive share of deductions resulting from interest that is part of such payment and the partner's share, as determined under section 752 of such Code, of principal that is part of such payment.

TITLE II—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Subtitle A—General Provisions

SEC. 20001. DEFINITION OF SECRETARY.

In this title, the term "Secretary" means the Secretary of Agriculture.

Subtitle B—Conservation

SEC. 21001. ADDITIONAL AGRICULTURAL CONSERVATION INVESTMENTS.

(a) Appropriations.—In addition to amounts otherwise available (and subject to subsection

(b)), there are appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031 (subject to the condition that no such funds may be disbursed after September 30, 2031)—

(1) to carry out, using the facilities and authorities of the Commodity Credit Corporation, the environmental quality incentives program under subchapter A of chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa through 3839aa–8)—

(A)(i) $250,000,000 for fiscal year 2023;

(ii) $1,750,000,000 for fiscal year 2024;

(iii) $3,000,000,000 for fiscal year 2025; and

(iv) $3,450,000,000 for fiscal year 2026; and

(B) subject to the conditions on the use of the funds that—

(i) section 1240B(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(f)(1)) shall not apply;

(ii) section 1240H(c)(2) of the Food Security Act of 1985 (16 U.S.C. 3839aa–8(c)(2)) shall be applied—

(I) by substituting "$50,000,000" for "$25,000,000"; and

(II) with the Secretary prioritizing proposals that utilize diet and feed management to reduce enteric methane emissions from ruminants; **and**

(iii) the funds shall be available for 1 or more agricultural conservation practices or enhancements that the Secretary determines directly improve soil carbon ~~or~~**,** reduce nitrogen losses ~~or greenhouse gas emissions, or capture or sequester greenhouse gas~~**, or reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide** emissions, associated with agricultural production; ~~and~~

~~(iv) the Secretary shall prioritize projects and activities that mitigate or address climate change through the management of agricultural production, including by reducing or avoiding greenhouse gas emissions;~~

(2) to carry out, using the facilities and authorities of the Commodity Credit Corporation, the conservation stewardship program under subchapter B of that chapter (16 U.S.C. 3839aa–21 through 3839aa–25)—

(A)(i) $250,000,000 for fiscal year 2023;

(ii) $500,000,000 for fiscal year 2024;

(iii) $1,000,000,000 for fiscal year 2025; and

(iv) $1,500,000,000 for fiscal year 2026; and

(B) subject to the ~~conditions~~ **condition** on the use of the funds **that** ~~that—~~

~~(i)~~ the funds shall only be available **for** ~~for—~~

~~(I)~~ 1 or more agricultural conservation practices ~~or~~**,** enhancements**, or bundles** that the Secretary determines directly improve soil carbon ~~or~~**,** reduce nitrogen losses ~~or~~

~~greenhouse gas emissions, or capture or sequester greenhouse gas~~**, or reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide** emissions, associated with agricultural production; ~~or~~

~~(II) State-specific or region-specific groupings or bundles of agricultural conservation activities for climate change mitigation appropriate for cropland, pastureland, rangeland, nonindustrial private forest land, and producers transitioning to organic or perennial production systems; and~~

~~(ii) the Secretary shall prioritize projects and activities that mitigate or address climate change through the management of agricultural production, including by reducing or avoiding greenhouse gas emissions;~~

(3) to carry out, using the facilities and authorities of the Commodity Credit Corporation, the agricultural conservation easement program under subtitle H of title XII of that Act (16 U.S.C. 3865 through ~~3865d)—~~ **3865d) for easements or interests in land that will most reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions associated with land eligible for the program—**

~~(A)(i)~~**(A)** $100,000,000 for fiscal year 2023;

~~(ii)~~**(B)** $200,000,000 for fiscal year 2024;

~~(iii)~~**(C)** $500,000,000 for fiscal year 2025; and

~~(iv)~~**(D)** $600,000,000 for fiscal year 2026; and

~~(B) subject to the condition on the use of the funds that the Secretary shall prioritize projects and activities that mitigate or address climate change through the management of agricultural production, including by reducing or avoiding greenhouse gas emissions; and~~

(4) to carry out, using the facilities and authorities of the Commodity Credit Corporation, the regional conservation partnership program under subtitle I of title XII of that Act (16 U.S.C. 3871 through 3871f)—

(A)(i) $250,000,000 for fiscal year 2023;

(ii) ~~$1,200,000,000~~ **$800,000,000** for fiscal year 2024;

(iii) ~~$2,250,000,000~~ **$1,500,000,000** for fiscal year 2025; and

(iv) ~~$3,050,000,000~~ **$2,400,000,000** for fiscal year 2026; and

(B) subject to the conditions on the use of the funds ~~that the Secretary—~~ **that—**

~~(i) shall prioritize partnership agreements under section 1271C(d)~~**(i) section 1271C(d)(2)(B)** of the Food Security Act of 1985 (16 U.S.C. **3871c(d)(2)(B)) shall not apply; and**

(ii) the Secretary shall prioritize partnership agreements under section 1271C(d) of the Food Security Act of 1985 (16 U.S.C. 3871c(d)) that support the implementation of conservation projects that assist agricultural producers and nonindustrial private forestland owners in directly improving soil carbon ~~or~~**,** reducing nitrogen losses ~~or greenhouse gas emissions, or~~ **, or reducing,** capturing**,**

avoiding, or sequestering ~~greenhouse gas~~ **carbon dioxide, methane, or nitrous oxide** emissions, associated with agricultural production~~;~~

~~(ii) shall prioritize projects and activities that mitigate or address climate change through the management of agricultural production, including by reducing or avoiding greenhouse gas emissions; and~~

~~(iii) may prioritize projects that—~~

~~(I) leverage corporate supply chain sustainability commitments; or~~

~~(II) utilize models that pay for outcomes from targeting methane and nitrous oxide emissions associated with agricultural production systems~~.

(b) Conditions.—The funds made available under subsection (a) are subject to the conditions that the Secretary shall not—

(1) enter into any agreement—

(A) that is for a term extending beyond September 30, 2031; or

(B) under which any payment could be outlaid or funds disbursed after September 30, 2031; or

(2) use any other funds available to the Secretary to satisfy obligations initially made under this section.

(c) Conforming Amendments.—

(1) Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended—

(A) in subsection (a), by striking "2023" and inserting "2031"; and

(B) in subsection (f)(2)(B)—

(i) in the subparagraph heading, by striking "2023" and inserting "2031"; and

(ii) by striking "2023" and inserting "2031".

(2) Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended by striking "2023" each place it appears and inserting "2031".

(3) Section 1240J(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–22(a)) is amended, in the matter preceding paragraph (1), by striking "2023" and inserting "2031".

(4) Section 1240L(h)(2)(A) of the Food Security Act of 1985 (16 U.S.C. 3839aa–24(h)(2)(A)) is amended by striking "2023" and inserting "2031".

(5) Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "2023" and inserting "2031";

(ii) ~~in paragraph (1), by striking "2023" each place it appears and inserting "2031";~~

~~(iii)~~ in paragraph (2)(F), by striking "2023" and inserting "2031"; and

~~(iv)~~**(iii)** in paragraph (3), by striking "fiscal year 2023" each place it appears and inserting "each of fiscal years 2023 through 2031";

(B) in subsection (b), by striking "2023" and inserting "2031"; and

(C) in subsection (h)—

(i) in paragraph (1)(B), in the subparagraph heading, by striking "2023" and inserting "2031"; and

(ii) by striking "2023" each place it appears and inserting "2031".

(6) Section 1244(n)(3)(A) of the Food Security Act of 1985 (16 U.S.C. 3844(n)(3)(A)) is amended by striking "2023" and inserting "2031".

(7) Section 1271D(a) of the Food Security Act of 1985 (16 U.S.C. 3871d(a)) is amended by striking "2023" and inserting "2031".

SEC. 21002. CONSERVATION TECHNICAL ASSISTANCE.

(a) Appropriations.—In addition to amounts otherwise available (and subject to subsection (b)), there are appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031 (subject to the condition that no such funds may be disbursed after September 30, 2031)—

(1) $1,000,000,000 to provide conservation technical assistance through the Natural Resources Conservation Service; and

(2) $300,000,000 to carry out a **program to quantify** carbon sequestration and ~~greenhouse gas emissions quantification program~~ **carbon dioxide, methane, and nitrous oxide emissions,** through which the Natural Resources Conservation Service~~, including through technical service providers and other partners,~~ shall collect field-based data to assess the carbon sequestration and ~~greenhouse gas emissions reduction~~ **reduction in carbon dioxide, methane, and nitrous oxide emissions** outcomes associated with activities carried out pursuant to this section and use the data to monitor and track ~~greenhouse gas emissions and~~ **those** carbon sequestration **and emissions** trends through the Greenhouse Gas Inventory and Assessment Program of the Department of Agriculture.

(b) Conditions.—The funds made available under this section are subject to the conditions that the Secretary shall not—

(1) enter into any agreement—

(A) that is for a term extending beyond September 30, 2031; or

(B) under which any payment could be outlaid or funds disbursed after September 30, 2031;

(2) use any other funds available to the Secretary to satisfy obligations initially made under this section; or

(3) interpret this section to authorize funds of the Commodity Credit Corporation for activities under this section if such funds are not expressly authorized or currently expended for such purposes.

(c) Administrative Costs.—In addition to amounts otherwise available, there is appropriated to

the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2028, for administrative costs of the agencies and offices of the Department of Agriculture for costs related to implementing this section.

Subtitle C—Rural Development **and Agricultural Credit**

SEC. 22001. ADDITIONAL FUNDING FOR ELECTRIC LOANS FOR RENEWABLE ENERGY.

Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) is amended by adding at the end the following:

"(h) Additional Funding for Electric Loans for Renewable Energy.—

"(1) APPROPRIATIONS.—Notwithstanding subsections (a) through (e), and (g), in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,000,000,000, to remain available until September 30, 2031, for the cost of loans under section 317 of the Rural Electrification Act of 1936 (7 U.S.C. 940g), including for projects that store electricity that support the types of eligible projects under that section, which shall be forgiven **in an amount that is not greater than 50 percent of the loan** based on how the borrower and the project meets the terms and conditions for loan forgiveness consistent with the purposes of that section established by the Secretary**, except as provided in paragraph (3)**.

"(2) LIMITATION.—The Secretary shall not enter into any loan agreement pursuant this subsection that could result in disbursements after September 30, 2031.

"(3) ~~RESTRICTION.—A LOAN UNDER PARAGRAPH (1) SHALL BE FORGIVEN IN AN AMOUNT THAT IS NOT GREATER THAN 50 PERCENT OF THE LOAN, UNLESS THE SECRETARY WAIVES SUCH RESTRICTION.".~~ **EXCEPTION.—The Secretary shall establish criteria for waiving the 50 percent limitation described in paragraph (1).".**

SEC. 22002. RURAL ENERGY FOR AMERICA PROGRAM.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, for eligible projects under section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107), and notwithstanding section 9007(c)(3)(A) of that Act, the amount of a grant shall not exceed 50 percent of the cost of the activity carried out using the grant funds—

(1) $820,250,000 for fiscal year 2022, to remain available until September 30, 2031; and

(2) $180,276,500 for each of fiscal years 2023 through 2027, to remain available until September 30, 2031.

(b) Underutilized Renewable Energy Technologies.—In addition to amounts otherwise available, there is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, to provide grants and loans guaranteed by the Secretary (including the costs of such loans) under the program described in subsection (a) relating to underutilized renewable energy technologies, and to provide technical assistance for applying to the program described in

subsection (a), including for underutilized renewable energy technologies, notwithstanding section 9007(c)(3)(A) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(c)(3)(A)), the amount of a grant shall not exceed 50 percent of the cost of the activity carried out using the grant funds, and to the extent the following amounts remain available at the end of each fiscal year, the Secretary shall use such amounts in accordance with subsection (a)—

(1) $144,750,000 for fiscal year 2022, to remain available until September 30, 2031; and

(2) $31,813,500 for each of fiscal years 2023 through 2027, to remain available until September 30, 2031.

(c) Limitation.—The Secretary shall not enter into, pursuant to this section—

(1) any loan agreement that may result in a disbursement after September 30, 2031; or

(2) any grant agreement that may result in any outlay after September 30, 2031.

SEC. 22003. BIOFUEL INFRASTRUCTURE AND AGRICULTURE PRODUCT MARKET EXPANSION.

Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) (as amended by section 22001) is amended by adding at the end the following:

"(i) Biofuel Infrastructure and Agriculture Product Market Expansion.—

"(1) APPROPRIATION.—Notwithstanding subsections (a) through (e) and subsection (g), in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, to remain available until September 30, 2031, to carry out this subsection.

"(2) USE OF FUNDS.—The Secretary shall use the amounts made available by paragraph (1) to provide grants, for which the Federal share shall be not more than 75 percent of the total cost of carrying out a project for which the grant is provided, on a competitive basis, to increase the sale and use of agricultural commodity-based fuels through infrastructure improvements for blending, storing, supplying, or distributing biofuels, except for transportation infrastructure not on location where such biofuels are blended, stored, supplied, or distributed—

"(A) by installing, retrofitting, or otherwise upgrading fuel dispensers or pumps and related equipment, storage tank system components, and other infrastructure required at a location related to dispensing certain ~~biofuels~~ **biofuel** blends to ensure the increased sales of fuels with high levels of commodity-based ethanol and biodiesel that are at or greater than the levels required in the Notice of Funding Availability for the Higher Blends Infrastructure Incentive Program for Fiscal Year 2020, published in the Federal Register (85 Fed. Reg. 26656), as determined by the Secretary; and

"(B) by building and retrofitting home heating oil distribution centers or equivalent entities and distribution systems for ethanol and biodiesel **blends.".** ~~blends.~~

~~"(3) Limitation.—The Secretary may not limit the amount of funding an eligible entity may receive under this subsection provided that no eligible entity may receive more than 10 percent of the funds appropriated under paragraph (1) unless there are insufficient eligible applicants, as determined by the Secretary, to which to award those~~

~~funds.”.~~

SEC. 22004. USDA ASSISTANCE FOR RURAL ELECTRIC COOPERATIVES.

Section 9003 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103) (as amended by section 22003) is amended by adding at the end the following:

“(j) USDA Assistance for Rural Electric Cooperatives.—

“(1) APPROPRIATION.—Notwithstanding subsections (a) through (e) and (g), in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $9,700,000,000, to remain available until September 30, 2031, for the long-term resiliency, reliability, and affordability of rural electric systems ~~and for purposes described in section 310B(a)(2)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(2)(C)) (provided that the term renewable energy system in that paragraph has the meaning given that term in section 9001), for zero-emission systems, or for carbon capture and storage systems,~~ by providing to an eligible entity (defined as an electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986 and is or has been a Rural Utilities Service electric loan borrower pursuant to the Rural Electrification Act of 1936 or serving a predominantly rural area or a wholly or jointly owned subsidiary of such electric cooperative) ~~financial assistance, including loans and~~ **loans, modifications of loans,** the cost of loans and modifications ~~thereof, to purchase~~ **, and other financial assistance to achieve the greatest reduction in carbon dioxide, methane, and nitrous oxide emissions associated with rural electric systems through the purchase of** renewable energy, renewable energy systems, zero-emission systems, and carbon capture and storage systems, to deploy such systems, or to make energy efficiency improvements to electric generation and transmission systems of the eligible entity after the date of enactment of this subsection~~, that will achieve the greatest reduction in greenhouse gas emissions associated with rural electric systems using financial assistance provided under this subsection and that will otherwise aid disadvantaged rural communities, as determined by the Secretary~~.

“(2) LIMITATION.—No eligible entity may receive an amount equal to more than 10 percent of the total amount made available by this subsection.

“(3) REQUIREMENT.—The amount of a grant under this subsection shall be not more than 25 percent of the total project costs of the eligible entity carrying out a project using a grant under this subsection.

“(4) PROHIBITION.—Nothing in this subsection shall be interpreted to authorize funds of the Commodity Credit Corporation for activities under this subsection if such funds are not expressly authorized or currently expended for such purposes.

“(5) DISBURSEMENTS.—The Secretary shall not enter into, pursuant to this subsection—

“(A) any loan agreement that may result in a disbursement after September 30, 2031; or

“(B) any grant agreement that may result in any outlay after September 30, 2031.”.

SEC. 22005. ADDITIONAL USDA RURAL DEVELOPMENT ADMINISTRATIVE FUNDS.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2031, for administrative costs and salaries and expenses for the Rural Development mission area and ~~expenses~~ **administrative costs** of the agencies and offices of the Department for costs related to implementing this subtitle.

SEC. 22006. FARM LOAN IMMEDIATE RELIEF FOR BORROWERS WITH AT-RISK AGRICULTURAL OPERATIONS.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of amounts in the Treasury not otherwise appropriated, $3,100,000,000, to remain available until September 30, 2031, to provide payments to, for the cost of loans or loan modifications for, or to carry out section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) with respect to distressed borrowers of direct or guaranteed loans administered by the Farm Service Agency under subtitle A, B, or C of that Act (7 U.S.C. 1922 through 1970). In carrying out this section, the Secretary shall provide relief to those borrowers whose agricultural operations are at financial risk as expeditiously as possible, as determined by the Secretary.

SEC. 22007. USDA ASSISTANCE AND SUPPORT FOR UNDERSERVED FARMERS, RANCHERS, AND FORESTERS.

Section 1006 of the American Rescue Plan Act of 2021 (7 U.S.C. 2279 note; Public Law 117–2) is amended to read as follows:

“SEC. 1006. USDA ASSISTANCE AND SUPPORT FOR UNDERSERVED FARMERS, RANCHERS, FORESTERS.

“(a) Technical and Other Assistance.—In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until September 30, 2031, out of any money in the Treasury not otherwise appropriated, $125,000,000 to provide outreach, mediation, financial training, capacity building training, cooperative development and agricultural credit training and support, and other technical assistance on issues concerning food, agriculture, agricultural credit, agricultural extension, rural development, or nutrition to underserved farmers, ranchers, or forest landowners, including veterans, limited resource producers, beginning farmers and ranchers, and farmers, ranchers, and forest landowners living in high poverty areas.

“(b) Land Loss Assistance.—In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until September 30, 2031, out of any money in the Treasury not otherwise appropriated,

$250,000,000 to provide grants and loans to eligible entities, as determined by the Secretary, to improve land access (including heirs' property and fractionated land issues) for underserved farmers, ranchers, and forest landowners, including veterans, limited resource producers, beginning farmers and ranchers, and farmers, ranchers, and forest landowners living in high poverty areas.

"(c) Equity Commissions.—In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until September 30, 2031, out of any money in the Treasury not otherwise appropriated, $10,000,000 to fund the activities of one or more equity commissions that will address racial equity issues within the Department of Agriculture and the programs of the Department of Agriculture.

"(d) Research, Education, and Extension.—In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until September 30, 2031, out of any money in the Treasury not otherwise appropriated, $250,000,000 to support and supplement agricultural research, education, and extension, as well as scholarships and programs that provide internships and pathways to agricultural sector or Federal employment, for 1890 Institutions (as defined in section 2 of the Agricultural, Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)), 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)), Alaska Native serving institutions and Native Hawaiian serving institutions eligible to receive grants under subsections (a) and (b), respectively, of section 1419B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3156), Hispanic-serving institutions eligible to receive grants under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241), and the insular area institutions of higher education located in the territories of the United States, as referred to in section 1489 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3361).

"(e) Discrimination Financial Assistance.—In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until September 30, 2031, out of any money in the Treasury not otherwise appropriated, $2,200,000,000 for a program to provide financial assistance, including the cost of any financial assistance, to farmers, ranchers, or forest landowners determined to have experienced discrimination prior to January 1, 2021, in Department of Agriculture farm lending programs, under which the amount of financial assistance provided to a recipient may be not more than $500,000, as determined to be appropriate based on any consequences experienced from the discrimination, which program shall be administered through 1 or more qualified nongovernmental entities selected by the Secretary subject to standards set and enforced by the Secretary.

"(f) Administrative Costs.—In addition to amounts otherwise available, there is appropriated to the Secretary of Agriculture for fiscal year 2022, to remain available until September 30, 2031, out of any money in the Treasury not otherwise appropriated, $24,000,000 for administrative costs, including training employees, of the agencies and offices of the Department of Agriculture to carry out this section.

"(g) Limitation.—The funds made available under this section are subject to the condition that the Secretary shall not—

"(1) enter into any agreement under which any payment could be outlaid or funds disbursed after September 30, 2031; or

"(2) use any other funds available to the Secretary to satisfy obligations initially made under this section.".

SEC. 22008. REPEAL OF FARM LOAN ASSISTANCE.

Section 1005 of the American Rescue Plan Act of 2021 (7 U.S.C. 1921 note; Public Law 117–2) is repealed.

Subtitle D—Forestry

SEC. 23001. NATIONAL FOREST SYSTEM RESTORATION AND FUELS REDUCTION PROJECTS.

(a) Appropriations.—In addition to amounts otherwise available, there are appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031—

(1) $1,800,000,000 for hazardous fuels reduction projects on National Forest System land within the wildland-urban interface;

(2) $200,000,000 for vegetation management projects on National Forest System land carried out in accordance with a ~~water source management plan or a watershed protection and restoration action plan;~~ **plan developed under section 303(d)(1) or 304(a)(3) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542(d)(1) or 6543(a)(3));**

(3) $100,000,000 to provide for ~~more efficient and more effective~~ environmental reviews by the Chief of the Forest Service in satisfying the obligations of the Chief of the Forest Service under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4370m–12); and

(4) $50,000,000 ~~to develop and carry out activities and tactics~~ for the protection of old-growth forests on National Forest System land and to complete an inventory of old-growth forests and mature forests within the National Forest System.

(b) ~~Priority for Funding.—For projects described in paragraphs (1) and (2) of subsection (a), the Secretary shall prioritize for implementation projects—~~

~~(1) for which an environmental assessment or an environmental impact statement required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4370m12) has been completed;~~

~~(2) that are collaboratively developed; or~~

~~(3) that include opportunities to restore sustainable recreation infrastructure or access or accomplish other recreation outcomes on National Forest System lands, if the opportunities are compatible with the primary restoration purposes of the project.~~

~~(c)~~ Restrictions.—None of the funds made available by ~~this section~~ **paragraph (1) or (2) of**

subsection (a) may be used for any activity—

(1) conducted in a wilderness area or wilderness study area;

(2) that includes the construction of a permanent road or motorized trail;

(3) that includes the construction of a temporary road, except in the case of a temporary road that is decommissioned by the Secretary not later than 3 years after the earlier of—

(A) the date on which the temporary road is no longer needed; and

(B) the date on which the project for which the temporary road was constructed is completed;

(4) inconsistent with the applicable land management plan;

(5) inconsistent with the prohibitions of the rule of the Forest Service entitled "Special Areas; Roadless Area Conservation" (66 Fed. Reg. 3244 (January 12, 2001)), as modified by subparts C and D of part 294 of title 36, Code of Federal Regulations; or

(6) carried out on any land that is not National Forest System land, including other forested land on Federal, State, Tribal, or private land.

~~(d)~~**(c)** Limitations.—Nothing in this section shall be interpreted to authorize funds of the Commodity Credit Corporation for activities under this section if such funds are not expressly authorized or currently expended for such purposes.

~~(e)~~**(d)** Cost-sharing Waiver.—

(1) IN GENERAL.—The non-Federal cost-share requirement of a project described in paragraph (2) may be waived at the discretion of the Secretary.

(2) PROJECT DESCRIBED.—A project referred to in paragraph (1) is a project that—

(A) is carried out using funds made available under this section;

(B) requires a partnership agreement, including a cooperative agreement or mutual interest agreement; and

(C) is subject to a non-Federal cost-share requirement.

~~(f)~~**(e)** Definitions.—In this section:

~~(1) Collaboratively developed.—The term "collaboratively developed" means, with respect to a project located exclusively on National Forest System land, that the project is developed and implemented through a collaborative process that—~~

~~(A) includes multiple interested persons representing diverse interests, except such persons shall not be employed by the Federal Government or be representatives of foreign entities; and~~

~~(B)(i) is transparent and nonexclusive; or~~

~~(ii) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125).~~

~~(2)~~**(1)** DECOMMISSION.—The term "decommission" means, with respect to a road—

(A) reestablishing native vegetation on the road;

(B) restoring any natural drainage, watershed function, or other ecological processes that were disrupted or adversely impacted by the road by removing or hydrologically disconnecting the road prism and reestablishing stable slope contours; and

(C) effectively blocking the road to vehicular traffic, where feasible.

~~(3)~~**(2)** ECOLOGICAL INTEGRITY.—The term "ecological integrity" has the meaning given the term in section 219.19 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act).

~~(4)~~**(3)** HAZARDOUS FUELS REDUCTION PROJECT.—The term "hazardous fuels reduction project" means an activity, including the use of prescribed fire, to protect structures and communities from wildfire that is carried out on National Forest System land.

~~(5)~~**(4)** RESTORATION.—The term "restoration" has the meaning given the term in section 219.19 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act).

~~(6)~~**(5)** VEGETATION MANAGEMENT PROJECT.—The term "vegetation management project" means an activity carried out on National Forest System land to enhance the ecological integrity and achieve the restoration of a forest ecosystem through the removal of vegetation, the use of prescribed fire, the restoration of aquatic habitat, or the decommissioning of an unauthorized, temporary, or system road.

~~(7) Water source management plan.—The term "water source management plan" means a plan developed under section 303(d)(1) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6542(d)(1)).~~

~~(8) Watershed protection and restoration action plan.—The term "watershed protection and restoration action plan" means a plan developed under section 304(a)(3) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6543(a)(3)).~~

~~(9)~~**(6)** WILDLAND-URBAN INTERFACE.—The term "wildland-urban interface" has the meaning given the term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

SEC. 23002. COMPETITIVE GRANTS FOR NON-FEDERAL FOREST LANDOWNERS.

(a) Appropriations.—In addition to amounts otherwise available, there are appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031—

(1) $150,000,000 for the competitive grant program under section 13A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2109a) for providing through that program a cost share to carry out climate mitigation or forest resilience practices in the case of underserved forest landowners, subject to the condition that subsection (h) of that section shall not apply;

(2) $150,000,000 for the competitive grant program under section 13A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2109a) for providing through that program grants to support the participation of underserved forest landowners in emerging private markets for climate mitigation or forest resilience, subject to the condition that subsection (h) of that section shall not apply;

(3) $100,000,000 for the competitive grant program under section 13A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2109a) for providing through that program grants to support the participation of forest landowners who own less than 2,500 acres of forest land in emerging private markets for climate mitigation or forest resilience, subject to the condition that subsection (h) of that section shall not apply;

(4) $50,000,000 for the competitive grant program under section 13A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2109a) to provide grants to states and other eligible entities to provide payments to owners of private forest land for implementation of forestry practices on private forest land, that are determined by the Secretary, based on the best available science, to provide measurable increases in carbon sequestration and storage beyond customary practices on comparable land, subject to the conditions that—

(A) those payments shall not preclude landowners from participation in other public and private sector financial incentive programs; and

(B) subsection (h) of that section shall not apply; and

(5) $100,000,000 to provide grants under the wood innovation grant program under section 8643 of the Agriculture Improvement Act of 2018 (7 U.S.C. 7655d), including for the construction of new facilities that advance the purposes of the program and for the hauling of material removed to reduce hazardous fuels to locations where that material can be utilized, subject to the conditions that—

(A) the amount of such a grant shall be not more than $5,000,000; **and**

(B) notwithstanding subsection (d) of that section, a recipient of such a grant shall provide funds equal to not less than 50 percent of the amount received under the grant, to be derived from non-Federal sources**.**~~; and~~

~~(C) a priority shall be placed on projects that create a financial model for addressing forest restoration needs on public or private forest land.~~

(b) Cost-sharing Requirement.—Any partnership agreements, including cooperative agreements and mutual interest agreements, using funds made available under this section shall be subject to a non-Federal cost-share requirement of not less than 20 percent of the project cost, which may be waived at the discretion of the Secretary.

(c) Limitations.—Nothing in this section shall be interpreted to authorize funds of the Commodity Credit Corporation for activities under this section if such funds are not expressly authorized or currently expended for such purposes.

SEC. 23003. STATE AND PRIVATE FORESTRY CONSERVATION PROGRAMS.

(a) Appropriations.—In addition to amounts otherwise available, there are appropriated to the

Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031—

(1) $700,000,000 to provide competitive grants to States through the Forest Legacy Program established under section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) ~~to acquire~~ **for projects for the acquisition of** land and interests in land~~, with priority given to grant applications that offer significant natural carbon sequestration benefits or provide benefits to underserved populations~~; and

(2) $1,500,000,000 to provide multiyear, programmatic, competitive grants to a State agency, a local governmental entity, an agency or governmental entity of the District of Columbia, **an agency or governmental entity of an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)),** an Indian Tribe, or a nonprofit organization through the Urban and Community Forestry Assistance program established under section 9(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105(c)) for tree planting and related activities~~, with a priority for projects that benefit underserved populations and areas~~.

(b) Waiver.—Any non-Federal cost-share requirement otherwise applicable to projects carried out under this section may be waived at the discretion of the Secretary.

SEC. 23004. LIMITATION.

The funds made available under this subtitle are subject to the condition that the Secretary shall not—

(1) enter into any agreement—

(A) that is for a term extending beyond September 30, 2031; or

(B) under which any payment could be outlaid or funds disbursed after September 30, 2031; or

(2) use any other funds available to the Secretary to satisfy obligations initially made under this subtitle.

SEC. 23005. ADMINISTRATIVE COSTS.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000 to remain available until September 30, 2031, for administrative costs of the agencies and offices of the Department of Agriculture for costs related to implementing this subtitle.

TITLE III—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 30001. ENHANCED USE OF DEFENSE PRODUCTION ACT OF 1950.

In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, to remain available until

September 30, 2024, to carry out the Defense Production Act of 1950 (50 U.S.C. 4501 et seq.).

SEC. 30002. IMPROVING ENERGY EFFICIENCY OR WATER EFFICIENCY OR CLIMATE RESILIENCE OF AFFORDABLE HOUSING.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary of Housing and Urban Development (in this section referred to as the "Secretary") for fiscal year 2022, out of any money in the Treasury not otherwise appropriated—

(1) $837,500,000, to remain available until September 30, 2028, for the cost of providing direct loans, ~~including~~ the costs of modifying such loans, and for grants, as provided for and subject to terms and conditions in subsection (b), including to subsidize gross obligations for the principal amount of ~~direct~~ **such** loans, not to exceed $4,000,000,000, to fund projects that improve energy or water efficiency, **enhance** indoor air quality or sustainability, implement the use of ~~low-emission technologies, materials, or processes, including~~ zero-emission electricity generation, **low-emission building materials or processes,** energy storage, or building electrification **strategies**, or address climate resilience, of an eligible property;

(2) $60,000,000, to remain available until September 30, 2030, for the costs to the Secretary ~~of administering and overseeing the implementation of this section, including~~ **for** information technology, ~~financial reporting,~~ research and evaluation, ~~other cross-program costs in support of programs administered by the Secretary in this title, and other costs;~~ **and administering and overseeing the implementation of this section;**

(3) $60,000,000, to remain available until September 30, 2029, for expenses of contracts **or cooperative agreements** administered by the Secretary~~, including to carry out property climate risk, energy, or water assessments, due diligence, and underwriting functions for such grant and direct loan program;~~**;** and

(4) $42,500,000, to remain available until September 30, 2028, for energy and water benchmarking of properties eligible to receive grants or loans under this section, regardless of whether they actually received such grants **or loans**, along with associated data analysis and evaluation at the property and portfolio level, ~~including~~ **and** the development of information technology systems necessary for the collection, evaluation, and analysis of such data.

(b) Loan and Grant Terms and Conditions.—Amounts made available under this section shall be for direct loans, grants, and direct loans that can be converted to grants to eligible recipients that agree to an extended period of affordability for the property.

(c) Definitions.—As used in this section—

(1) the term "eligible recipient" means any owner or sponsor of an eligible property; and

(2) the term "eligible property" means a property assisted pursuant to—

(A) section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(B) section 202 of the Housing Act of 1959 (former 12 U.S.C. 1701q), as such section existed before the enactment of the Cranston-Gonzalez National Affordable

Housing Act;

(C) section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

(D) section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b));

(E) section 236 of the National Housing Act (12 U.S.C. 1715z–1); or

(F) a Housing Assistance Payments contract for Project-Based Rental Assistance in fiscal year 2021.

(d) Waiver.—The Secretary may waive or specify alternative requirements for any provision of subsection (c) or (bb) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(c), 1437f(bb)) upon a finding that the waiver or alternative requirement is necessary to facilitate the use of amounts made available under this section.

(e) Implementation.—The Secretary shall have the authority to establish by notice any requirements that the Secretary determines are necessary for timely and effective implementation of the program and expenditure of funds appropriated, which requirements shall take effect upon issuance.

TITLE IV—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 40001. INVESTING IN COASTAL COMMUNITIES AND CLIMATE RESILIENCE.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,600,000,000, to remain available until September 30, 2026, to provide funding through direct expenditure, contracts, grants, cooperative agreements, or technical assistance to coastal states (as defined in paragraph (4) of section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4))), the District of Columbia, Tribal Governments, nonprofit organizations, local governments, and institutions of higher education (as defined in subsection (a) of section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), for the conservation, restoration, and protection of coastal and marine habitats ~~and~~**,** resources, ~~including~~ **Pacific salmon and other marine** fisheries, to enable coastal communities to prepare for extreme storms and other changing climate conditions, and for projects that support natural resources that sustain coastal and marine resource dependent communities, **marine fishery and marine mammal stock assessments,** and for related administrative expenses.

(b) Tribal Government Defined.—In this section, the term “Tribal Government” means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this subsection pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

SEC. 40002. FACILITIES OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AND NATIONAL MARINE SANCTUARIES.

(a) National Oceanic and Atmospheric Administration Facilities.—In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $150,000,000, to remain available until September 30, 2026, for the construction of new facilities~~(including~~**,** facilities in need of replacement~~) including~~**,** piers, marine operations facilities, and fisheries laboratories.

(b) National Marine Sanctuaries Facilities.—In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $50,000,000, to remain available until September 30, 2026, for the construction of facilities to support the National Marine Sanctuary System established under subsection (c) of section 301 of the National Marine Sanctuaries Act (16 U.S.C. 1431(c)).

SEC. 40003. NOAA EFFICIENT AND EFFECTIVE REVIEWS.

In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $20,000,000, to remain available until September 30, 2026, to conduct more efficient, accurate, and timely reviews for planning, permitting and approval processes through the hiring and training of personnel, and the purchase of technical and scientific services and new equipment, and to improve agency transparency, accountability, and public engagement.

SEC. 40004. OCEANIC AND ATMOSPHERIC RESEARCH AND FORECASTING FOR WEATHER AND CLIMATE.

(a) Forecasting and Research.—In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $150,000,000, to remain available until September 30, 2026, to accelerate advances and improvements in research, observation systems, modeling, forecasting, assessments, and dissemination of information to the public as it pertains to ocean and atmospheric processes related to weather, coasts, oceans, and climate, and to carry out section 102(a) of the Weather Research and Forecasting Innovation Act of 2017 (15 U.S.C. 8512(a)), and for related administrative expenses.

(b) Research Grants and Science Information, Products, and Services.—In addition to amounts otherwise available, there are appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2026, $50,000,000 for competitive grants to fund climate research as it relates to weather, ocean, coastal, and atmospheric processes and conditions, and impacts to marine species and coastal habitat, and for related administrative

expenses.

SEC. 40005. COMPUTING CAPACITY AND RESEARCH FOR WEATHER, OCEANS, AND CLIMATE.

In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $190,000,000, to remain available until September 30, 2026, for the procurement of additional high-performance computing, data processing capacity, data management, and storage assets, to carry out section 204(a)(2) of the High-Performance Computing Act of 1991 (15 U.S.C. 5524(a)(2)), and for transaction agreements authorized under section 301(d)(1)(A) of the Weather Research and Forecasting Innovation Act of 2017 (15 U.S.C. 8531(d)(1)(A)), and for related administrative expenses.

SEC. 40006. ACQUISITION OF HURRICANE FORECASTING AIRCRAFT.

In addition to amounts otherwise available, there is appropriated to the National Oceanic and Atmospheric Administration for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for the acquisition of hurricane hunter aircraft under section 413(a) of the Weather Research and Forecasting Innovation Act of 2017 (15 U.S.C. 8549(a)).

SEC. 40007. ALTERNATIVE FUEL AND LOW-EMISSION AVIATION TECHNOLOGY PROGRAM.

(a) Appropriation and Establishment.—For purposes of establishing a competitive grant program for eligible entities to carry out projects located in the United States that produce, transport, blend, or store sustainable aviation fuel, or develop, demonstrate, or apply low-emission aviation technologies, in addition to amounts otherwise available, there are appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2026—

(1) $244,530,000 for projects relating to the production, transportation, blending, or storage of sustainable aviation fuel;

(2) $46,530,000 for projects relating to low-emission aviation technologies; and

(3) $5,940,000 to fund the award of grants under this section, and oversight of the program, by the Secretary.

(b) Considerations.—In carrying out subsection (a), the Secretary shall consider, with respect to a proposed project—

(1) the capacity for the eligible entity to increase the domestic production and deployment of sustainable aviation fuel or the use of low-emission aviation technologies among the United States commercial aviation and aerospace industry;

(2) the projected greenhouse gas emissions from such project, including emissions resulting from the development of the project, and the potential the project has to reduce or

displace, on a lifecycle basis, United States greenhouse gas emissions associated with air travel;

(3) the capacity to create new jobs and develop supply chain partnerships in the United States;

(4) for projects related to the production of sustainable aviation fuel, the projected lifecycle greenhouse gas emissions benefits from the proposed project, which shall include feedstock and fuel production and potential direct and indirect greenhouse gas emissions (including resulting from changes in land use); and

(5) the benefits of ensuring a diversity of feedstocks for sustainable aviation fuel, including the use of waste carbon oxides and direct air capture.

(c) Cost Share.—The Federal share of the cost of a project carried out using grant funds under subsection (a) shall be 75 percent of the total proposed cost of the project, except that such Federal share shall increase to 90 percent of the total proposed cost of the project if the eligible entity is a small hub airport or nonhub airport, as such terms are defined in section 47102 of title 49, United States Code.

(d) Fuel Emissions Reduction Test.—For purposes of clause (ii) of subsection (e)(7)(E), the Secretary shall, not later than 2 years after the date of enactment of this section, adopt at least 1 methodology for testing lifecycle greenhouse gas emissions that meets the requirements of such clause.

(e) Definitions.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State or local government, including the District of Columbia, other than an airport sponsor;

(B) an air carrier;

(C) an airport sponsor;

(D) an accredited institution of higher education;

(E) a research institution;

(F) a person or entity engaged in the production, transportation, blending, or storage of sustainable aviation fuel in the United States or feedstocks in the United States that could be used to produce sustainable aviation fuel;

(G) a person or entity engaged in the development, demonstration, or application of low-emission aviation technologies; or

(H) nonprofit entities or nonprofit consortia with experience in sustainable aviation fuels, low-emission aviation technologies, or other clean transportation research programs.

(2) FEEDSTOCK.—The term "feedstock" means sources of hydrogen and carbon not originating from unrefined or refined petrochemicals.

(3) INDUCED LAND-USE CHANGE VALUES.—The term "induced land-use change values" means the greenhouse gas emissions resulting from the conversion of land to the production

of feedstocks and from the conversion of other land due to the displacement of crops or animals for which the original land was previously used.

(4) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term "lifecycle greenhouse gas emissions" means the combined greenhouse gas emissions from feedstock production, collection of feedstock, transportation of feedstock to fuel production facilities, conversion of feedstock to fuel, transportation and distribution of fuel, and fuel combustion in an aircraft engine, as well as from induced land-use change values.

(5) LOW-EMISSION AVIATION TECHNOLOGIES.—The term "low-emission aviation technologies" means technologies, produced in the United States, that significantly—

(A) improve aircraft fuel efficiency;

(B) increase utilization of sustainable aviation fuel; or

(C) reduce greenhouse gas emissions produced during operation of civil aircraft.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(7) SUSTAINABLE AVIATION FUEL.—The term "sustainable aviation fuel" means liquid fuel, produced in the United States, that—

(A) consists of synthesized hydrocarbons;

(B) meets the requirements of—

(i) ASTM International Standard D7566; or

(ii) the co-processing provisions of ASTM International Standard D1655, Annex A1 (or such successor standard);

(C) is derived from biomass (in a similar manner as such term is defined in section 45K(c)(3) of the Internal Revenue Code of 1986), waste streams, renewable energy sources, or gaseous carbon oxides;

(D) is not derived from palm fatty acid distillates; and

(E) achieves at least a 50 percent lifecycle greenhouse gas emissions reduction in comparison with petroleum-based jet fuel, as determined by a test that shows—

(i) the fuel production pathway achieves at least a 50 percent reduction of the aggregate attributional core lifecycle emissions and the induced land-use change values under a lifecycle methodology for sustainable aviation fuels similar to that adopted by the International Civil Aviation Organization with the agreement of the United States; or

(ii) the fuel production pathway achieves at least a 50 percent reduction of the aggregate attributional core lifecycle greenhouse gas emissions values and the induced land-use change values under another methodology that the Secretary determines is—

(I) reflective of the latest scientific understanding of lifecycle greenhouse gas emissions; and

(II) as stringent as the requirement under clause (i).

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—Energy

PART 1—GENERAL PROVISIONS

SEC. 50111. DEFINITIONS.

In this subtitle:

(1) GREENHOUSE GAS.—The term "greenhouse gas" has the meaning given the term in section 1610(a) of the Energy Policy Act of 1992 (42 U.S.C. 13389(a)).

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(3) STATE.—The term "State" means a State, the District of Columbia, and a United States Insular Area (as that term is defined in section 50211).

(4) STATE ENERGY OFFICE.—The term "State energy office" has the meaning given the term in section 124(a) of the Energy Policy Act of 2005 (42 U.S.C. 15821(a)).

(5) STATE ENERGY PROGRAM.—The term "State Energy Program" means the State Energy Program established pursuant to part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 through 6326).

PART 2—RESIDENTIAL EFFICIENCY AND ELECTRIFICATION REBATES

SEC. 50121. HOME ENERGY PERFORMANCE-BASED, WHOLE-HOUSE REBATES.

(a) Appropriation.—

(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $4,300,000,000, to remain available through September 30, 2031, to carry out a program to award grants to State energy offices to develop and implement a HOMES rebate program.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall reserve funds made available under paragraph (1) for each State energy office—

(i) in accordance with the allocation formula for the State Energy Program in effect on January 1, 2022; and

(ii) to be distributed to a State energy office if the application of the State energy office under subsection (b) is approved.

(B) ADDITIONAL FUNDS.—Not earlier than 2 years after the date of enactment of this Act, any money reserved under subparagraph (A) but not distributed under clause (ii)

of that subparagraph shall be redistributed to the State energy offices operating a HOMES rebate program using a grant received under this section in proportion to the amount distributed to those State energy offices under subparagraph (A)(ii).

(3) ADMINISTRATIVE EXPENSES.—Of the funds made available under paragraph (1), the Secretary shall use not more than 3 percent for—

(A) administrative purposes; and

(B) providing technical assistance relating to activities carried out under this section.

(b) Application.—A State energy office seeking a grant under this section shall submit to the Secretary an application that includes a plan to implement a HOMES rebate program, including a plan—

(1) to use procedures, as approved by the Secretary, for determining the reductions in home energy use resulting from the implementation of a home energy efficiency retrofit that ~~is~~ **are** calibrated to historical energy usage for a home consistent with BPI 2400, for purposes of modeled performance home rebates;

(2) to use open-source advanced measurement and verification software, as approved by the Secretary, for determining and documenting the monthly and hourly (if available) weather-normalized energy use of a home before and after the implementation of a home energy efficiency retrofit, for purposes of measured performance home rebates;

(3) to value savings based on time, location, or greenhouse gas emissions;

(4) for quality monitoring to ensure that each home energy efficiency retrofit for which a rebate is provided is documented in a certificate that—

(A) is provided by the contractor and certified by a third party to the homeowner; and

(B) details the work performed, the equipment and materials installed, and the projected energy savings or energy generation to support accurate valuation of the retrofit;

(5) to provide a contractor performing a home energy efficiency retrofit or an aggregator who has the right to claim a rebate $200 for each home located in ~~an underserved~~ **a disadvantaged** community that receives a home energy efficiency retrofit for which a rebate is provided under the program; and

(6) to ensure that a homeowner or aggregator does not receive a rebate for the same upgrade through both a HOMES rebate program and any other Federal grant or rebate program, pursuant to subsection ~~(c)(8)~~**(c)(7)**.

(c) HOMES Rebate Program.—

(1) IN GENERAL.—A HOMES rebate program carried out by a State energy office receiving a grant pursuant to this section shall provide rebates to homeowners and aggregators for whole-house energy saving retrofits begun on or after the date of enactment of this Act and completed by not later than September 30, 2031.

(2) AMOUNT OF REBATE.—Subject to paragraph (3)~~(B)~~, under a HOMES rebate program, the amount of a rebate shall not exceed—

(A) for individuals and aggregators carrying out energy efficiency upgrades of single-family homes—

(i) in the case of a retrofit that achieves modeled energy system savings of not less than 20 percent but less than 35 percent, the lesser of—

(I) $2,000; and

(II) 50 percent of the project cost;

(ii) in the case of a retrofit that achieves modeled energy system savings of not less than 35 percent, the lesser of—

(I) $4,000; and

(II) 50 percent of the project cost; and

(iii) for measured energy savings, in the case of a home or portfolio of homes that achieves energy savings of not less than 15 percent—

(I) a payment rate per kilowatt hour saved, or kilowatt hour-equivalent saved, equal to $2,000 for a 20 percent reduction of energy use for the average home in the State; or

(II) 50 percent of the project cost;

(B) for multifamily building owners and aggregators carrying out energy efficiency upgrades of multifamily buildings—

(i) in the case of a retrofit that achieves modeled energy system savings of not less than 20 percent but less than 35 percent, $2,000 per dwelling unit, with a maximum of $200,000 per multifamily building;

(ii) in the case of a retrofit that achieves modeled energy system savings of not less than 35 percent, $4,000 per dwelling unit, with a maximum of $400,000 per multifamily building; or

(iii) for measured energy savings, in the case of a multifamily building or portfolio of multifamily buildings that achieves energy savings of not less than 15 percent—

(I) a payment rate per kilowatt hour saved, or kilowatt hour-equivalent saved, equal to $2,000 for a 20 percent reduction of energy use per dwelling unit for the average multifamily building in the State; or

(II) 50 percent of the project cost; and

(C) for individuals and aggregators carrying out energy efficiency upgrades of a single-family home occupied by a low- or moderate-income household or a multifamily building not less than 50 percent of the dwelling units of which are occupied by low- or moderate-income households—

(i) in the case of a retrofit that achieves modeled energy system savings of not less than 20 percent but less than 35 percent, the lesser of—

(I) $4,000 per single-family home or dwelling unit; and

(II) 80 percent of the project cost;

(ii) in the case of a retrofit that achieves modeled energy system savings of not less than 35 percent, the lesser of—

(I) $8,000 per single-family home or dwelling unit; and

(II) 80 percent of the project cost; and

(iii) for measured energy savings, in the case of a single-family home, multifamily building, or portfolio of single-family homes or multifamily buildings that achieves energy savings of not less than 15 percent—

(I) a payment rate per kilowatt hour saved, or kilowatt hour-equivalent saved, equal to $4,000 for a 20 percent reduction of energy use per single-family home or dwelling unit, as applicable, for the average single-family home or multifamily building in the State; or

(II) 80 percent of the project cost.

(3) REBATES TO LOW- OR MODERATE-INCOME **HOUSEHOLDS.—On** ~~households.—~~

~~(A) In general.—A State energy office carrying out a HOMES rebate program using a grant awarded pursuant to this section is encouraged to provide rebates, to the maximum extent practicable, to low- or moderate-income households.~~

~~(B) Increase in rebate amount.—On~~ approval from the Secretary, notwithstanding paragraph (2), a State energy office carrying out a HOMES rebate program using a grant awarded pursuant to this section may increase rebate amounts for low- or moderate-income households.

(4) USE OF FUNDS.—A State energy office that receives a grant pursuant to this section may use not more than 20 percent of the grant amount for planning, administration, or technical assistance related to a HOMES rebate program.

(5) DATA ACCESS GUIDELINES.—The Secretary shall develop and publish guidelines for States relating to residential electric and natural gas energy data sharing.

(6) ~~Coordination.—In carrying out this section, the Secretary shall coordinate with State energy offices to ensure that HOMES rebate programs for which grants are provided under this section are developed to achieve maximum greenhouse gas emissions reductions and household energy and costs savings regardless of source energy.~~

~~(7)~~ EXEMPTION.—Activities carried out by a State energy office using a grant awarded pursuant to this section shall not be subject to the expenditure prohibitions and limitations described in section 420.18 of title 10, Code of Federal Regulations.

~~(8)~~**(7)** PROHIBITION ON COMBINING REBATES.—A rebate provided by a State energy office under a HOMES rebate program may not be combined with any other Federal grant or rebate, including a rebate provided under a high-efficiency electric home rebate program (as defined in section 50122(d)), for the same single upgrade.

(d) Definitions.—In this section:

(1) **DISADVANTAGED COMMUNITY.—The term "disadvantaged community" means a community that the Secretary determines, based on appropriate data, indices, and**

screening tools, is economically, socially, or environmentally disadvantaged.

(2) HOMES REBATE PROGRAM.—The term "HOMES rebate program" means a Home Owner Managing Energy Savings rebate program established by a State energy office as part of an approved State energy conservation plan under the State Energy Program.

~~(2)~~**(3)** LOW- OR MODERATE-INCOME HOUSEHOLD.—The term "low- or moderate-income household" means an individual or family the total annual income of which is less than 80 percent of the median income of the area in which the individual or family resides, as reported by the Department of Housing and Urban Development, including an individual or family that has demonstrated eligibility for another Federal program with income restrictions equal to or below 80 percent of area median income.

~~(3) Underserved community.—The term "underserved community" means—~~

~~(A) a community located in a ZIP code that includes 1 or more census tracts that include—~~

~~(i) a low-income community; or~~

~~(ii) a community of racial or ethnic minority concentration; and~~

~~(B) any other community that the Secretary determines is disproportionately vulnerable to, or bears a disproportionate burden of, any combination of economic, social, and environmental stressors.~~

SEC. 50122. HIGH-EFFICIENCY ELECTRIC HOME REBATE PROGRAM.

(a) Appropriations.—

(1) FUNDS TO STATE ENERGY OFFICES AND INDIAN TRIBES.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to carry out a program—

(A) to award grants to State energy offices to develop and implement a high-efficiency electric home rebate program in accordance with subsection (c), $4,275,000,000, to remain available through September 30, 2031; and

(B) to award grants to Indian Tribes to develop and implement a high-efficiency electric home rebate program in accordance with subsection (c), $225,000,000, to remain available through September 30, 2031.

(2) ALLOCATION OF FUNDS.—

(A) STATE ENERGY OFFICES.—The Secretary shall reserve funds made available

under paragraph (1)(A) for each State energy office—

(i) in accordance with the allocation formula for the State Energy Program in effect on January 1, 2022; and

(ii) to be distributed to a State energy office if the application of the State energy office under subsection (b) is approved.

(B) INDIAN TRIBES.—The Secretary shall reserve funds made available under paragraph (1)(B)—

(i) in a manner determined appropriate by the Secretary; and

(ii) to be distributed to an Indian Tribe if the application of the Indian Tribe under subsection (b) is approved.

(C) ADDITIONAL FUNDS.—Not earlier than 2 years after the date of enactment of this Act, any money reserved under—

(i) subparagraph (A) but not distributed under clause (ii) of that subparagraph shall be redistributed to the State energy offices operating a high-efficiency electric home rebate program in proportion to the amount distributed to those State energy offices under that clause; and

(ii) subparagraph (B) but not distributed under clause (ii) of that subparagraph shall be redistributed to the Indian Tribes operating a high-efficiency electric home rebate program in proportion to the amount distributed to those Indian Tribes under that clause.

(3) ADMINISTRATIVE EXPENSES.—Of the funds made available under paragraph (1), the Secretary shall use not more than 3 percent for—

(A) administrative purposes; and

(B) providing technical assistance relating to activities carried out under this section.

(b) Application.—A State energy office or Indian Tribe seeking a grant under the program shall submit to the Secretary an application that includes a plan to implement a high-efficiency electric home rebate program, including—

(1) a plan to verify the income eligibility of eligible entities seeking a rebate for a qualified electrification project;

(2) a plan to allow rebates for qualified electrification projects at the point of sale in a manner that ensures that the income eligibility of an eligible entity seeking a rebate may be verified at the point of sale;

(3) a plan to ensure that an eligible entity does not receive a rebate for the same qualified electrification project through both a high-efficiency electric home rebate program and any other Federal grant or rebate program, pursuant to subsection (c)(8); and

(4) any additional information that the Secretary may require.

(c) High-efficiency Electric Home Rebate Program.—

(1) IN GENERAL.—Under the program, the Secretary shall award grants to State energy offices and Indian Tribes to establish a high-efficiency electric home rebate program under

which rebates shall be provided to eligible entities for qualified electrification projects.

(2) GUIDELINES.—The Secretary shall prescribe guidelines for high-efficiency electric home rebate programs, including guidelines for providing point of sale rebates in a manner consistent with the income eligibility requirements under this section.

(3) AMOUNT OF REBATE.—

(A) APPLIANCE UPGRADES.—The amount of a rebate provided under a high-efficiency electric home rebate program for the purchase of an appliance under a qualified electrification project shall be—

(i) not more than $1,750 for a heat pump water heater;

(ii) not more than $8,000 for a heat pump for space heating or cooling; and

(iii) not more than $840 for—

(I) an electric stove, cooktop, range, or oven; or

(II) an electric heat pump clothes dryer.

(B) NONAPPLIANCE UPGRADES.—The amount of a rebate provided under a high-efficiency electric home rebate program for the purchase of a nonappliance upgrade under a qualified electrification project shall be—

(i) not more than $4,000 for an electric load service center upgrade;

(ii) not more than $1,600 for insulation, air sealing, and ventilation; and

(iii) not more than $2,500 for electric wiring.

(C) MAXIMUM REBATE.—An eligible entity receiving multiple rebates under this section may receive not more than a total of $14,000 in rebates.

(4) LIMITATIONS.—A rebate provided using funding under this section shall not exceed—

(A) in the case of an eligible entity described in subsection (d)(1)(A)—

(i) 50 percent of the cost of the qualified electrification project for a household the annual income of which is not less than 80 percent and not greater than 150 percent of the area median income; and

(ii) 100 percent of the cost of the qualified electrification project for a household the annual income of which is less than 80 percent of the area median income;

(B) in the case of an eligible entity described in subsection (d)(1)(B)—

(i) 50 percent of the cost of the qualified electrification project for a multifamily building not less than 50 percent of the residents of which are households the annual income of which is not less than 80 percent and not greater than 150 percent of the area median income; and

(ii) 100 percent of the cost of the qualified electrification project for a multifamily building not less than 50 percent of the residents of which are households the annual income of which is less than 80 percent of the area median income; or

(C) in the case of an eligible entity described in subsection (d)(1)(C)—

(i) 50 percent of the cost of the qualified electrification project for a household —

(I) on behalf of which the eligible entity is working; and

(II) the annual income of which is not less than 80 percent and not greater than 150 percent of the area median income; and

(ii) 100 percent of the cost of the qualified electrification project for a household—

(I) on behalf of which the eligible entity is working; and

(II) the annual income of which is less than 80 percent of the area median income.

(5) AMOUNT FOR INSTALLATION OF UPGRADES.—

(A) IN GENERAL.—In the case of an eligible entity described in subsection (d)(1)(C) that receives a rebate under the program and performs the installation of the applicable qualified electrification project, a State energy office or Indian Tribe shall provide to that eligible entity, in addition to the rebate, an amount that—

(i) does not exceed $500; and

(ii) is commensurate with the scale of the upgrades installed as part of the qualified electrification project ~~and any enhanced labor practices~~, as determined by the Secretary.

(B) TREATMENT.—An amount received under subparagraph (A) by an eligible entity described in that subparagraph shall not be subject to the requirement under paragraph (6).

(6) REQUIREMENT.—An eligible entity described in subparagraph (C) of subsection (d)(1) shall discount the amount of a rebate received for a qualified electrification project from any amount charged by that eligible entity to the eligible entity described in subparagraph (A) or (B) of that subsection on behalf of which the qualified electrification project is carried out.

(7) EXEMPTION.—Activities carried out by a State energy office using a grant provided under the program shall not be subject to the expenditure prohibitions and limitations described in section 420.18 of title 10, Code of Federal Regulations.

(8) PROHIBITION ON COMBINING REBATES.—A rebate provided by a State energy office or Indian Tribe under a high-efficiency electric home rebate program may not be combined with any other Federal grant or rebate, including a rebate provided under a HOMES rebate program (as defined in section 50121(d)), for the same qualified electrification project.

(9) ADMINISTRATIVE COSTS.—A State energy office or Indian Tribe that receives a grant under the program shall use not more than 20 percent of the grant amount for planning, administration, or technical assistance relating to a high-efficiency electric home rebate program.

(d) Definitions.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a low- or moderate-income household;

(B) an individual or entity that owns a multifamily building not less than 50 percent of the residents of which are low- or moderate-income households; and

(C) a governmental, commercial, or nonprofit entity, as determined by the Secretary, carrying out a qualified electrification project on behalf of an entity described in subparagraph (A) or (B).

(2) HIGH-EFFICIENCY ELECTRIC HOME REBATE PROGRAM.—The term "high-efficiency electric home rebate program" means a rebate program carried out by a State energy office or Indian Tribe pursuant to subsection (c) using a grant received under the program.

(3) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(4) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term "low- or moderate-income household" means an individual or family the total annual income of which is less than 150 percent of the median income of the area in which the individual or family resides, as reported by the Department of Housing and Urban Development, including an individual or family that has demonstrated eligibility for another Federal program with income restrictions equal to or below 150 percent of area median income.

(5) PROGRAM.—The term "program" means the program carried out by the Secretary under subsection (a)(1).

(6) QUALIFIED ELECTRIFICATION PROJECT.—

(A) IN GENERAL.—The term "qualified electrification project" means a project that —

(i) includes the purchase and installation of—

(I) an electric heat pump water heater;

(II) an electric heat pump for space heating and cooling;

(III) an electric stove, cooktop, range, or oven;

(IV) an electric heat pump clothes dryer;

(V) an electric load service center;

(VI) insulation;

(VII) air sealing and materials to improve ventilation; or

(VIII) electric wiring;

(ii) with respect to any appliance described in clause (i), the purchase of which is carried out—

(I) as part of new construction;

(II) to replace a nonelectric appliance; or

(III) as a first-time purchase with respect to that appliance; and

(iii) is carried out at, or relating to, a single-family home or multifamily building, as applicable and defined by the Secretary.

(B) EXCLUSIONS.—The term "qualified electrification project" does not include any project with respect to which the appliance, system, equipment, infrastructure, component, or other item described in subclauses (I) through (VIII) of subparagraph (A)(i) is not certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), if applicable.

SEC. 50123. STATE-BASED HOME ENERGY EFFICIENCY CONTRACTOR TRAINING GRANTS.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $200,000,000, to remain available through September 30, 2031, to carry out a program to provide financial assistance to States to develop and implement a State program described in section 362(d)(13) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)(13)), which shall provide training and education to contractors involved in the installation of home energy efficiency and electrification improvements, including improvements eligible for rebates under a HOMES rebate program (as defined in section 50121(d)) or a high-efficiency electric home rebate program (as defined in section 50122(d)), as part of an approved State energy conservation plan under the State Energy Program.

(b) Use of Funds.—A State may use amounts received under subsection (a)—

(1) to reduce the cost of training contractor employees;

(2) to provide testing and certification of contractors trained and educated under a State program developed and implemented pursuant to subsection (a); and

(3) to partner with nonprofit organizations to develop and implement a State program pursuant to subsection (a).

(c) Administrative Expenses.—Of the amounts received by a State under subsection (a), a State shall use not more than 10 percent for administrative expenses associated with developing and implementing a State program pursuant to that subsection.

PART 3—BUILDING EFFICIENCY AND RESILIENCE

SEC. 50131. ASSISTANCE FOR LATEST AND ZERO BUILDING ENERGY CODE ADOPTION.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated—

(1) $330,000,000, to remain available through September 30, 2029, to carry out activities under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 through 6326) in accordance with subsection (b); and

(2) $670,000,000, to remain available through September 30, 2029, to carry out activities under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 through

6326) in accordance with subsection (c).

(b) Latest Building Energy Code.—The Secretary shall use funds made available under subsection (a)(1) for grants to assist States, and units of local government that have authority to adopt building codes—

(1) to adopt—

(A) a building energy code (or codes) for residential buildings that meets or exceeds the 2021 International Energy Conservation Code, or achieves equivalent or greater energy savings;

(B) a building energy code (or codes) for commercial buildings that meets or exceeds the ANSI/ASHRAE/IES Standard 90.1–2019, or achieves equivalent or greater energy savings; or

(C) any combination of building energy codes described in subparagraph (A) or (B); and

(2) to implement a plan for the jurisdiction to achieve full compliance with any building energy code adopted under paragraph (1) in new and renovated residential or commercial buildings, as applicable, which plan shall include active training and enforcement programs and measurement of the rate of compliance each year.

(c) Zero Energy Code.—The Secretary shall use funds made available under subsection (a)(2) for grants to assist States, and units of local government that have authority to adopt building codes—

(1) to adopt a building energy code (or codes) for residential and commercial buildings that meets or exceeds the zero energy provisions in the 2021 International Energy Conservation Code or an equivalent stretch code; and

(2) to implement a plan for the jurisdiction to achieve full compliance with any building energy code adopted under paragraph (1) in new and renovated residential and commercial buildings, which plan shall include active training and enforcement programs and measurement of the rate of compliance each year.

(d) State Match.—The State cost share requirement under the item relating to "Department of Energy—Energy Conservation" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1985 (42 U.S.C. 6323a; 98 Stat. 1861), shall not apply to assistance provided under this section.

(e) Administrative Costs.—Of the amounts made available under this section, the Secretary shall reserve **not more than** 5 percent for administrative costs necessary to carry out this section.

PART 4—DOE LOAN AND GRANT PROGRAMS

SEC. 50141. FUNDING FOR DEPARTMENT OF ENERGY LOAN PROGRAMS OFFICE.

(a) Commitment Authority.—In addition to commitment authority otherwise available and previously provided, the Secretary may make commitments to guarantee loans for eligible projects under section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513), up to a total

principal amount of $40,000,000,000, to remain available through September 30, 2026.

(b) Appropriation.—In addition to amounts otherwise available and previously provided, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,600,000,000, to remain available through September 30, 2026, for the costs of guarantees made under section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513), using the loan guarantee authority provided under subsection (a) of this section.

(c) Administrative Expenses.—Of the amount made available under subsection (b), the Secretary shall reserve **not more than** 3 percent for administrative expenses to carry out title XVII of the Energy Policy Act of 2005 and for carrying out section 1702(h)(3) of such Act (42 U.S.C. 16512(h)(3)).

(d) Limitations.—

(1) CERTIFICATION.—None of the amounts made available under this section for loan guarantees shall be available for any project unless the President has certified in advance in writing that the loan guarantee and the project comply with the provisions under this section.

(2) DENIAL OF DOUBLE BENEFIT.—Except as provided in paragraph (3), none of the amounts made available under this section for loan guarantees shall be available for commitments to guarantee loans for any projects under which funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel, or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements to support the project or to obtain goods or services from the project.

(3) EXCEPTION.—Paragraph (2) shall not preclude the use of the loan guarantee authority provided under this section for commitments to guarantee loans for—

(A) projects benefitting from otherwise allowable Federal tax benefits;

(B) projects benefitting from being located on Federal land pursuant to a lease or right-of-way agreement for which all consideration for all uses is—

(i) paid exclusively in cash;

(ii) deposited in the Treasury as offsetting receipts; and

(iii) equal to the fair market value;

(C) projects benefitting from the Federal insurance program under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210); or

(D) electric generation projects using transmission facilities owned or operated by a Federal Power Marketing Administration or the Tennessee Valley Authority that have been authorized, approved, and financed independent of the project receiving the guarantee.

(e) Guarantee.—Section 1701(4)(A) of the Energy Policy Act of 2005 (42 U.S.C. 16511(4)(A)) is amended by inserting “, except that a loan guarantee may guarantee any debt obligation of a non-Federal borrower to any Eligible Lender (as defined in section 609.2 of title 10, Code of

Federal Regulations)" before the period at the end.

(f) Source of Payments.—Section 1702(b) of the Energy Policy Act of 2005 (42 U.S.C. 16512(b)(2)) is amended by adding at the end the following:

"(3) SOURCE OF PAYMENTS.—The source of a payment received from a borrower under subparagraph (A) or (B) of paragraph (2) may not be a loan or other debt obligation that is made or guaranteed by the Federal Government.".

SEC. 50142. ADVANCED TECHNOLOGY VEHICLE MANUFACTURING.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,000,000,000, to remain available through September 30, 2028, for the costs of providing direct loans under section 136(d) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)): Provided, That funds appropriated by this section may be used for the costs of providing direct loans for reequipping, expanding, or establishing a manufacturing facility in the United States to produce, or for engineering integration performed in the United States of, advanced technology vehicles described in subparagraph (C), (D), (E), or (F) of section 136(a)(1) of such Act (42 U.S.C. 17013(a)(1)) only if such advanced technology vehicles emit, under any possible operational mode or condition, low or zero exhaust emissions of greenhouse gases.

(b) Administrative Costs.—The Secretary shall reserve **not more than** $25,000,000 of amounts made available under subsection (a) for administrative costs of providing loans as described in subsection (a).

(c) Elimination of Loan Program Cap.—Section 136(d)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)(1)) is amended by striking "a total of not more than $25,000,000,000 in".

SEC. 50143. DOMESTIC MANUFACTURING CONVERSION GRANTS.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available through September 30, 2031, to provide grants for domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and hydrogen fuel cell electric vehicles, in accordance with section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062).

(b) Cost Share.—The Secretary shall require a recipient of a grant provided under subsection (a) to provide not less than 50 percent of the cost of the project carried out using the grant.

(c) Administrative Costs.—The Secretary shall reserve **not more than** 3 percent of amounts made available under subsection (a) for administrative costs of making grants described in such subsection (a) pursuant to section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062).

SEC. 50144. ENERGY INFRASTRUCTURE REINVESTMENT FINANCING.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000,000, to remain available through September 30, 2026, to carry out activities under section 1706 of the Energy Policy Act of 2005.

(b) Commitment Authority.—The Secretary may make, through September 30, 2026, commitments to guarantee loans for projects under section 1706 of the Energy Policy Act of 2005 the total principal amount of which is not greater than $250,000,000,000, subject to the limitations that apply to loan guarantees under section 50141(d).

(c) Energy Infrastructure Reinvestment Financing.—Title XVII of the Energy Policy Act of 2005 is amended by inserting after section 1705 (42 U.S.C. 16516) the following:

"SEC. 1706. ENERGY INFRASTRUCTURE REINVESTMENT FINANCING.

"(a) In General.—Notwithstanding section 1703, the Secretary may make guarantees, including refinancing, under this section only for projects that—

"(1) retool, repower, repurpose, or replace energy infrastructure that has ceased operations; or

"(2) enable operating energy infrastructure to avoid, reduce, utilize, or sequester air pollutants or anthropogenic emissions of greenhouse gases.

"(b) Inclusion.—A project under subsection (a) may include the remediation of environmental damage associated with energy infrastructure.

"(c) Requirement.—A project under subsection (a)(1) that involves electricity generation through the use of fossil fuels shall be required to have controls or technologies to avoid, reduce, utilize, or sequester air pollutants and anthropogenic emissions of greenhouse gases.

"(d) Application.—To apply for a guarantee under this section, an applicant shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a detailed plan describing the proposed project;

"(2) an analysis of how the proposed project will engage with and affect associated communities; and

"(3) in the case of an applicant that is an electric utility, an assurance that the electric utility shall pass on any financial benefit from the guarantee made under this section to the customers of, or associated communities served by, the electric utility.

"(e) Term.—Notwithstanding section 1702(f), the term of an obligation shall require full repayment over a period not to exceed 30 years.

"(f) Definition of Energy Infrastructure.—In this section, the term 'energy infrastructure' means a facility, and associated equipment, used for—

"(1) the generation or transmission of electric energy; or

"(2) the production, processing, and delivery of fossil fuels, fuels derived from petroleum, or petrochemical feedstocks.".

(d) Conforming Amendment.—Section 1702(o)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16512(o)(3)) is amended by inserting "and projects described in section 1706(a)" before the period at the end.

~~(e) Clerical Amendment.—The table of contents for the Energy Policy Act of 2005 is amended by inserting after the item relating to section 1705 (Public Law 10958; 119 Stat. 604; 123 Stat. 145) the following:~~

~~"Sec.1706.Energy infrastructure reinvestment financing.".~~

SEC. 50145. TRIBAL ENERGY LOAN GUARANTEE PROGRAM.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $75,000,000, to remain available through September 30, 2028, to carry out section 2602(c) of the Energy Policy Act of 1992 (25 U.S.C. 3502(c)), subject to the limitations that apply to loan guarantees under section 50141(d).

(b) Department of Energy Tribal Energy Loan Guarantee Program.—Section 2602(c) of the Energy Policy Act of 1992 (25 U.S.C. 3502(c)) is amended—

(1) in paragraph (1), by striking ") for an amount equal to not more than 90 percent of" and inserting ", except that a loan guarantee may guarantee any debt obligation of a non-Federal borrower to any Eligible Lender (as defined in section 609.2 of title 10, Code of Federal Regulations)) for"; and

(2) in paragraph (4), by striking "$2,000,000,000" and inserting "$20,000,000,000".

PART 5—ELECTRIC TRANSMISSION

SEC. 50151. TRANSMISSION FACILITY FINANCING.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available through September 30, 2030, to carry out this section: Provided, That the Secretary shall not enter into any loan agreement pursuant to this section that could result in disbursements after September 30, 2031.

(b) Use of Funds.—The Secretary shall use the amounts made available by subsection (a) to carry out a program to ~~make~~ **pay the costs of** direct loans to non-Federal borrowers, subject to the limitations that apply to loan guarantees under section 50141(d) and under such terms and conditions as the Secretary determines to be appropriate, for the construction or modification of electric transmission facilities designated by the Secretary to be necessary in the national interest under section 216(a) of the Federal Power Act (16 U.S.C. 824p(a)).

(c) Loans.—A direct loan provided under this section—

(1) shall have a term that does not exceed the lesser of—

(A) 90 percent of the projected useful life, in years, of the eligible transmission facility; and

(B) 30 years;

(2) shall not exceed 80 percent of the project costs; and

(3) shall, on first issuance, be subject to the condition that the direct loan is not subordinate to other financing.

(d) Interest Rates.—A direct loan provided under this section shall bear interest at a rate determined by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date on which the direct loan is made.

(e) Definition of Direct Loan.—In this section, the term "direct loan" has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

SEC. 50152. GRANTS TO FACILITATE THE SITING OF INTERSTATE ELECTRICITY TRANSMISSION LINES.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $760,000,000, to remain available through September 30, 2029, for making grants in accordance with this section and for administrative expenses associated with carrying out this section.

(b) Use of Funds.—

(1) IN GENERAL.—The Secretary may make a grant under this section to a siting authority for, with respect to a covered transmission project, any of the following activities:

(A) Studies and analyses of the impacts of the covered transmission project.

(B) Examination of up to 3 alternate siting corridors within which the covered transmission project feasibly could be sited.

(C) ~~Hosting and facilitation of negotiations in settlement meetings involving the siting authority, the covered transmission project applicant, and opponents of the covered transmission project, for the purpose of identifying and addressing issues that are preventing approval of the application relating to the siting or permitting of the covered transmission project.~~

~~(D)~~ Participation by the siting authority in regulatory proceedings or negotiations in another jurisdiction, or under the auspices of a Transmission Organization (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)) that is also considering the siting or permitting of the covered transmission project.

~~(E)~~**(D)** Participation by the siting authority in regulatory proceedings at the Federal Energy Regulatory Commission or a State regulatory commission for determining applicable rates and cost allocation for the covered transmission project.

~~(F)~~**(E)** Other measures and actions that may improve the chances of, and shorten the time required for, approval by the siting authority of the application relating to the

siting or permitting of the covered transmission project, as the Secretary determines appropriate.

(2) ECONOMIC DEVELOPMENT.—The Secretary may make a grant under this section to a siting authority, or other State, local, or Tribal governmental entity, for economic development activities for communities that may be affected by the construction and operation of a covered transmission project, provided that the Secretary shall not enter into any grant agreement pursuant to this section that could result in any outlays after September 30, 2031.

(c) Conditions.—

(1) FINAL DECISION ON APPLICATION.—In order to receive a grant for an activity described in subsection (b)(1), the Secretary shall require a siting authority to agree, in writing, to reach a final decision on the application relating to the siting or permitting of the applicable covered transmission project not later than 2 years after the date on which such grant is provided, unless the Secretary authorizes an extension for good cause.

(2) FEDERAL SHARE.—The Federal share of the cost of an activity described in subparagraph **(C) or** (D) ~~or (E)~~ of subsection (b)(1) shall not exceed 50 percent.

(3) ECONOMIC DEVELOPMENT.—The Secretary may only disburse grant funds for economic development activities under subsection (b)(2)—

(A) to a siting authority upon approval by the siting authority of the applicable covered transmission project; and

(B) to any other State, local, or Tribal governmental entity upon commencement of construction of the applicable covered transmission project in the area under the jurisdiction of the entity.

(d) Returning Funds.—If a siting authority that receives a grant for an activity described in subsection (b)(1) fails to use all grant funds within 2 years of receipt, the siting authority shall return to the Secretary any such unused funds.

(e) Definitions.—In this section:

(1) COVERED TRANSMISSION PROJECT.—The term "covered transmission project" means a high-voltage interstate or offshore electricity transmission line—

(A) that is proposed to be constructed and to operate—

(i) at a minimum of 275 kilovolts of either alternating-current or direct-current electric energy by an entity; or

(ii) offshore and at a minimum of 200 kilovolts of either alternating-current or direct-current electric energy by an entity; and

(B) for which such entity has applied, or informed a siting authority of such entity's intent to apply, for regulatory approval.

(2) SITING AUTHORITY.—The term "siting authority" means a State, local, or Tribal governmental entity with authority to make a final determination regarding the siting, permitting, or regulatory status of a covered transmission project that is proposed to be located in an area under the jurisdiction of the entity.

SEC. 50153. INTERREGIONAL AND OFFSHORE WIND ELECTRICITY TRANSMISSION PLANNING, MODELING, AND ANALYSIS.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available through September 30, 2031, to carry out this section.

(b) Use of Funds.—The Secretary shall use amounts made available under subsection (a)—

(1) to pay expenses associated with convening relevant stakeholders~~, including States, generation and transmission developers, regional transmission organizations, independent system operators, environmental organizations, electric utilities, and other stakeholders the Secretary determines appropriate,~~ to address the development of interregional electricity transmission and transmission of electricity that is generated by offshore wind; and

(2) to conduct planning, modeling, and analysis regarding interregional electricity transmission and transmission of electricity that is generated by offshore wind, taking into account the local, regional, and national economic, reliability, resilience, security, public policy, and environmental benefits of interregional electricity transmission and transmission of electricity that is generated by offshore wind, including planning, modeling, and analysis, as the Secretary determines appropriate, pertaining to—

(A) clean energy integration into the electric grid, including the identification of renewable energy zones;

(B) the effects of changes in weather due to climate change on the reliability and resilience of the electric grid;

(C) cost allocation methodologies that facilitate the expansion of the bulk power system;

(D) the benefits of coordination between generator interconnection processes and transmission planning processes;

(E) the effect of increased electrification on the electric grid;

(F) power flow modeling;

(G) the benefits of increased interconnections or interties between or among the Western Interconnection, the Eastern Interconnection, the Electric Reliability Council of Texas, and other interconnections, as applicable;

(H) the cooptimization of transmission and generation, including variable energy resources, energy storage, and demand-side management;

(I) the opportunities for use of nontransmission alternatives, energy storage, and grid-enhancing technologies;

(J) economic development opportunities for communities arising from development of interregional electricity transmission and transmission of electricity that is generated by offshore wind;

(K) evaluation of existing rights-of-way and the need for additional transmission corridors; and

(L) a planned national transmission grid, which would include a networked transmission system to optimize the existing grid for interconnection of offshore wind farms.

PART 6—INDUSTRIAL

SEC. 50161. ADVANCED INDUSTRIAL FACILITIES DEPLOYMENT PROGRAM.

(a) Office of Clean Energy Demonstrations.—In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Office of Clean Energy Demonstrations, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,812,000,000, to remain available through September 30, 2026, to carry out this section.

(b) Financial Assistance.—The Secretary shall use funds appropriated by subsection (a) to provide financial assistance, on a competitive basis, to eligible entities to carry out projects for—

(1) the purchase and installation, or implementation, of advanced industrial technology at an eligible facility;

(2) retrofits, upgrades to, or operational improvements at an eligible facility to install or implement advanced industrial technology; or

(3) engineering studies and other work needed to prepare an eligible facility for activities described in paragraph (1) or (2).

(c) Application.—To be eligible to receive financial assistance under subsection (b), an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including the expected greenhouse gas emissions reductions to be achieved by carrying out the project.

(d) Priority.—In providing financial assistance under subsection (b), the Secretary shall give priority consideration to projects on the basis of, as determined by the Secretary—

(1) the expected greenhouse gas emissions reductions to be achieved by carrying out the project;

(2) the extent to which the project would provide the greatest benefit for the greatest number of people within the area in which the eligible facility is located; and

(3) whether the eligible entity participates or would participate in a partnership with purchasers of the output of the eligible facility.

(e) Cost Share.—The Secretary shall require an eligible entity to provide not less than 50 percent of the cost of a project carried out pursuant to this section.

(f) Administrative Costs.—The Secretary shall reserve ~~$200,000,000~~ **not more than $300,000,000** of amounts made available under subsection (a) for administrative costs of carrying out this section.

(g) Definitions.—In this section:

(1) ADVANCED INDUSTRIAL TECHNOLOGY.—The term "advanced industrial technology" means a technology directly involved in an industrial process, as described in any of paragraphs (1) through (6) of section 454(c) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17113(c)), and designed to accelerate greenhouse gas emissions reduction progress to net-zero at an eligible facility, as determined by the Secretary.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means the owner or operator of an eligible facility.

(3) ELIGIBLE FACILITY.—The term "eligible facility" means a domestic, non-Federal, nonpower industrial or manufacturing facility engaged in energy-intensive industrial processes, including production processes for iron, steel, steel mill products, aluminum, cement, concrete, glass, pulp, paper, industrial ceramics, chemicals, and other energy intensive industrial processes, as determined by the Secretary.

(4) FINANCIAL ASSISTANCE.—The term "financial assistance" means a grant, rebate, direct loan, or cooperative agreement.

PART 7—OTHER ENERGY MATTERS

SEC. 50171. DEPARTMENT OF ENERGY OVERSIGHT.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, ~~$10,000,000~~ **$20,000,000**, to remain available through September 30, 2031, for oversight by the Department of Energy Office of Inspector General of the Department of Energy activities for which funding is appropriated in this subtitle.

SEC. 50172. NATIONAL LABORATORY INFRASTRUCTURE.

(a) Office of Science.—In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Director of the Office of Science, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available through September 30, 2027—

(1) $133,240,000 to carry out activities for science laboratory infrastructure projects;

(2) $303,656,000 to carry out activities for high energy physics construction and major items of equipment projects;

(3) $280,000,000 to carry out activities for fusion energy science construction and major items of equipment projects;

(4) $217,000,000 to carry out activities for nuclear physics construction and major items of equipment projects;

(5) $163,791,000 to carry out activities for advanced scientific computing research facilities;

(6) $294,500,000 to carry out activities for basic energy sciences projects; and

(7) $157,813,000 to carry out activities for isotope research and development facilities.

(b) Office of Fossil Energy and Carbon Management.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $150,000,000, to remain available through September 30, 2027, to carry out activities for infrastructure and general plant projects carried out by the Office of Fossil Energy and Carbon Management.

(c) Office of Nuclear Energy.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $150,000,000, to remain available through September 30, 2027, to carry out activities for infrastructure and general plant projects carried out by the Office of Nuclear Energy.

(d) Office of Energy Efficiency and Renewable Energy.—In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $150,000,000, to remain available through September 30, 2027, to carry out activities for infrastructure and general plant projects carried out by the Office of Energy Efficiency and Renewable Energy.

SEC. 50173. AVAILABILITY OF HIGH-ASSAY LOW-ENRICHED URANIUM.

(a) Appropriations.—In addition to amounts otherwise available, there is appropriated to the Secretary of for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available through September 30, 2026—

(1) $100,000,000 to carry out the program elements described in subparagraphs (A) through (C) of section 2001(a)(2) of the Energy Act of 2020 (42 U.S.C. 16281(a)(2));

(2) $500,000,000 to carry out the program elements described in subparagraphs (D) through (H) of that section; and

(3) $100,000,000 to carry out activities to support the availability of high-assay low-enriched uranium for civilian domestic research, development, demonstration, and commercial use under section 2001 of the Energy Act of 2020 (42 U.S.C. 16281).

(b) Competitive Procedures.—To the maximum extent practicable, the Department of Energy shall, in a manner consistent with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353), use a competitive, merit-based review process in carrying out research, development, demonstration, and deployment activities under section 2001 of the Energy Act of 2020 (42 U.S.C. 16281).

(c) Administrative Expenses.—The Secretary may use not more than 3 percent of the amounts appropriated by subsection (a) for administrative purposes.

Subtitle B—Natural Resources

PART 1—GENERAL PROVISIONS

SEC. 50211. DEFINITIONS.

In this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) UNITED STATES INSULAR AREAS.—The term "United States Insular Areas" means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

PART 2—PUBLIC LANDS

SEC. 50221. NATIONAL PARKS AND PUBLIC LANDS CONSERVATION AND RESILIENCE.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available through September 30, 2031, to carry out projects for the conservation, protection, and resiliency of lands and resources administered by the National Park Service and Bureau of Land Management. None of the funds provided under this section shall be subject to cost-share or matching requirements.

SEC. 50222. NATIONAL PARKS AND PUBLIC LANDS CONSERVATION AND ECOSYSTEM RESTORATION.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available through September 30, 2031, to carry out conservation, ecosystem and habitat restoration projects on lands administered by the National Park Service and Bureau of Land Management. None of the funds provided under this section shall be subject to cost-share or matching requirements.

SEC. 50223. NATIONAL PARK SERVICE EMPLOYEES.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, to remain available through September 30, 2030, to hire employees ~~in units~~ **to serve in units of the National Park System or national historic or national scenic trails administered by the National Park Service.**

SEC. 50224. NATIONAL PARK SYSTEM DEFERRED MAINTENANCE.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $200,000,000, to remain available through September 30, 2026, to carry out priority deferred maintenance projects, through direct expenditures or transfers, within the boundaries of the National Park System.

PART 3—DROUGHT RESPONSE AND PREPAREDNESS

SEC. 50231. BUREAU OF RECLAMATION DOMESTIC

WATER SUPPLY PROJECTS.

In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Commissioner of Reclamation, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $550,000,000, to remain available through September 30, 2031, for grants, contracts, or financial assistance agreements for disadvantaged communities (identified according to criteria adopted by the Commissioner of Reclamation) in a manner as determined by the Commissioner of Reclamation for up to 100 percent of the cost of the planning, design, or construction of water projects the primary purpose of which is to provide domestic water supplies to communities or households that do not have reliable access to domestic water supplies in a State or territory described in the first section of the Act of June 17, 1902 (43 U.S.C. 391; 32 Stat. 388, chapter 1093).

SEC. 50232. CANAL IMPROVEMENT PROJECTS.

In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Commissioner of Reclamation, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $25,000,000, to remain available through September 30, 2031, for the design, study, and implementation of projects (including pilot and demonstration projects) to cover water conveyance facilities with solar panels to generate renewable energy in a manner as determined by the Secretary or for other solar projects associated with Bureau of Reclamation projects that increase water efficiency and assist in implementation of clean energy goals.

SEC. 50233. DROUGHT MITIGATION IN THE RECLAMATION STATES.

(a) Definition of Reclamation State.—In this section, the term “Reclamation State” means a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391).

(b) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Secretary (acting through the Commissioner of Reclamation), for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $4,000,000,000, to remain available through September 30, 2026, for grants, contracts, or financial assistance agreements, in accordance with the reclamation laws, to or with public entities and Indian Tribes, that provide for the conduct of the following activities to mitigate the impacts of drought in the Reclamation States, with priority given to the Colorado River Basin and other basins experiencing comparable levels of long-term drought, to be implemented in compliance with applicable environmental law:

(1) Compensation for a temporary or multiyear voluntary reduction in diversion of water or consumptive water use.

(2) Voluntary system conservation projects that achieve verifiable reductions in use of or demand for water supplies or provide environmental benefits in the Lower Basin or Upper Basin of the Colorado River.

(3) Ecosystem and habitat restoration projects to address issues directly caused by drought in a river basin or inland water body.

(c) Report.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall submit to Congress a report that describes any expenditures under this section.

PART 4—INSULAR AFFAIRS

SEC. 50241. OFFICE OF INSULAR AFFAIRS CLIMATE CHANGE TECHNICAL ASSISTANCE.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Office of Insular Affairs, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available through September 30, 2026, to provide technical assistance for climate change planning, mitigation, adaptation, and resilience to United States Insular Areas.

(b) Administrative Expenses.—In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Office of Insular Affairs, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $900,000, to remain available through September 30, 2026, for necessary administrative expenses associated with carrying out this section.

PART 5—OFFSHORE WIND

SEC. 50251. LEASING ON THE OUTER CONTINENTAL SHELF.

(a) Leasing Authorized.—The Secretary may grant leases, easements, and rights-of-way pursuant to section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)) in an area withdrawn by—

(1) the Presidential memorandum entitled “Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition” and dated September 8, 2020; or

(2) the Presidential memorandum entitled “Presidential Determination on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition” and dated September 25, 2020.

(b) Offshore Wind for the Territories.—

(1) APPLICATION OF OUTER CONTINENTAL SHELF LANDS ACT WITH RESPECT TO TERRITORIES OF THE UNITED STATES.—

(A) IN GENERAL.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended—

(i) in subsection (a)—

(I) by striking “means all” and inserting the following: “means—

“(1) all”; and

(II) in paragraph (1) (as so designated), by striking “control;” and inserting

the following: "control or within the exclusive economic zone of the United States and adjacent to any territory of the United States; and"; and

(III) by adding at the end following:

"(2) does not include any area conveyed by Congress to a territorial government for administration;";

(ii) in subsection (p), by striking "and" after the semicolon at the end;

(iii) in subsection (q), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(r) The term 'State' means—

"(1) each of the several States;

"(2) the Commonwealth of Puerto Rico;

"(3) Guam;

"(4) American Samoa;

"(5) the United States Virgin Islands; and

"(6) the Commonwealth of the Northern Mariana Islands.".

(B) EXCLUSIONS.—Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

"(i) APPLICATION.—This section shall not apply to the scheduling of any lease sale in an area of the outer Continental Shelf that is adjacent to the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands.".

(2) WIND LEASE SALES FOR AREAS OF THE OUTER CONTINENTAL SHELF.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

"SEC. 33. WIND LEASE SALES FOR AREAS OF THE OUTER CONTINENTAL SHELF OFFSHORE OF TERRITORIES OF THE UNITED STATES.

"(a) Wind Lease Sales Off Coasts of Territories of the United States.—

"(1) CALL FOR INFORMATION AND NOMINATIONS.—

"(A) IN GENERAL.—The Secretary shall issue calls for information and nominations for proposed wind lease sales for areas of the outer Continental Shelf described in paragraph (2) that are determined to be feasible.

"(B) INITIAL CALL.—Not later than September 30, 2025, the Secretary shall issue an initial call for information and nominations under this paragraph.

"(2) CONDITIONAL WIND LEASE SALES.—The Secretary may conduct wind lease sales in

each area within the exclusive economic zone of the United States adjacent to the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands that meets each of the following criteria:

"(A) The Secretary has concluded that a wind lease sale in the area is feasible.

"(B) The Secretary has determined that there is sufficient interest in leasing the area.

"(C) The Secretary has consulted with the Governor of the territory regarding the suitability of the area for wind energy development.".

PART 6—FOSSIL FUEL RESOURCES

SEC. 50261. OFFSHORE OIL AND GAS ROYALTY RATE.

Section 8(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)) is amended—

(1) in each of subparagraphs (A) and (C), by striking "not less than 12\1/2\ per centum" each place it appears and inserting "not less than 16\2/3\ percent, but not more than 18\3/4\ percent, during the 10-year period beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'**, and not less than 16\2/3\ percent thereafter,";

(2) in subparagraph (F), by striking "no less than 12\1/2\ per centum" and inserting "not less than 16\2/3\ percent, but not more than 18\3/4\ percent, during the 10-year period beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'**, and not less than 16\2/3\ percent thereafter,"; and

(3) in subparagraph (H), by striking "no less than 12 and \1/2\ per centum" and inserting "not less than 16\2/3\ percent, but not more than 18\3/4\ percent, during the 10-year period beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'**, and not less than 16\2/3\ percent thereafter,".

SEC. 50262. MINERAL LEASING ACT MODERNIZATION.

(a) Onshore Oil and Gas Royalty Rates.—

(1) LEASE OF OIL AND GAS LAND.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended—

(A) in subsection (b)(1)(A), in the fifth sentence—

(i) by striking "12.5" and inserting "16\2/3\"; and

(ii) by inserting "or, in the case of a lease issued during the 10-year period beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'**, 16\2/3\ percent in amount or value of the production removed or sold from the lease" before the period at the end; and

(B) by striking "12\1/2\ per centum" each place it appears and inserting "16\2/3\

percent".

(2) CONDITIONS FOR REINSTATEMENT.—Section 31(e)(3) of the Mineral Leasing Act (30 U.S.C. 188(e)(3)) is amended by striking "16\2/3\" each place it appears and inserting "20".

(b) Oil and Gas Minimum Bid.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(B), in the first sentence, by striking "$2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987." and inserting "$10 per acre during the 10-year period beginning on the date of enactment of the ~~Inflation Reduction Act of 2022.";~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'.";** and

(2) in paragraph (2)(C), by striking "$2 per acre" and inserting "$10 per acre".

(c) Fossil Fuel Rental Rates.—

(1) ANNUAL RENTALS.—Section 17(d) of the Mineral Leasing Act (30 U.S.C. 226(d)) is amended, in the first sentence, by striking "$1.50 per acre" and all that follows through the period at the end and inserting "$3 per acre per year during the 2-year period beginning on the date the lease begins for new leases, and after the end of that 2-year period, $5 per acre per year for the following 6-year period, and not less than $15 per acre per year thereafter, or, in the case of a lease issued during the 10-year period beginning on the date of enactment of the ~~Inflation Reduction Act of 2022~~ **Act titled 'An Act to provide for reconciliation pursuant to title II of S. Con. Res. 14'**, $3 per acre per year during the 2-year period beginning on the date the lease begins, and after the end of that 2-year period, $5 per acre per year for the following 6-year period, and $15 per acre per year thereafter.".

(2) RENTALS IN REINSTATED LEASES.—Section 31(e)(2) of the Mineral Leasing Act (30 U.S.C. 188(e)(2)) is amended by striking "$10" and inserting "$20".

(d) Expression of Interest Fee.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

"(q) Fee for Expression of Interest.—

"(1) IN GENERAL.—The Secretary shall assess a nonrefundable fee against any person that, in accordance with procedures established by the Secretary to carry out this subsection, submits an expression of interest in leasing land available for disposition under this section for exploration for, and development of, oil or gas.

"(2) AMOUNT OF FEE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the fee assessed under paragraph (1) shall be $5 per acre of the area covered by the applicable expression of interest.

"(B) ADJUSTMENT OF FEE.—The Secretary shall, by regulation, not less frequently than every 4 years, adjust the amount of the fee under subparagraph (A) to reflect the change in inflation.".

(e) Elimination of Noncompetitive Leasing.—

(1) IN GENERAL.—Section 17 of the Mineral Leasing Act ~~(20~~**(30** U.S.C. 226) is amended —

(A) in subsection (b)—

(i) in paragraph (1)(A)—

(I) in the first sentence, by striking "paragraphs (2) and (3) of this subsection" and inserting "paragraph (2)"; and

(II) by striking the last sentence; and

(ii) by striking paragraph (3);

(B) by striking subsection (c) and inserting the following:

"(c) Additional Rounds of Competitive Bidding.—Land made available for leasing under subsection (b)(1) for which no bid is accepted or received, or the land for which a lease terminates, expires, is cancelled, or is relinquished, may be made available by the Secretary of the Interior for a new round of competitive bidding under that subsection."; and

(C) by striking subsection (e) and inserting the following:

"(e) Term of Lease.—

"(1) IN GENERAL.—Any lease issued under this section, including a lease for tar sand areas, shall be for a primary term of 10 years.

"(2) CONTINUATION OF LEASE.—A lease described in paragraph (1) shall continue after the primary term of the lease for any period during which oil or gas is produced in paying quantities.

"(3) ADDITIONAL EXTENSIONS.—Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced and diligently prosecuted prior to the end of the primary term of the lease shall be extended for 2 years and for any period thereafter during which oil or gas is produced in paying quantities.".

(2) CONFORMING AMENDMENTS.—Section 31 of the Mineral Leasing Act (30 U.S.C. 188) is amended—

(A) in subsection (d)(1), in the first sentence, by striking "or section 17(c) of this Act";

(B) in subsection (e)—

(i) in paragraph (2)—

(I) by striking "either"; and

(II) by striking "or the inclusion" and all that follows through ", all"; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by adding "and" after the semicolon;

(II) by striking subparagraph (B); and

(III) by striking "(3)(A) payment" and inserting the following:

"(3) payment";

(C) in subsection (g)—

(i) in paragraph (1), by striking "as a competitive" and all that follows through "of this Act" and inserting "in the same manner as the original lease issued pursuant to section 17";

(ii) by striking paragraph (2);

(iii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(iv) in paragraph (2) (as so redesignated), by striking "applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except," and inserting "except";

(D) in subsection (h), by striking "subsections (d) and (f) of this section" and inserting "subsection (d)";

(E) in subsection (i), by striking "(i)(1) In acting" and all that follows through "of this section" in paragraph (2) and inserting the following:

"(i) ROYALTY REDUCTION IN REINSTATED LEASES.—In acting on a petition for reinstatement pursuant to subsection (d)";

(F) by striking subsection (f); and

(G) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively.

~~(f) Oil and Gas Bonding Requirements.—Section 17(g) of the Mineral Leasing Act (30 U.S.C. 226(g)) is amended by inserting after the third sentence the following: "At a minimum each bond, surety, or other financial arrangement established for a lease shall be considered inadequate if the bond, surety, or other financial arrangement is for less than $150,000, in the case of an individual oil or gas lease in a State, or for less than $500,000, in the case of an arrangement for all of the oil and gas leases of an operating entity in a State, or for less than $2,000,000, in the case of an arrangement for all of the oil and gas leases of an operating entity nationwide. The Secretary shall, by regulation, not less frequently than every 4 years, adjust the amount at which a bond, surety, or other financial arrangement is considered inadequate to reflect the change in inflation.".~~

SEC. 50263. ROYALTIES ON ALL EXTRACTED

METHANE.

(a) In General.—For all leases issued after the date of enactment of this Act, except as provided in subsection (b), royalties paid for gas produced from Federal land and on the outer Continental Shelf shall be assessed on all gas produced, including all gas that is consumed or lost by venting, flaring, or negligent releases through any equipment during upstream operations.

(b) Exception.—Subsection (a) shall not apply with respect to—

(1) gas vented or flared for not longer than 48 hours in an emergency situation that poses a danger to human health, safety, or the environment;

(2) gas used or consumed within the area of the lease, unit, or communitized area for the benefit of the lease, unit, or communitized area; or

(3) gas that is unavoidably lost.

SEC. 50264. LEASE SALES UNDER THE 2017–2022 OUTER CONTINENTAL SHELF LEASING PROGRAM.

(a) Definitions.—In this section:

~~* 11 (1) 2022 lease sales.—The term "2022 Lease Sales" means each of the following lease sales described in the 20172022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program published on November 18, 2016, and approved by the Secretary in the Record of Decision issued on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 20172022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" (82 Fed. Reg. 6643 (January 19, 2017)):~~

~~(A) Lease Sale 258.~~

~~(B) Lease Sale 259.~~

~~(2)~~**(1)** LEASE SALE 257.—The term "Lease Sale 257" means the lease sale numbered 257 that was approved in the Record of Decision described in the notice of availability of a record of decision issued on August 31, 2021, entitled "Gulf of Mexico, Outer Continental Shelf (OCS), Oil and Gas Lease Sale 257" (86 Fed. Reg. 50160 (September 7, 2021)), and is the subject of the final notice of sale entitled "Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 257" (86 Fed. Reg. 54728 (October 4, 2021)).

~~(3)~~**(2)** LEASE SALE ~~261.—THE~~ **258.—The** term "Lease Sale ~~261"~~ **258"** means the lease sale numbered ~~261~~ **258** described in the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program published on November 18, 2016, and approved by the Secretary in the Record of Decision issued on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" (82 Fed. Reg. 6643 (January 19, 2017)).

**** 11** ~~(1) 2022 lease sales.—The term "2022 Lease Sales" means each of the following lease sales~~**(3) LEASE SALE 259.—The term "Lease Sale 259" means the lease sale**

numbered 259 described in the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program published on November 18, 2016, and approved by the Secretary in the Record of Decision issued on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" (82 Fed. Reg. 6643 (January 19, 2017))~~:~~**.**

(4) LEASE SALE 261.—The term "Lease Sale 261" means the lease sale numbered 261 described in the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program published on November 18, 2016, and approved by the Secretary in the Record of Decision issued on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" (82 Fed. Reg. 6643 (January 19, 2017)).

(b) Lease Sale 257 Reinstatement.—

(1) ACCEPTANCE OF BIDS.—Not later 30 days after the date of enactment of this Act, the Secretary shall, without modification or delay—

(A) accept the highest valid bid for each tract or bidding unit of Lease Sale 257 for which a valid bid was received on November 17, 2021; and

(B) provide the appropriate lease form to the winning bidder to execute and return.

(2) LEASE ISSUANCE.—On receipt of an executed lease form under paragraph (1)(B) and payment of the rental for the first year, the balance of the bonus bid (unless deferred), and any required bond or security from the high bidder, the Secretary shall promptly issue to the high bidder a fully executed lease, in accordance with—

(A) the regulations in effect on the date of Lease Sale 257; and

(B) the terms and conditions of the final notice of sale entitled "Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 257" (86 Fed. Reg. 54728 (October 4, 2021)).

(c) Requirement for ~~2022 Lease Sales.—Notwithstanding~~ **Lease Sale 258.—Notwithstanding** the expiration of the 2017–2022 leasing program, not later than December 31, 2022, the Secretary shall conduct ~~the 2022~~ Lease ~~Sales~~ **Sale 258** in accordance with the Record of Decision approved by the Secretary on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" issued on January 17, 2017 (82 Fed. Reg. 6643 (January 19, 2017)).

(d) Requirement for Lease Sale ~~261.—Notwithstanding~~ **259.—Notwithstanding** the expiration of the 2017–2022 leasing program, not later than ~~September 30~~ **March 31**, 2023, the Secretary shall conduct Lease Sale ~~261~~ **259** in accordance with the Record of Decision approved by the Secretary on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" issued on January 17, 2017 (82 Fed. Reg. 6643 (January 19, 2017)).

(e) Requirement for Lease Sale 261.—Notwithstanding the expiration of the 2017–2022

leasing program, not later than September 30, 2023, the Secretary shall conduct Lease Sale 261 in accordance with the Record of Decision approved by the Secretary on January 17, 2017, described in the notice of availability entitled "Record of Decision for the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic Environmental Impact Statement; MMAA104000" issued on January 17, 2017 (82 Fed. Reg. 6643 (January 19, 2017)).

SEC. 50265. ENSURING ENERGY SECURITY.

(a) Definitions.—In this section:

(1) FEDERAL LAND.—The term "Federal land" means public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

(2) OFFSHORE LEASE SALE.—The term "offshore lease sale" means an oil and gas lease sale—

(A) that is held by the Secretary in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(B) that, if any acceptable bids have been received for any tract offered in the lease sale, results in the issuance of a lease.

(3) ONSHORE LEASE SALE.—The term "onshore lease sale" means a quarterly oil and gas lease sale—

(A) that is held by the Secretary in accordance with section 17 of the Mineral Leasing Act (30 U.S.C. 226); and

(B) that, if any acceptable bids have been received for any parcel offered in the lease sale, results in the issuance of a lease.

(b) Limitation on Issuance of Certain Leases or Rights-of-way.—During the 10-year period beginning on the date of enactment of this Act—

(1) the Secretary may not issue a right-of-way for wind or solar energy development on Federal land unless—

(A) an onshore lease sale has been held during the 120-day period ending on the date of the issuance of the right-of-way for wind or solar energy development; and

(B) the sum total of acres offered for lease in onshore lease sales during the 1-year period ending on the date of the issuance of the right-of-way for wind or solar energy development is not less than the lesser of—

(i) 2,000,000 acres; and

(ii) 50 percent of the acreage for which expressions of interest have been submitted for lease sales during that period; and

(2) the Secretary may not issue a lease for offshore wind development under section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)) unless—

(A) an offshore lease sale has been held during the 1-year period ending on the date of the issuance of the lease for offshore wind development; and

(B) the sum total of acres offered for lease in offshore lease sales during the 1-year period ending on the date of the issuance of the lease for offshore wind development is not less than 60,000,000 acres.

(c) Savings.—Except as expressly provided in paragraphs (1) and (2) of subsection (b), nothing in this section supersedes, amends, or modifies existing law.

PART 7—UNITED STATES GEOLOGICAL SURVEY

SEC. 50271. UNITED STATES GEOLOGICAL SURVEY 3D ELEVATION PROGRAM.

In addition to amounts otherwise available, there is appropriated to the Secretary, acting through the Director of the United States Geological Survey, for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $23,500,000, to remain available through September 30, 2031, to produce, collect, disseminate, and use 3D elevation data.

PART 8—OTHER NATURAL RESOURCES MATTERS

SEC. 50281. DEPARTMENT OF THE INTERIOR OVERSIGHT.

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $10,000,000, to remain available through September 30, 2031, for oversight by the Department of the Interior Office of Inspector General of the Department of the Interior activities for which funding is appropriated in this subtitle.

Subtitle C—Environmental Reviews

SEC. 50301. DEPARTMENT OF ENERGY.

In addition to amounts otherwise available, there is appropriated to the Secretary of Energy for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, ~~$125,000,000~~ **$115,000,000**, to remain available through September 30, 2031, to provide for the hiring and training of personnel, the development of programmatic environmental documents, the procurement of technical or scientific services for environmental reviews, the development of environmental data or information systems, stakeholder and community engagement, and the purchase of new equipment for environmental analysis to facilitate timely and efficient environmental reviews and authorizations.

SEC. 50302. FEDERAL ENERGY REGULATORY COMMISSION.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the Federal Energy Regulatory Commission for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available through September 30, 2031, to provide for the hiring and training of personnel, the development of programmatic environmental

documents, the procurement of technical or scientific services for environmental reviews, the development of environmental data or information systems, stakeholder and community engagement, and the purchase of new equipment for environmental analysis to facilitate timely and efficient environmental reviews and authorizations.

(b) Fees and Charges.—Section 3401(a) of the Omnibus Budget Reconciliation Act of 1986 (42 U.S.C. 7178(a)) shall not apply to the costs incurred by the Federal Energy Regulatory Commission in carrying out this section.

SEC. 50303. DEPARTMENT OF THE INTERIOR.

In addition to amounts otherwise available, there is appropriated to the Secretary of the Interior for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $150,000,000, to remain available through September 30, 2026, to provide for the hiring and training of personnel, the development of programmatic environmental documents, the procurement of technical or scientific services for environmental reviews, the development of environmental data or information systems, stakeholder and community engagement, and the purchase of new equipment for environmental analysis to facilitate timely and efficient environmental reviews and authorizations by the National Park Service, the Bureau of Land Management, the Bureau of Ocean Energy Management, the Bureau of Reclamation, the Bureau of Safety and Environmental Enforcement, and the Office of Surface Mining Reclamation and Enforcement.

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Subtitle A—Air Pollution

SEC. 60101. CLEAN HEAVY-DUTY VEHICLES.

The Clean Air Act is amended by inserting after section 131 of such Act (42 U.S.C. 7431) the following:

“SEC. 132. CLEAN HEAVY-DUTY VEHICLES.

“(a) Appropriations.—

“(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $600,000,000, to remain available until September 30, 2031, to carry out this section.

“(2) NONATTAINMENT AREAS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $400,000,000, to remain available until September 30, 2031, to make awards under this section to eligible recipients and to eligible contractors that propose to replace eligible vehicles to serve 1 or more communities located in an air quality area designated pursuant to section 107 as nonattainment for any air pollutant.

“(3) RESERVATION.—Of the funds appropriated by paragraph (1), the Administrator shall

reserve 3 percent for administrative costs necessary to carry out this section.

"(b) Program.—Beginning not later than 180 days after the date of enactment of this section, the Administrator shall implement a program to make awards of grants and rebates to eligible recipients, and to make awards of contracts to eligible contractors for providing rebates, for up to 100 percent of costs for—

"(1) the incremental costs of replacing an eligible vehicle that is not a zero-emission vehicle with a zero-emission vehicle, as determined by the Administrator based on the market value of the vehicles;

"(2) purchasing, installing, operating, and maintaining infrastructure needed to charge, fuel, or maintain zero-emission vehicles;

"(3) workforce development and training to support the maintenance, charging, fueling, and operation of zero-emission vehicles; and

"(4) planning and technical activities to support the adoption and deployment of zero-emission vehicles.

"(c) Applications.—To seek an award under this section, an eligible recipient or eligible contractor shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator shall prescribe.

"(d) Definitions.—For purposes of this section:

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means a contractor that has the capacity—

"(A) to sell, lease, license, or contract for service zero-emission vehicles, or charging or other equipment needed to charge, fuel, or maintain zero-emission vehicles, to individuals or entities that own, lease, license, or contract for service an eligible vehicle; or

"(B) to arrange financing for such a sale, lease, license, or contract for service.

"(2) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a State;

"(B) a municipality;

"(C) an Indian tribe; or

"(D) a nonprofit school transportation association.

"(3) ELIGIBLE VEHICLE.—The term 'eligible vehicle' means a Class 6 or Class 7 heavy-duty vehicle as defined in section 1037.801 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(4) **GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

"(5) ZERO-EMISSION VEHICLE.—The term 'zero-emission vehicle' means a vehicle that has a drivetrain that produces, under any possible operational mode or condition, zero exhaust emissions of—

"(A) any air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant); and

"(B) any greenhouse ~~gas (as defined in section 211(o)(1)(G) (as in effect on the date of enactment of this section)).".~~ **gas.".**

SEC. 60102. GRANTS TO REDUCE AIR POLLUTION AT PORTS.

The Clean Air Act is amended by inserting after section 132 of such Act, as added by section 60101 of this Act, the following:

"SEC. 133. GRANTS TO REDUCE AIR POLLUTION AT PORTS.

"(a) Appropriations.—

"(1) GENERAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,250,000,000, to remain available until September 30, 2027, to award rebates and grants to eligible recipients on a competitive basis—

"(A) to purchase or install zero-emission port equipment or technology for use at, or to directly serve, one or more ports;

"(B) to conduct any relevant planning or permitting in connection with the purchase or installation of such zero-emission port equipment or technology; and

"(C) to develop qualified climate action plans.

"(2) NONATTAINMENT AREAS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $750,000,000, to remain available until September 30, 2027, to award rebates and grants to eligible recipients to carry out activities described in paragraph (1) with respect to ports located in air quality areas designated pursuant to section 107 as nonattainment for an air pollutant.

"(b) Limitation.—Funds awarded under this section shall not be used by any recipient or subrecipient to purchase or install zero-emission port equipment or technology that will not be located at, or directly serve, the one or more ports involved.

"(c) Administration of Funds.—Of the funds made available by this section, the Administrator shall reserve 2 percent for administrative costs necessary to carry out this section.

"(d) Definitions.—In this section:

"(1) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a port authority;

"(B) a State, regional, local, or Tribal agency that has jurisdiction over a port authority or a port;

"(C) an air pollution control agency; or

"(D) a private entity ~~(including a nonprofit organization)~~ that—

"(i) applies for a grant under this section in partnership with an entity described in any of subparagraphs (A) through (C); and

"(ii) owns, operates, or uses the facilities, cargo-handling equipment, transportation equipment, or related technology of a port.

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' ~~has the meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this section).~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

"(3) QUALIFIED CLIMATE ACTION PLAN.—The term 'qualified climate action plan' means a detailed and strategic plan that—

"(A) establishes goals, implementation strategies, and accounting and inventory practices ~~(including practices used to measure progress toward stated goals)~~ to reduce emissions at one or more ports of—

"(i) greenhouse gases;

"(ii) an air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant); and

"(iii) hazardous air pollutants;

"(B) includes a strategy to collaborate with, communicate with, and address potential effects on **low-income and disadvantaged near-port communities and other** stakeholders that may be affected by implementation of the plan~~, including low-income and disadvantaged near-port communities~~; and

"(C) describes how an eligible recipient has implemented or will implement measures to increase the resilience of the one or more ports involved~~, including measures related to withstanding and recovering from extreme weather events~~.

"(4) ZERO-EMISSION PORT EQUIPMENT OR TECHNOLOGY.—The term 'zero-emission port equipment or technology' means human-operated equipment or human-maintained technology that—

"(A) produces zero emissions of any air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant) and any greenhouse gas other than water vapor; or

"(B) captures 100 percent of the emissions described in subparagraph (A) that are produced by an ocean-going vessel at berth.".

SEC. 60103. GREENHOUSE GAS REDUCTION FUND.

The Clean Air Act is amended by inserting after section 133 of such Act, as added by section 60102 of this Act, the following:

"SEC. 134. GREENHOUSE GAS REDUCTION FUND.

"(a) Appropriations.—

"(1) ZERO-EMISSION TECHNOLOGIES.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $7,000,000,000, to remain available until September 30, 2024, to make grants, on a competitive basis and beginning not later than 180 calendar days after the date of enactment of this section, to States, municipalities, Tribal governments, and eligible recipients for the purposes of providing grants, loans, or other forms of financial assistance, as well as technical assistance, to enable low-income and disadvantaged communities to deploy or benefit from zero-emission technologies, including distributed technologies on residential rooftops, and to carry out other greenhouse gas emission reduction activities, as determined appropriate by the Administrator in accordance with this section.

"(2) GENERAL ASSISTANCE.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $11,970,000,000, to remain available until September 30, 2024, to make grants, on a competitive basis and beginning not later than 180 calendar days after the date of enactment of this section, to eligible recipients for the purposes of providing financial assistance and technical assistance in accordance with subsection (b).

"(3) LOW-INCOME AND DISADVANTAGED COMMUNITIES.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $8,000,000,000, to remain available until September 30, 2024, to make grants, on a competitive basis and beginning not later than 180 calendar days after the date of enactment of this section, to eligible recipients for the purposes of providing financial assistance and technical assistance in low-income and disadvantaged communities in accordance with subsection (b).

"(4) ADMINISTRATIVE COSTS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $30,000,000, to remain available until September 30, 2031, for the administrative costs necessary to carry out activities under this section.

"(b) Use of Funds.—An eligible recipient that receives a grant pursuant to subsection (a) shall use the grant in accordance with the following:

"(1) DIRECT INVESTMENT.—The eligible recipient shall—

"(A) provide financial assistance to qualified projects at the national, regional, State, and local levels;

"(B) prioritize investment in qualified projects that would otherwise lack access to financing; and

"(C) retain, manage, recycle, and monetize all repayments and other revenue received from fees, interest, repaid loans, and all other types of financial assistance provided using grant funds under this section to ensure continued operability.

"(2) INDIRECT INVESTMENT.—The eligible recipient shall provide funding and technical assistance to establish new or support existing public, quasi-public, not-for-profit, or nonprofit entities that provide financial assistance to qualified projects at the State, local, territorial, or Tribal level or in the District of Columbia, including community- and low-income-focused lenders and capital providers.

"(c) Definitions.—In this section:

"(1) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means a nonprofit organization that—

"(A) is designed to provide capital, ~~including by leveraging~~ **leverage** private capital, and **provide** other forms of financial assistance for the rapid deployment of low- and zero-emission products, technologies, and services;

"(B) does not take deposits other than deposits from repayments and other revenue received from financial assistance provided using grant funds under this section;

"(C) is funded by public or charitable contributions; and

"(D) invests in or finances projects alone or in conjunction with other investors.

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' ~~has the meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this section).~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

"(3) QUALIFIED PROJECT.—The term 'qualified project' includes any project, activity, or technology that—

"(A) reduces or avoids greenhouse gas emissions and other forms of air pollution in partnership with, and by leveraging investment from, the private sector; or

"(B) assists communities in the efforts of those communities to reduce or avoid greenhouse gas emissions and other forms of air pollution.

"(4) ~~Publicly available equipment.—The term 'publicly available equipment' means equipment that—~~

~~"(A) is located at a multi-unit housing structure;~~

~~"(B) is located at a workplace and is available to employees of such workplace or employees of a nearby workplace; or~~

~~"(C) is at a location that is publicly accessible for a minimum of 12 hours per day at least 5 days per week and networked or otherwise capable of being monitored remotely.~~

"~~(5)~~ ZERO-EMISSION TECHNOLOGY.—The term 'zero-emission technology' means any technology that produces zero emissions of—

"(A) any air pollutant that is listed pursuant to section 108(a) (or any precursor to such an air pollutant); and

"(B) any greenhouse gas.".

SEC. 60104. DIESEL EMISSIONS REDUCTIONS.

(a) Goods Movement.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $60,000,000, to remain available until September 30, 2031, for grants, rebates, and loans under section 792 of the Energy Policy Act of 2005 (42 U.S.C. 16132) to identify and reduce diesel emissions resulting from goods movement

facilities, and vehicles servicing goods movement facilities, in low-income and disadvantaged communities to address the health impacts of such emissions on such communities.

(b) Administrative Costs.—The Administrator of the Environmental Protection Agency shall reserve 2 percent of the amounts made available under this section for the administrative costs necessary to carry out activities pursuant to this section.

SEC. 60105. FUNDING TO ADDRESS AIR POLLUTION.

(a) Fenceline Air Monitoring and Screening Air Monitoring.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $117,500,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) to deploy, integrate, support, and maintain fenceline air monitoring, screening air monitoring, national air toxics trend stations, and other air toxics and community monitoring.

(b) Multipollutant Monitoring Stations.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $50,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405)—

(1) to expand the national ambient air quality monitoring network with new multipollutant monitoring stations; and

(2) to replace, repair, operate, and maintain existing monitors.

(c) Air Quality Sensors in Low-income and Disadvantaged Communities.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) to deploy, integrate, and operate air quality sensors in low-income and disadvantaged communities.

(d) Emissions From Wood Heaters.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) for testing and other agency activities to address emissions from wood heaters.

(e) Methane Monitoring.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $20,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) for monitoring emissions of methane.

(f) Clean Air Act Grants.—In addition to amounts otherwise available, there is appropriated to

the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $25,000,000, to remain available until September 30, 2031, for grants and other activities authorized under subsections (a) through (c) of section 103 and section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405).

(g) Other Activities.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $45,000,000, to remain available until September 30, 2031, to carry out, with respect to greenhouse gases, sections 111, 115, 165, 177, 202, 211, 213, ~~231,~~ and ~~612~~ **231** of the Clean Air Act (42 U.S.C. 7411, 7415, 7475, 7507, 7521, 7545, 7547, ~~7571,~~ and ~~7671k)~~ **7571)**.

(h) Greenhouse Gas and Zero-emission Standards for Mobile Sources.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, to provide grants to States to adopt and implement greenhouse gas and zero-emission standards for mobile sources pursuant to section 177 of the Clean Air Act (42 U.S.C. 7507).

(i) Definition of Greenhouse Gas.—In this section, the term "greenhouse gas" ~~has the meaning given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act).~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

SEC. 60106. FUNDING TO ADDRESS AIR POLLUTION AT SCHOOLS.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $37,500,000, to remain available until September 30, 2031, for grants and other activities to monitor and reduce ~~air pollution and greenhouse gas (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act)) emissions~~ **greenhouse gas emissions and other air pollutants** at schools in low-income and disadvantaged communities under subsections (a) through (c) of section 103 of the Clean Air Act (42 U.S.C. 7403(a)–(c)) and section 105 of that Act (42 U.S.C. 7405).

(b) Technical Assistance.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $12,500,000, to remain available until September 30, 2031, for providing technical assistance to schools in low-income and disadvantaged communities under subsections (a) through (c) of section 103 of the Clean Air Act (42 U.S.C. 7403(a)–(c)) and section 105 of that Act (42 U.S.C. 7405)—

(1) to address environmental issues;

(2) to develop school environmental quality plans that include standards for school building, design, construction, and renovation; and

(3) to identify and mitigate ongoing air pollution hazards.

(c) Definition of Greenhouse Gas.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60107. LOW EMISSIONS ELECTRICITY PROGRAM.

The Clean Air Act is amended by inserting after section 134 of such Act, as added by section 60103 of this Act, the following:

"SEC. 135. LOW EMISSIONS ELECTRICITY PROGRAM.

"(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, to remain available until September 30, 2031—

"(1) $17,000,000 for consumer-related education and partnerships with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

"(2) $17,000,000 for education, technical assistance, and partnerships within low-income and disadvantaged communities with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

"(3) $17,000,000 for industry-related outreach ~~and~~**,** technical assistance, ~~including through~~ **and** partnerships~~,~~ with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

"(4) $17,000,000 for outreach and technical assistance to**, and partnerships with,** State, Tribal, and local governments~~, including through partnerships,~~ with respect to reductions in greenhouse gas emissions that result from domestic electricity generation and use;

"(5) $1,000,000 to assess, not later than 1 year after the date of enactment of this section, the reductions in greenhouse gas emissions that result from changes in domestic electricity generation and use that are anticipated to occur on an annual basis through fiscal year 2031; and

"(6) $18,000,000 ~~to carry out this section~~ to ensure that reductions in greenhouse gas emissions ~~from domestic electricity generation and use~~ are achieved through use of the **existing** authorities of this Act, ~~including through the establishment of requirements under this Act,~~ incorporating the assessment under paragraph (5) ~~as a baseline~~.

"(b) Administration of Funds.—Of the amounts made available under subsection (a), the Administrator shall reserve 2 percent for the administrative costs necessary to carry out activities pursuant to that subsection.

"(c) Definition of Greenhouse Gas.—In this section, the term 'greenhouse gas' ~~has the meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this section).".~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".**

SEC. 60108. FUNDING FOR SECTION 211(O) OF THE CLEAN AIR ACT.

(a) Test and Protocol Development.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, to carry out section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) with respect to—

(1) the development and establishment of tests and protocols regarding the environmental and public health effects of a fuel or fuel additive;

(2) internal and extramural data collection and analyses to regularly update applicable regulations, guidance, and procedures for determining lifecycle greenhouse gas emissions of a fuel; and

(3) the review, analysis**,** and evaluation of the impacts of all transportation fuels, including fuel lifecycle implications, on the general public and on low-income and disadvantaged communities.

(b) Investments in Advanced Biofuels.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $10,000,000, to remain available until September 30, 2031, for new grants to industry and other related activities under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) to support investments in advanced biofuels.

(c) Definition of Greenhouse Gas.—In this section, the term "greenhouse gas" ~~has the meaning given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act).~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

SEC. 60109. FUNDING FOR IMPLEMENTATION OF THE AMERICAN INNOVATION AND MANUFACTURING ACT.

(a) Appropriations.—

(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $20,000,000, to remain available until September 30, 2026, to carry out subsections (a) through (i) and subsection (k) of section 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

(2) IMPLEMENTATION AND COMPLIANCE TOOLS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,500,000, to remain available until September 30, 2026, to deploy new implementation and compliance tools to carry out subsections (a) through (i) and subsection (k) of section 103 of division S of Public Law 116–260 (42 U.S.C. 7675).

(3) COMPETITIVE GRANTS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available until September 30, 2026, for competitive grants for reclaim and innovative destruction technologies under subsections (a) through (i) and subsection (k) of section 103

of division S of Public Law 116–260 (42 U.S.C. 7675).

(b) Administration of Funds.—Of the funds made available pursuant to subsection (a)(3), the Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative costs necessary to carry out activities pursuant to such subsection.

SEC. 60110. FUNDING FOR ENFORCEMENT TECHNOLOGY AND PUBLIC INFORMATION.

(a) Compliance Monitoring.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $18,000,000, to remain available until September 30, 2031, to update the Integrated Compliance Information System of the Environmental Protection Agency and any associated systems, necessary information technology infrastructure, or public access software tools to ensure access to compliance data and related information.

(b) Communications With ICIS.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,000,000, to remain available until September 30, 2031, for grants to States, Indian tribes, and air pollution control agencies (as such terms are defined in section 302 of the Clean Air Act (42 U.S.C. 7602)) to update their systems to ensure communication with the Integrated Compliance Information System of the Environmental Protection Agency and any associated systems.

(c) Inspection Software.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $4,000,000, to remain available until September 30, 2031—

(1) to acquire or update inspection software for use by the Environmental Protection Agency, States, Indian tribes, and air pollution control agencies (as such terms are defined in section 302 of the Clean Air Act (42 U.S.C. 7602)); or

(2) to acquire necessary devices on which to run such inspection software.

SEC. 60111. GREENHOUSE GAS CORPORATE REPORTING.

(a) In **General.—In** addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, for the Environmental Protection Agency to support—

(1) enhanced standardization and transparency of corporate climate action commitments and plans to reduce greenhouse gas ~~(as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act))~~ emissions;

(2) enhanced transparency regarding progress toward meeting such commitments and implementing such plans; and

(3) progress toward meeting such commitments and implementing such plans.

(b) Definition of Greenhouse Gas.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60112. ENVIRONMENTAL PRODUCT DECLARATION ASSISTANCE.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to develop and carry out a program to support the development, ~~and~~ enhanced standardization and transparency, ~~of~~ **and reporting criteria for** environmental product declarations **that include measurements of the embodied greenhouse gas emissions of the material or product associated with all relevant stages of production, use, and disposal, and conform with international standards,** for construction materials and products~~, including~~ by—

(1) providing grants to businesses that manufacture construction materials and products for developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses;

(2) providing technical assistance to businesses that manufacture construction materials and products in developing and verifying environmental product declarations, and to States, Indian Tribes, and nonprofit organizations that will support such businesses; and

(3) carrying out other activities that assist in measuring, reporting, and steadily reducing the quantity of embodied carbon of construction materials and products.

(b) Administrative Costs.—Of the amounts made available under this section, the Administrator of the Environmental Protection Agency shall reserve 5 percent for administrative costs necessary to carry out this section.

(c) Definitions.—In this section:

(1) ~~EMBODIED CARBON.—THE TERM "EMBODIED CARBON" MEANS THE QUANTITY OF GREENHOUSE GAS (AS DEFINED IN SECTION 211(O)(1)(G) OF THE CLEAN AIR ACT (42 U.S.C. 7545(O)(1)(G)) (AS IN EFFECT ON THE DATE OF ENACTMENT OF THIS ACT)) EMISSIONS ASSOCIATED WITH ALL RELEVANT STAGES OF PRODUCTION OF A MATERIAL OR PRODUCT, MEASURED IN KILOGRAMS OF CARBON DIOXIDE-EQUIVALENT PER UNIT OF SUCH MATERIAL OR PRODUCT.~~ **GREENHOUSE GAS.—The term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.**

~~(2) Environmental product declaration.—The term "environmental product declaration" means a document that reports the environmental impact of a material or product that—~~

~~(A) includes measurement of the embodied carbon of the material or product;~~

~~(B) conforms with international standards, such as a Type III environmental product declaration, as defined by the International Organization for Standardization standard 14025; and~~

~~(C) is developed in accordance with any standardized reporting criteria specified by the Administrator of the Environmental Protection Agency.~~

~~(3)~~**(2)** STATE.—The term "State" has the meaning given to that term in section 302(d) of the Clean Air Act (42 U.S.C. 7602(d)).

SEC. 60113. METHANE EMISSIONS REDUCTION PROGRAM.

The Clean Air Act is amended by inserting after section 135 of such Act, as added by section 60107 of this Act, the following:

"SEC. 136. METHANE EMISSIONS AND WASTE REDUCTION INCENTIVE PROGRAM FOR PETROLEUM AND NATURAL GAS SYSTEMS.

"(a) Incentives for Methane Mitigation and Monitoring.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $850,000,000, to remain available until September 30, 2028—

"(1) for grants, rebates, contracts, loans, and other activities of the Environmental Protection Agency for the purposes of providing financial and technical assistance to owners and operators of applicable facilities to prepare and submit greenhouse gas reports under subpart W of part 98 of title 40, Code of Federal Regulations;

"(2) for grants, rebates, contracts, loans, and other activities of the Environmental Protection Agency authorized under subsections (a) through (c) of section 103 for methane emissions monitoring;

"(3) for grants, rebates, contracts, loans, and other activities of the Environmental Protection Agency for the purposes of providing financial and technical assistance to reduce methane and other greenhouse gas emissions from petroleum and natural gas systems, mitigate legacy air pollution from petroleum and natural gas systems, and provide ~~support for communities, including~~ funding for—

"(A) improving climate resiliency of communities and petroleum and natural gas systems;

"(B) improving and deploying industrial equipment and processes that reduce methane and other greenhouse gas emissions and waste;

"(C) supporting innovation in reducing methane and other greenhouse gas emissions and waste from petroleum and natural gas systems;

"(D) permanently shutting in and plugging wells on non-Federal land;

"(E) mitigating health effects of methane and other greenhouse gas emissions, and legacy air pollution from petroleum and natural gas systems in low-income and disadvantaged communities; and

"(F) supporting environmental restoration; and

"(4) to cover all direct and indirect costs required to administer this section, ~~including the costs of implementing the waste emissions charge under subsection (c), preparing inventories, gathering~~ **prepare inventories, gather** empirical data, and ~~tracking~~ **track** emissions.

"(b) Incentives for Methane Mitigation From Conventional Wells.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $700,000,000, to remain available until September 30, 2028, for activities described in paragraphs (1) through (4) of subsection (a) at marginal conventional wells.

"(c) Waste Emissions Charge.—The Administrator shall impose and collect a charge on methane emissions that exceed an applicable waste emissions threshold under subsection (f) from an owner or operator of an applicable facility that reports more than 25,000 metric tons of carbon dioxide equivalent of greenhouse gases emitted per year pursuant to subpart W of part 98 of title 40, Code of Federal Regulations, regardless of the reporting threshold under that subpart.

"(d) Applicable Facility.—For purposes of this section, the term 'applicable facility' means a facility within the following industry segments, as defined in subpart W of part 98 of title 40, Code of Federal Regulations:

"(1) Offshore petroleum and natural gas production.

"(2) Onshore petroleum and natural gas production.

"(3) Onshore natural gas processing.

"(4) Onshore natural gas transmission compression.

"(5) Underground natural gas storage.

"(6) Liquefied natural gas storage.

"(7) Liquefied natural gas import and export equipment.

"(8) Onshore petroleum and natural gas gathering and boosting.

"(9) Onshore natural gas transmission pipeline.

"(e) Charge Amount.—The amount of a charge under subsection (c) for an applicable facility shall be equal to the product obtained by multiplying—

"(1) the number of metric tons of methane emissions reported pursuant to subpart W of part 98 of title 40, Code of Federal Regulations, for the applicable facility that exceed the applicable annual waste emissions threshold listed in subsection (f) during the previous reporting period; and

"(2)(A) $900 for emissions reported for calendar year 2024;

"(B) $1,200 for emissions reported for calendar year 2025; or

"(C) $1,500 for emissions reported for calendar year 2026 and each year thereafter.

"(f) Waste Emissions Threshold.—

"(1) PETROLEUM AND NATURAL GAS PRODUCTION.—With respect to imposing and collecting the charge under subsection (c) for an applicable facility in an industry segment

listed in paragraph (1) or (2) of subsection (d), the Administrator shall impose and collect the charge on the reported metric tons of methane emissions from such facility that exceed —

"(A) 0.20 percent of the natural gas sent to sale from such facility; or

"(B) 10 metric tons of methane per million barrels of oil sent to sale from such facility, if such facility sent no natural gas to sale.

"(2) NONPRODUCTION PETROLEUM AND NATURAL GAS SYSTEMS.—With respect to imposing and collecting the charge under subsection (c) for an applicable facility in an industry segment listed in paragraph (3), (6), (7), or (8) of subsection (d), the Administrator shall impose and collect the charge on the reported metric tons of methane emissions that exceed 0.05 percent of the natural gas sent to sale from **or through** such facility.

"(3) NATURAL GAS TRANSMISSION.—With respect to imposing and collecting the charge under subsection (c) for an applicable facility in an industry segment listed in paragraph (4), (5), or (9) of subsection (d), the Administrator shall impose and collect the charge on the reported metric tons of methane emissions that exceed 0.11 percent of the natural gas sent to sale from **or through** such facility.

"(4) COMMON OWNERSHIP OR CONTROL.—In calculating the total emissions charge obligation for facilities under common ownership or control, the Administrator shall allow for the netting of emissions by reducing the total obligation to account for facility emissions levels that are below the applicable thresholds within and across all applicable segments identified in subsection (d).

"(5) EXEMPTION.—Charges shall not be imposed pursuant to paragraph (1) on emissions that exceed the waste emissions threshold specified in such paragraph if such emissions are caused by unreasonable delay, as determined by the Administrator, in environmental permitting of gathering or transmission infrastructure necessary for offtake of increased volume as a result of methane emissions mitigation implementation.

"(6) EXEMPTION FOR REGULATORY COMPLIANCE.—

"(A) IN GENERAL.—Charges shall not be imposed pursuant to subsection (c) on an applicable facility that is subject to and in compliance with methane emissions requirements pursuant to subsections (b) and (d) of section 111 upon a determination by the Administrator that—

"(i) methane emissions standards and plans pursuant to subsections (b) and (d) of section 111 have been approved and are in effect in all States with respect to the applicable facilities; and

"(ii) compliance with the requirements described in clause (i) will result in equivalent or greater emissions reductions as would be achieved by the proposed rule of the Administrator entitled 'Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review' (86 Fed. Reg. 63110 (November 15, 2021)), if such rule had been finalized and implemented.

"(B) RESUMPTION OF CHARGE.—If the conditions in clause (i) or (ii) of subparagraph (A) cease to apply after the Administrator has made the determination in

that subparagraph, the applicable facility will again be subject to the charge under subsection (c) beginning in the first calendar year in which the conditions in either clause (i) or (ii) of that subparagraph are no longer met.

"(7) PLUGGED WELLS.—Charges shall not be imposed with respect to the emissions rate from any well that has been permanently shut-in and plugged in the previous year in accordance with all applicable closure requirements, as determined by the Administrator.

"(g) Period.—The charge under subsection (c) shall be imposed and collected beginning with respect to emissions reported for calendar year 2024 and for each year thereafter.

"(h) ~~Implementation.—In addition to other authorities in this Act addressing air pollution from the oil and natural gas sectors, the Administrator may issue guidance or regulations as necessary to carry out this section.~~

~~"(i)~~ Reporting.—Not later than 2 years after the date of enactment of this section, ~~and as necessary thereafter,~~ the Administrator shall revise the requirements of subpart W of part 98 of title 40, Code of Federal Regulations, to ensure the reporting under such subpart, and calculation of charges under subsections (e) and (f) of this section, are based on empirical data, including data collected pursuant to subsection (a)(4), accurately reflect the total methane emissions and waste emissions from the applicable facilities, and allow owners and operators of applicable facilities to submit empirical emissions data, in a manner to be prescribed by the Administrator, to demonstrate the extent to which a charge under subsection (c) is owed.

~~"(j) Liability for Charge Payment.—Except as established under this section, a facility owner or operator's liability for payment of the charge under subsection (c) is not affected in any way by emission standards, permit fees, penalties, or other requirements under this Act or any other legal authorities.~~

~~"(k)~~**"(i)** Definition of Greenhouse Gas.—In this section, the term 'greenhouse gas' ~~has the meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this section).".~~ **means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".**

SEC. 60114. CLIMATE POLLUTION REDUCTION GRANTS.

The Clean Air Act is amended by inserting after section 136 of such Act, as added by section 60113 of this Act, the following:

"SEC. 137. GREENHOUSE GAS AIR POLLUTION PLANS AND IMPLEMENTATION GRANTS.

"(a) Appropriations.—

"(1) GREENHOUSE GAS AIR POLLUTION PLANNING GRANTS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any amounts in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to carry out subsection (b).

"(2) GREENHOUSE GAS AIR POLLUTION IMPLEMENTATION GRANTS.—In addition to

amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any amounts in the Treasury not otherwise appropriated, $4,750,000,000, to remain available until September 30, 2026, to carry out subsection (c).

"(3) ADMINISTRATIVE COSTS.—Of the funds made available under paragraph (2), the Administrator shall reserve 3 percent for administrative costs necessary to carry out this section, ~~including providing~~ **to provide** technical assistance to eligible entities, ~~developing~~ **to develop** a plan that could be used as a model by grantees in developing a plan under subsection (b), and ~~modeling~~ **to model** the effects of plans described in this section.

"(b) Greenhouse Gas Air Pollution Planning Grants.—The Administrator shall make a grant to at least one eligible entity in each State for the costs of developing a plan for the reduction of greenhouse gas air pollution to be submitted with an application for a grant under subsection (c). Each such plan shall include programs, policies, measures, and projects that will achieve or facilitate the reduction of greenhouse gas air pollution. Not later than 270 days after the date of enactment of this section, the Administrator shall publish a funding opportunity announcement for grants under this subsection.

"(c) Greenhouse Gas Air Pollution Reduction Implementation Grants.—

"(1) IN GENERAL.—The Administrator shall competitively award grants to eligible entities to implement plans developed under subsection (b).

"(2) APPLICATION.—To apply for a grant under this subsection, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator shall require, which such application shall include information **regarding** ~~regarding—~~

~~"(A)~~ the degree to which greenhouse gas air pollution is projected to be reduced~~,~~ ~~including~~ **in total and** with respect to low-income and disadvantaged communities~~; and~~

~~"(B) the quantifiability, specificity, additionality, permanence, and verifiability of such projected greenhouse gas air pollution reduction~~.

"(3) TERMS AND CONDITIONS.—The Administrator shall make funds available to a grantee under this subsection in such amounts, upon such a schedule, and subject to such conditions based on its performance in implementing its plan submitted under this section and in achieving projected greenhouse gas air pollution reduction, as determined by the Administrator.

"(d) Definitions.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) an air pollution control agency;

"(C) a municipality;

"(D) an Indian tribe; and

"(E) a group of one or more entities listed in subparagraphs (A) through (D).

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' ~~has the meaning given the term in section 211(o)(1)(G) (as in effect on the date of enactment of this section).".~~ **means the air**

pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

SEC. 60115. ENVIRONMENTAL PROTECTION AGENCY EFFICIENT, ACCURATE, AND TIMELY REVIEWS.

In addition to amounts otherwise available, there is appropriated to the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $40,000,000, to remain available until September 30, 2026, to provide for the development of efficient, accurate, and timely reviews for permitting and approval processes through the hiring and training of personnel, the development of programmatic documents, the procurement of technical or scientific services for reviews, the development of environmental data or information systems, stakeholder and community engagement, the purchase of new equipment for environmental analysis, and the development of geographic information systems and other analysis tools, techniques, and guidance to improve agency transparency, accountability, and public engagement.

SEC. 60116. LOW-EMBODIED CARBON LABELING FOR CONSTRUCTION MATERIALS.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the Administrator of the Environmental Protection Agency for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for necessary administrative costs of the Administrator of the Environmental Protection Agency to carry out this section and to develop and carry out a program, in consultation with the Administrator of the Federal Highway Administration for construction materials used in transportation projects and the Administrator of General Services for construction materials used for Federal buildings, to identify and label ~~low-embodied carbon~~ construction materials and products **that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency,** based on—

(1) environmental product declarations; **or**~~(2) determinations of the California Department of General Services Procurement Division, in consultation with the California Air Resources Board; or~~

~~(3) determinations by other~~**(2) determinations by** State agencies, as verified by the Administrator of the Environmental Protection Agency.

(b) **Definition of Greenhouse Gas.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.** ~~Definitions.—In this section:~~

~~(1) Embodied carbon.—The term "embodied carbon" means the quantity of greenhouse gas (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act)) emissions associated with all relevant stages of production of a material or product, measured in kilograms of carbon dioxide-equivalent per unit of such material or product.~~

~~(2) Environmental product declaration.—The term "environmental product declaration" means a document that reports the environmental impact of a material or product that—~~

~~(A) includes measurement of the embodied carbon of the material or product;~~

~~(B) conforms with international standards, such as a Type III environmental product declaration as defined by the International Organization for Standardization standard 14025; and~~

~~(C) is developed in accordance with any standardized reporting criteria specified by the Administrator of the Environmental Protection Agency.~~

~~(3) Low-embodied carbon construction materials and products.—The term "low-embodied carbon construction materials and products" means construction materials and products identified by the Administrator of the Environmental Protection Agency as having substantially lower levels of embodied carbon as compared to estimated industry averages of similar materials or products.~~

Subtitle B—Hazardous Materials

SEC. 60201. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK GRANTS.

The Clean Air Act is amended by inserting after section 137, as added by subtitle A of this title, the following:

"SEC. 138. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK GRANTS.

"(a) Appropriation.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2022, out of any money in the Treasury not otherwise appropriated —

"(1) $2,800,000,000 to remain available until September 30, 2026, to award grants for the activities described in subsection (b); and

"(2) $200,000,000 to remain available until September 30, 2026, to provide technical assistance to eligible entities related to grants awarded under this section.

"(b) Grants.—

"(1) IN GENERAL.—The Administrator shall use amounts made available under subsection (a)(1) to award grants for periods of up to 3 years to eligible entities to carry out activities described in paragraph (2) that benefit disadvantaged communities, as defined by the Administrator.

"(2) ELIGIBLE ACTIVITIES.—An eligible entity may use a grant awarded under this subsection for—

"(A) community-led air and other pollution monitoring, prevention, and remediation, and investments in low- and zero-emission and resilient technologies and related infrastructure and workforce development that help reduce greenhouse gas ~~(as defined in section 211(o)(1)(G) (as in effect on the date of enactment of this section))~~

emissions and other air pollutants;

"(B) mitigating climate and health risks from urban heat islands, extreme heat, wood heater emissions, and wildfire events;

"(C) climate resiliency and adaptation;

"(D) reducing indoor toxics and indoor air pollution; or

"(E) facilitating engagement of disadvantaged communities in State and Federal ~~public processes, including facilitating such engagement in~~ advisory groups, workshops, ~~and~~ rulemakings**, and other public processes**.

"(3) ELIGIBLE ENTITIES.—In this subsection, the term 'eligible entity' means—

"(A) a partnership between—

"(i) an Indian tribe, a local government, or an institution of higher education; and

"(ii) a community-based nonprofit organization;

"(B) a community-based nonprofit organization; or

"(C) a partnership of community-based nonprofit organizations.

"(c) Administrative Costs.—The Administrator shall reserve 7 percent of the amounts made available under subsection (a) for administrative costs to carry out this ~~section.".~~

section.

"(d) Definition of Greenhouse Gas.—In this section, the term 'greenhouse gas' means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.".

Subtitle C—United States Fish and Wildlife Service

SEC. 60301. ENDANGERED SPECIES ACT RECOVERY PLANS.

In addition to amounts otherwise available, there is appropriated to the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $125,000,000, to remain available until expended, for the purposes of developing and implementing recovery plans under paragraphs (1), (3), and (4) of subsection (f) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)).

SEC. 60302. FUNDING FOR THE UNITED STATES FISH AND WILDLIFE SERVICE TO ADDRESS ~~CLIMATE-INDUCED~~ WEATHER EVENTS.

(a) In General.—In addition to amounts otherwise available, there is appropriated to the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $121,250,000, to remain available until September 30, 2026, to make direct expenditures, award grants, and enter into contracts and cooperative agreements for the

purposes of rebuilding and restoring units of the National Wildlife Refuge System and State wildlife management areas~~, including~~ by—

(1) addressing the threat of invasive species;

(2) increasing the resiliency and capacity of habitats and infrastructure to withstand ~~climate-induced~~ weather events; and

(3) reducing the amount of damage caused by ~~climate-induced~~ weather events.

(b) Administrative Costs.—In addition to amounts otherwise available, there is appropriated to the United States Fish and Wildlife Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $3,750,000, to remain available until September 30, 2026, for necessary administrative expenses associated with carrying out this section.

Subtitle D—Council on Environmental Quality

SEC. 60401. ENVIRONMENTAL AND CLIMATE DATA COLLECTION.

In addition to amounts otherwise available, there is appropriated to the Chair of the Council on Environmental Quality for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $32,500,000, to remain available until September 30, 2026—

(1) to support data collection efforts relating to—

(A) disproportionate negative environmental harms and climate impacts; and

(B) cumulative impacts of pollution and temperature rise;

(2) to establish, expand, and maintain efforts to track disproportionate burdens and cumulative impacts~~, including~~ **and provide** academic and workforce support for analytics and informatics infrastructure and data collection systems; and

(3) to support efforts to ensure that any mapping or screening tool is accessible to community-based organizations and community members.

SEC. 60402. COUNCIL ON ENVIRONMENTAL QUALITY EFFICIENT AND EFFECTIVE ENVIRONMENTAL REVIEWS.

In addition to amounts otherwise available, there is appropriated to the Chair of the Council on Environmental Quality for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $30,000,000, to remain available until September 30, 2026, to carry out the Council on Environmental Quality's functions and for the purposes of training personnel, developing programmatic environmental documents, and developing tools, guidance, and techniques to improve stakeholder and community engagement.

Subtitle E—Transportation and Infrastructure

SEC. 60501. NEIGHBORHOOD ACCESS AND EQUITY

GRANT PROGRAM.

(a) In General.—Chapter 1 of title 23, United States Code, is ~~further~~ amended by adding at the end the following:

~~"178~~**"177**. Neighborhood access and equity grant program

"(a) In General.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,893,000,000, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for competitive grants to eligible entities described in subsection (b)—

"(1) to improve walkability, safety, and affordable transportation access through ~~construction of~~ projects that are context-sensitive—

"(A) to remove, remediate, or reuse a facility described in subsection (c)(1);

"(B) to replace a facility described in subsection (c)(1) with a facility that is at-grade or lower speed;

"(C) to retrofit or cap a facility described in subsection (c)(1);

"(D) to build or improve complete streets, multiuse trails, regional greenways, or active transportation networks and spines; or

"(E) to provide affordable access to essential destinations, public spaces, or transportation links and hubs;

"(2) to mitigate or remediate negative impacts on the human or natural environment resulting from a facility described in subsection (c)(2) in a disadvantaged or underserved community~~, including construction of —~~ **through**~~—~~

"(A) noise barriers to reduce impacts resulting from a facility described in subsection (c)(2);

"(B) technologies, infrastructure, and activities to reduce surface transportation-related ~~air pollution, including~~ greenhouse gas emissions **and other air pollution**;

"(C) **natural** infrastructure**, pervious, permeable, or porous pavement,** or protective features to reduce or manage stormwater run-off resulting from a facility described in subsection (c)(2)~~, including through natural infrastructure and pervious, permeable, or porous pavement~~;

"(D) infrastructure and natural features to reduce or mitigate urban heat island hot spots in the transportation right-of-way or on surface transportation facilities; or

"(E) safety improvements for vulnerable road users; and

"(3) for planning and capacity building activities in disadvantaged or underserved communities to—

"(A) identify, monitor, or assess local and ambient air quality, emissions of transportation greenhouse gases, hot spot areas of extreme heat or elevated air pollution, gaps in tree canopy coverage, or flood prone transportation infrastructure;

"(B) assess transportation equity or pollution impacts and develop local anti-

displacement policies and community benefit agreements;

"(C) conduct predevelopment activities for projects eligible under this subsection;

"(D) expand public participation in transportation planning by individuals and organizations in disadvantaged or underserved communities; or

"(E) administer or obtain technical assistance related to activities described in this subsection.

"(b) Eligible Entities Described.—An eligible entity referred to in subsection (a) is—

"(1) a State;

"(2) a unit of local government;

"(3) a political subdivision of a State;

"(4) an entity described in section 207(m)(1)(E);

"(5) a territory of the United States;

"(6) a special purpose district or public authority with a transportation function;

"(7) a metropolitan planning organization (as defined in section 134(b)(2)); or

"(8) with respect to a grant described in subsection (a)(3), in addition to an eligible entity described in paragraphs (1) through (7), a nonprofit organization or institution of higher education that has entered into a partnership with an eligible entity described in paragraphs (1) through (7).

"(c) Facility Described.—A facility referred to in subsection (a) is—

"(1) a surface transportation facility for which high speeds, grade separation, or other design factors create an obstacle to connectivity within a community; or

"(2) a surface transportation facility which is a source of air pollution, noise, stormwater, or other burden to a disadvantaged or underserved community.

"(d) Investment in Economically Disadvantaged Communities.—

"(1) IN GENERAL.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, ~~$1,109,950,000~~ **$1,262,000,000**, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration to provide grants for projects in communities described in paragraph (2) for the same purposes and administered in the same manner as described in subsection (a).

"(2) COMMUNITIES DESCRIBED.—A community referred to in paragraph (1) is a community that—

"(A) is economically disadvantaged, ~~including an~~ underserved ~~community or a community~~**, or** located in an area of persistent poverty;

"(B) has entered or will enter into a community benefits agreement with representatives of the community;

"(C) has an anti-displacement policy, a community land trust, or a community

advisory board in effect; or

"(D) has demonstrated a plan for employing local residents in the area impacted by the activity or project proposed under this section.

"(e) Administration.—

"(1) IN GENERAL.—A project carried out under subsection (a) or (d) shall be treated as a project on a Federal-aid highway.

"(2) COMPLIANCE WITH EXISTING REQUIREMENTS.—Funds made available for a grant under this section and administered by or through a State department of transportation shall be expended in compliance with the U.S. Department of Transportation's Disadvantaged Business Enterprise Program.

"(f) Cost Share.—The Federal share of the cost of an activity carried out using a grant awarded under this section shall be not more than 80 percent, except that the Federal share of the cost of a project in a disadvantaged or underserved community may be up to 100 percent.

"(g) Technical Assistance.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, ~~$42,150,000~~ **$50,000,000**, to remain available until September 30, 2026, to the Administrator of the Federal Highway Administration for—

"(1) guidance, technical assistance, templates, training, or tools to facilitate efficient and effective contracting, design, and project delivery by units of local government;

"(2) subgrants to units of local government to build capacity of such units of local government to assume responsibilities to deliver surface transportation projects; and

"(3) operations and administration of the Federal Highway Administration.

"(h) Limitations.—Amounts made available under this section shall not—

"(1) be subject to any restriction or limitation on the total amount of funds available for implementation or execution of programs authorized for Federal-aid highways; and

"(2) be used for a project for additional through travel lanes for single-occupant passenger **vehicles.".** ~~vehicles.~~

~~"(i) Definition of Greenhouse Gas.—In this section, the term 'greenhouse gas' has the meaning given the term in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this section).".~~

(b) Clerical Amendment.—The analysis for chapter 1 of title 23, United States Code, is ~~further~~ amended by adding at the end the following:

~~"178~~**"177**. Neighborhood access and equity grant program.".

SEC. 60502. ASSISTANCE FOR FEDERAL BUILDINGS.

In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $250,000,000, to remain available until September 30, 2031, to be deposited in the Federal Buildings Fund established under section 592 of title 40, United States Code, for measures necessary to convert facilities of the Administrator of General Services to high-performance green buildings (as defined in section 401 of the Energy

Independence and Security Act of 2007 (42 U.S.C. 17061)).

SEC. 60503. USE OF LOW-CARBON MATERIALS.

(a) Appropriation.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,150,000,000, to remain available until September 30, 2026, to be deposited in the Federal Buildings Fund established under section 592 of title 40, United States Code, to acquire and install ~~low-embodied carbon~~ materials and products for use in the construction or alteration of buildings under the jurisdiction, custody, and control of the General Services Administration **that have substantially lower levels of embodied greenhouse gas** ~~.~~

~~(b) Definitions.—In this section:~~

~~(1) Embodied carbon.—The term "embodied carbon" means the quantity of greenhouse gas (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act))~~ emissions associated with all relevant stages of production**, use, and disposal as compared to estimated industry averages of similar materials or products, as determined** ~~of a material or product, measured in kilograms of carbon dioxide-equivalent per unit of such material or product.~~

~~(2) Low-embodied carbon materials and products.—The term "low-embodied carbon materials and products" means materials and products identified~~ by the Administrator of the Environmental Protection Agency ~~as having substantially lower levels of embodied carbon as compared to estimated industry averages of similar products or materials.~~**.**

(b) Definition of Greenhouse Gas.—In this section, the term "greenhouse gas" means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.

SEC. 60504. GENERAL SERVICES ADMINISTRATION EMERGING TECHNOLOGIES.

In addition to amounts otherwise available, there is appropriated to the Administrator of General Services for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $975,000,000, to remain available until September 30, 2026, to be deposited in the Federal Buildings Fund established under section 592 of title 40, United States Code, for emerging and sustainable technologies, and related sustainability and environmental programs.

SEC. 60505. ENVIRONMENTAL REVIEW IMPLEMENTATION FUNDS.

(a) In General.—Chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

~~"179~~**"178**. Environmental review implementation funds

"(a) Establishment.—In addition to amounts otherwise available, for fiscal year 2022, there is appropriated to the Administrator, out of any money in the Treasury not otherwise appropriated, $100,000,000, to remain available until September 30, 2026, for the purpose of facilitating the

development and review of documents for the environmental review process for proposed projects~~, including~~ through—

"(1) the provision of guidance, technical assistance, templates, training, or tools to facilitate an efficient and effective environmental review process for surface transportation projects~~, including~~ **and** any administrative expenses of the Federal Highway Administration to conduct ~~such~~ activities **described in this section**; and

"(2) providing funds made available under this subsection to eligible entities—

"(A) to build capacity of such eligible entities ~~and~~ **to conduct environmental review processes;**

"(B) to facilitate the environmental review process for proposed projects~~, including —~~ **by—**

"(i) defining the scope or study areas;

"(ii) identifying impacts, mitigation measures, and reasonable alternatives;

"(iii) preparing planning and environmental studies and other documents prior to and during the environmental review process, for potential use in the environmental review process in accordance with applicable statutes and regulations;

"(iv) conducting public engagement activities; and

"(v) carrying out **permitting or** other activities, ~~including permitting activities,~~ as the Administrator determines to be appropriate, to support the timely completion of an environmental review process required for a proposed project; and

~~"(B)~~**"(C)** for administrative expenses of the eligible entity to conduct any of the activities described in ~~subparagraph~~ **subparagraphs** (A) **and (B)**.

"(b) Cost Share.—

"(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section by an eligible entity shall be not more than 80 percent.

"(2) SOURCE OF FUNDS.—The non-Federal share of the cost of an activity carried out under this section by an eligible entity may be satisfied using funds made available to the eligible entity under any other Federal, State, or local grant program~~, including funds made available to the eligible entity under this title or administered by the U.S. Department of Transportation~~.

"(c) Definitions.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Highway Administration.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) a unit of local government;

"(C) a political subdivision of a State;

"(D) a territory of the United States;

"(E) an entity described in section 207(m)(1)(E);

"(F) a recipient of funds under section 203; or

"(G) a metropolitan planning organization (as defined in section 134(b)(2)).

"(3) ENVIRONMENTAL REVIEW PROCESS.—The term 'environmental review process' has the meaning given the term in section 139(a)(5).

"(4) PROPOSED PROJECT.—The term 'proposed project' means a surface transportation project for which an environmental review process is required.".

(b) Clerical Amendment.—The analysis for chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

~~"179~~**"178**. Environmental review implementation funds.".

SEC. 60506. LOW-CARBON TRANSPORTATION MATERIALS GRANTS.

(a) In General.—Chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

~~"180~~**"179**. Low-carbon transportation materials grants

"(a) Federal Highway Administration Appropriation.—In addition to amounts otherwise available, there is appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $2,000,000,000, to remain available until September 30, 2026, to the Administrator to reimburse or provide incentives to eligible recipients for the use ~~of low-embodied carbon~~**, in projects, of** construction materials and products ~~in projects~~ **that have substantially lower levels of embodied greenhouse gas emissions associated with all relevant stages of production, use, and disposal as compared to estimated industry averages of similar materials or products, as determined by the Administrator of the Environmental Protection Agency**, and for the operations and administration of the Federal Highway Administration to carry out this section.

"(b) Reimbursement of Incremental Costs; Incentives.—

"(1) IN GENERAL.—The Administrator shall, subject to the availability of funds, either reimburse or provide incentives to eligible recipients that use low-embodied carbon construction materials and products on a project funded under this title.

"(2) REIMBURSEMENT AND INCENTIVE AMOUNTS.—

"(A) INCREMENTAL AMOUNT.—The amount of reimbursement under paragraph (1) shall be equal to the incrementally higher cost of using such materials relative to the cost of using traditional materials, as determined by the eligible recipient and verified by the Administrator.

"(B) INCENTIVE AMOUNT.—The amount of an incentive under paragraph (1) shall be equal to 2 percent of the cost of using low-embodied carbon construction materials and

products on a project funded under this title.

"(3) FEDERAL SHARE.—If a reimbursement or incentive is provided under paragraph (1), the total Federal share payable for the project for which the reimbursement or incentive is provided shall be up to 100 percent.

"(4) LIMITATIONS.—

"(A) IN GENERAL.—The Administrator shall only provide a reimbursement or incentive under paragraph (1) for a project on a—

"(i) Federal-aid highway;

"(ii) tribal transportation facility;

"(iii) Federal lands transportation facility; or

"(iv) Federal lands access transportation facility.

"(B) OTHER RESTRICTIONS.—Amounts made available under this section shall not be subject to any restriction or limitation on the total amount of funds available for implementation or execution of programs authorized for Federal-aid highways.

"(C) SINGLE OCCUPANT PASSENGER VEHICLES.—Funds made available under this section shall not be used for projects that result in additional through travel lanes for single occupant passenger vehicles.

"(5) MATERIALS IDENTIFICATION.—The Administrator shall review the low-embodied carbon construction materials and products identified by the Administrator of the Environmental Protection Agency and shall identify low-embodied carbon construction materials and products—

"(A) appropriate for use in projects eligible under this title; and

"(B) eligible for reimbursement or incentives under this section.

"(c) Definitions.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Highway Administration.

"(2) ELIGIBLE RECIPIENT.—The term 'eligible recipient' means—

"(A) a State;

"(B) a unit of local government;

"(C) a political subdivision of a State;

"(D) a territory of the United States;

"(E) an entity described in section 207(m)(1)(E)~~)~~;

"(F) a recipient of funds under section 203;

"(G) a metropolitan planning organization (as defined in section 134(b)(2)); or

"(H) a special purpose district or public authority with a transportation function.

"(3) **GREENHOUSE GAS.—The term 'greenhouse gas' means the air pollutants carbon**

dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.". ~~Embodied carbon.—The term 'embodied carbon' means the quantity of greenhouse gas (as defined in section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)) (as in effect on the date of enactment of this Act)) emissions associated with all relevant stages of production of a material or product, measured in kilograms of carbon dioxide-equivalent per unit of such material or product.~~

~~"(4) Low-embodied carbon construction materials and products.—The term 'low-embodied carbon construction materials and products' means construction materials and products identified by the Administrator of the Environmental Protection Agency as having substantially lower levels of embodied carbon as compared to estimated industry averages of similar products or materials.".~~

(b) Clerical Amendment.—The analysis for chapter 1 of title 23, United States Code, is further amended by adding at the end the following:

~~"180~~**"179**. Low-carbon transportation materials grants.".

TITLE VII—COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SEC. 70001. DHS OFFICE OF CHIEF READINESS SUPPORT OFFICER.

In addition to the amounts otherwise available, there is appropriated to the Secretary of Homeland Security for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $500,000,000, to remain available until September 30, 2028, for the Office of the Chief Readiness Support Officer to carry out sustainability and environmental programs.

SEC. 70002. UNITED STATES POSTAL SERVICE CLEAN FLEETS.

In addition to amounts otherwise available, there is appropriated to the United States Postal Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, **the following amounts,** to be deposited into the Postal Service Fund established under section 2003 of title 39, United States Code~~, $3,000,000,000, to remain available through September 30, 2031, for—~~**:**

~~(1)~~ **(1) $1,290,000,000, to remain available through September 30, 2031, for** the purchase of zero-emission delivery vehicles~~; and~~**.**

~~(2)~~ **(2) $1,710,000,000, to remain available through September 30, 2031, for** the purchase, design, and installation of the requisite infrastructure to support zero-emission delivery vehicles at facilities that the United States Postal Service owns or leases from non-Federal entities.

SEC. 70003. UNITED STATES POSTAL SERVICE OFFICE OF INSPECTOR GENERAL.

In addition to amounts otherwise available, there is appropriated to the Office of Inspector General of the United States Postal Service for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $15,000,000, to remain available through September 30, 2031, to support oversight of United States Postal Service activities implemented pursuant to this Act.

SEC. 70004. GOVERNMENT ACCOUNTABILITY OFFICE OVERSIGHT.

In addition to amounts otherwise available, there is appropriated to the Comptroller General of the United States for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $25,000,000, to remain available until September 30, 2031, for necessary expenses of the Government Accountability Office to support the oversight of—

(1) the distribution and use of funds appropriated under this Act; and

(2) whether the economic, social, and environmental impacts of the funds described in paragraph (1) are equitable.

SEC. 70005. OFFICE OF MANAGEMENT AND BUDGET OVERSIGHT.

In addition to amounts otherwise available, there are appropriated to the Director of the Office of Management and Budget for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $25,000,000, to remain available until September 30, 2026, for necessary expenses to—

(1) oversee the implementation of this Act; and

(2) track labor, equity, and environmental standards and performance.

SEC. 70006. FEMA BUILDING MATERIALS PROGRAM.

Through September 30, 2026, the Administrator of the Federal Emergency Management Agency may provide financial assistance under sections 203(h), 404(a), and 406(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(h), 42 U.S.C. 5170c(a), 42 U.S.C. 5172(b)) for—

(1) costs associated with low-carbon materials; and

(2) incentives that encourage low-carbon and net-zero energy projects~~, which may include an increase in the Federal cost share for those projects~~.

SEC. 70007. FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL ENVIRONMENTAL REVIEW IMPROVEMENT FUND MANDATORY FUNDING.

~~(a)~~ In ~~General.—In~~ addition to amounts otherwise available, there is appropriated to the **Federal Permitting Improvement Steering Council** Environmental Review Improvement Fund ~~established by section 41009(d)(1) of the FAST Act (42 U.S.C. 4370m8(d)(1))~~, out of any

money in the Treasury not otherwise appropriated, **$350,000,000 for fiscal year 2023, to remain available through September 30, 2031.** ~~$70,000,000 for each of fiscal years 2022 through 2026.~~

~~(b) Availability.—Notwithstanding section 41009(d)(2) of the FAST Act (42 U.S.C. 4370m8(d)(2)), funds appropriated under subsection (a) for a fiscal year shall remain available for the following 5 fiscal years.~~

TITLE VIII—COMMITTEE ON INDIAN AFFAIRS

SEC. 80001. TRIBAL CLIMATE RESILIENCE.

(a) Tribal Climate Resilience and Adaptation.—In addition to amounts otherwise available, there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $220,000,000, to remain available until September 30, 2031, for Tribal climate resilience and adaptation programs.

(b) Bureau of Indian Affairs Fish Hatcheries.—In addition to amounts otherwise available, there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $10,000,000, to remain available until September 30, 2031, for fish hatchery operations and maintenance programs of the Bureau of Indian Affairs.

(c) Administration.—In addition to amounts otherwise available, there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $5,000,000, to remain available until September 30, 2031, for the administrative costs of carrying out this section.

(d) Cost-sharing and Matching Requirements.—None of the funds provided by this section shall be subject to cost-sharing or matching requirements.

(e) Small and Needy Program.—Amounts made available under this section shall be excluded from the calculation of funds received by those Tribal governments that participate in the "Small and Needy" program.

(f) Distribution; Use of Funds.—Amounts made available under this section that are distributed to Indian Tribes and Tribal organizations for services pursuant to a self-determination contract (as defined in subsection (j) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(j))) or a self-governance compact entered into pursuant to subsection (a) of section 404 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5364(a))—

(1) shall be distributed on a 1-time basis;

(2) shall not be part of the amount required by subsections (a) through (b) of section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)–(b)); and

(3) shall only be used for the purposes identified under the applicable subsection.

SEC. 80002. NATIVE HAWAIIAN CLIMATE RESILIENCE.

(a) Native Hawaiian Climate Resilience and Adaptation.—In addition to amounts otherwise

available, there is appropriated to the Senior Program Director of the Office of Native Hawaiian Relations for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $23,500,000, to remain available until September 30, 2031, to carry out, through financial assistance, technical assistance, direct expenditure, grants, contracts, or cooperative agreements, climate resilience and adaptation activities that serve the Native Hawaiian Community.

(b) Administration.—In addition to amounts otherwise available, there is appropriated to the Senior Program Director of the Office of Native Hawaiian Relations for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $1,500,000, to remain available until September 30, 2031, for the administrative costs of carrying out this section.

(c) Cost-sharing and Matching Requirements.—None of the funds provided by this section shall be subject to cost-sharing or matching requirements.

SEC. 80003. TRIBAL ELECTRIFICATION PROGRAM.

(a) Tribal Electrification Program.—In addition to amounts otherwise available, there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $145,500,000, to remain available until September 30, 2031, for—

(1) the provision of electricity to unelectrified Tribal homes through zero-emissions energy systems;

(2) transitioning electrified Tribal homes to zero-emissions energy systems; and

(3) associated home repairs and retrofitting necessary to install the zero-emissions energy systems authorized under paragraphs (1) and (2).

(b) Administration.—In addition to amounts otherwise available, there is appropriated to the Director of the Bureau of Indian Affairs for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $4,500,000, to remain available until September 30, 2031, for the administrative costs of carrying out this section.

(c) Cost-sharing and Matching Requirements.—None of the funds provided by this section shall be subject to cost-sharing or matching requirements.

(d) Small and Needy Program.—Amounts made available under this section shall be excluded from the calculation of funds received by those Tribal governments that participate in the “Small and Needy” program.

(e) Distribution; Use of Funds.—Amounts made available under this section that are distributed to Indian Tribes and Tribal organizations for services pursuant to a self-determination contract (as defined in subsection (j) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(j))) or a self-governance compact entered into pursuant to subsection (a) of section 404 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5364(a))—

(1) shall be distributed on a 1-time basis;

(2) shall not be part of the amount required by subsections (a) through (b) of section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)–(b)); and

(3) shall only be used for the purposes identified under the applicable subsection.

SEC. 80004. EMERGENCY DROUGHT RELIEF FOR TRIBES.

(a) Emergency Drought Relief for Tribes.—In addition to amounts otherwise available, there is appropriated to the Commissioner of the Bureau of Reclamation for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, $12,500,000, to remain available until September 30, 2026, for near-term drought relief actions to mitigate drought impacts for Indian Tribes that are impacted by the operation of a Bureau of Reclamation water project, including through direct financial assistance to address drinking water shortages and to mitigate the loss of Tribal trust resources.

(b) Cost-sharing and Matching Requirements.—None of the funds provided by this section shall be subject to cost-sharing or matching requirements.

TITLE IX—COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

SEC. 90001. REQUIREMENTS WITH RESPECT TO COST-SHARING FOR INSULIN PRODUCTS.

(a) In General.—Part D of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–111 et seq.) is amended by adding at the end the following:

“SEC. 2799A–11. REQUIREMENTS WITH RESPECT TO COST-SHARING FOR CERTAIN INSULIN PRODUCTS.

“(a) In General.—For plan years beginning on or after January 1, 2023, a group health plan or health insurance issuer offering group or individual health insurance coverage shall provide coverage of selected insulin products, and with respect to such products, shall not—

“(1) apply any deductible; or

“(2) impose any cost-sharing in excess of, per 30-day supply—

“(A) for any applicable plan year beginning before January 1, 2024, $35; or

“(B) for any plan year beginning on or after January 1, 2024, the lesser of—

“(i) $35; or

“(ii) the amount equal to 25 percent of the negotiated price of the selected insulin product net of all price concessions received by or on behalf of the plan or coverage, including price concessions received by or on behalf of third-party entities providing services to the plan or coverage, such as pharmacy benefit management services.

“(b) Definitions.—In this section:

“(1) SELECTED INSULIN PRODUCTS.—The term ‘selected insulin products’ means at

least one of each dosage form (such as vial, pump, or inhaler dosage forms) of each different type (such as rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting, and premixed) of insulin (as defined below), when available, as selected by the group health plan or health insurance issuer.

"(2) INSULIN DEFINED.—The term 'insulin' means insulin that is licensed under subsection (a) or (k) of section 351 and continues to be marketed under such section, including any insulin product that has been deemed to be licensed under section 351(a) pursuant to section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 and continues to be marketed pursuant to such licensure.

"(c) Out-of-network Providers.—Nothing in this section requires a plan or issuer that has a network of providers to provide benefits for selected insulin products described in this section that are delivered by an out-of-network provider, or precludes a plan or issuer that has a network of providers from imposing higher cost-sharing than the levels specified in subsection (a) for selected insulin products described in this section that are delivered by an out-of-network provider.

"(d) Rule of Construction.—Subsection (a) shall not be construed to require coverage of, or prevent a group health plan or health insurance coverage from imposing cost-sharing other than the levels specified in subsection (a) on, insulin products that are not selected insulin products, to the extent that such coverage is not otherwise required and such cost-sharing is otherwise permitted under Federal and applicable State law.

"(e) Application of Cost-sharing Towards Deductibles and Out-of-pocket Maximums.—Any cost-sharing payments made pursuant to subsection (a)(2) shall be counted toward any deductible or out-of-pocket maximum that applies under the plan or coverage.".

(b) No Effect on Other Cost-sharing.—Section 1302(d)(2) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(d)(2)) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE RELATING TO INSULIN COVERAGE.—For plan years beginning on or after January 1, 2024, the exemption of coverage of selected insulin products (as defined in section 2799A–11(b) of the Public Health Service Act) from the application of any deductible pursuant to section 2799A–11(a)(1) of such Act, section 726(a)(1) of the Employee Retirement Income Security Act of 1974, or section 9826(a)(1) of the Internal Revenue Code of 1986 shall not be considered when determining the actuarial value of a qualified health plan under this subsection.".

(c) Coverage of Certain Insulin Products Under Catastrophic Plans.—Section 1302(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(e)) is amended by adding at the end the following:

"(4) COVERAGE OF CERTAIN INSULIN PRODUCTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(B)(i), a health plan described in paragraph (1) shall provide coverage of selected insulin products, in accordance with section 2799A–11 of the Public Health Service Act, for a plan year before an enrolled individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (c)(1) for the

plan year.

"(B) TERMINOLOGY.—For purposes of subparagraph (A)—

"(i) the term 'selected insulin products' has the meaning given such term in section 2799A–11(b) of the Public Health Service Act; and

"(ii) the requirements of section 2799A–11 of such Act shall be applied by deeming each reference in such section to 'individual health insurance coverage' to be a reference to a plan described in paragraph (1).".

(d) ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 726. REQUIREMENTS WITH RESPECT TO COST-SHARING FOR CERTAIN INSULIN PRODUCTS.

"(a) In General.—For plan years beginning on or after January 1, 2023, a group health plan or health insurance issuer offering group health insurance coverage shall provide coverage of selected insulin products, and with respect to such products, shall not—

"(1) apply any deductible; or

"(2) impose any cost-sharing in excess of, per 30-day supply—

"(A) for any applicable plan year beginning before January 1, 2024, $35; or

"(B) for any plan year beginning on or after January 1, 2024, the lesser of—

"(i) $35; or

"(ii) the amount equal to 25 percent of the negotiated price of the selected insulin product net of all price concessions received by or on behalf of the plan or coverage, including price concessions received by or on behalf of third-party entities providing services to the plan or coverage, such as pharmacy benefit management services.

"(b) Definitions.—In this section:

"(1) SELECTED INSULIN PRODUCTS.—The term 'selected insulin products' means at least one of each dosage form (such as vial, pump, or inhaler dosage forms) of each different type (such as rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting, and premixed) of insulin (as defined below), when available, as selected by the group health plan or health insurance issuer.

"(2) INSULIN DEFINED.—The term 'insulin' means insulin that is licensed under subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262) and continues to be marketed under such section, including any insulin product that has been deemed to be licensed under section 351(a) of such Act pursuant to section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (Public Law 111–148) and continues to be marketed pursuant to such licensure.

"(c) Out-of-network Providers.—Nothing in this section requires a plan or issuer that has a network of providers to provide benefits for selected insulin products described in this section that are delivered by an out-of-network provider, or precludes a plan or issuer that has a network of providers from imposing higher cost-sharing than the levels specified in subsection (a) for selected insulin products described in this section that are delivered by an out-of-network provider.

"(d) Rule of Construction.—Subsection (a) shall not be construed to require coverage of, or prevent a group health plan or health insurance coverage from imposing cost-sharing other than the levels specified in subsection (a) on, insulin products that are not selected insulin products, to the extent that such coverage is not otherwise required and such cost-sharing is otherwise permitted under Federal and applicable State law.

"(e) Application of Cost-sharing Towards Deductibles and Out-of-pocket Maximums.—Any cost-sharing payments made pursuant to subsection (a)(2) shall be counted toward any deductible or out-of-pocket maximum that applies under the plan or coverage.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by inserting after the item relating to section 725 the following:

"Sec.726.Requirements with respect to cost-sharing for certain insulin products.".

(e) Internal Revenue Code.—

(1) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9826. REQUIREMENTS WITH RESPECT TO COST-SHARING FOR CERTAIN INSULIN PRODUCTS.

"(a) In General.—For plan years beginning on or after January 1, 2023, a group health plan shall provide coverage of selected insulin products, and with respect to such products, shall not—

"(1) apply any deductible; or

"(2) impose any cost-sharing in excess of, per 30-day supply—

"(A) for any applicable plan year beginning before January 1, 2024, $35; or

"(B) for any plan year beginning on or after January 1, 2024, the lesser of—

"(i) $35; or

"(ii) the amount equal to 25 percent of the negotiated price of the selected insulin product net of all price concessions received by or on behalf of the plan, including price concessions received by or on behalf of third-party entities providing services to the plan, such as pharmacy benefit management services.

"(b) Definitions.—In this section:

"(1) SELECTED INSULIN PRODUCTS.—The term 'selected insulin products' means at least one of each dosage form (such as vial, pump, or inhaler dosage forms) of each

different type (such as rapid-acting, short-acting, intermediate-acting, long-acting, ultra long-acting, and premixed) of insulin (as defined below), when available, as selected by the group health plan.

"(2) INSULIN DEFINED.—The term 'insulin' means insulin that is licensed under subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262) and continues to be marketed under such section, including any insulin product that has been deemed to be licensed under section 351(a) of such Act pursuant to section 7002(e)(4) of the Biologics Price Competition and Innovation Act of 2009 (Public Law 111–148) and continues to be marketed pursuant to such licensure.

"(c) Out-of-network Providers.—Nothing in this section requires a plan that has a network of providers to provide benefits for selected insulin products described in this section that are delivered by an out-of-network provider, or precludes a plan that has a network of providers from imposing higher cost-sharing than the levels specified in subsection (a) for selected insulin products described in this section that are delivered by an out-of-network provider.

"(d) Rule of Construction.—Subsection (a) shall not be construed to require coverage of, or prevent a group health plan from imposing cost-sharing other than the levels specified in subsection (a) on, insulin products that are not selected insulin products, to the extent that such coverage is not otherwise required and such cost-sharing is otherwise permitted under Federal and applicable State law.

"(e) Application of Cost-sharing Towards Deductibles and Out-of-pocket Maximums.—Any cost-sharing payments made pursuant to subsection (a)(2) shall be counted toward any deductible or out-of-pocket maximum that applies under the plan.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100 of such Code is amended by adding at the end the following new item:

"Sec.9826.Requirements with respect to cost-sharing for certain insulin products.".

(f) Implementation.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall implement the provisions of this section, including the amendments made by this section, through subregulatory guidance or program instruction.