

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.**

**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:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

6 **TITLE I—COMMITTEE ON**  
7 **FINANCE**

8 **Subtitle A—Deficit Reduction**

9 **SEC. 10001. AMENDMENT OF 1986 CODE.**

10 Except as otherwise expressly provided, whenever in  
11 this subtitle an amendment or repeal is expressed in terms  
12 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a  
2 section or other provision of the Internal Revenue Code  
3 of 1986.

4 **PART 1—CORPORATE TAX REFORM**

5 **SEC. 10101. CORPORATE ALTERNATIVE MINIMUM TAX.**

6 (a) IMPOSITION OF TAX.—

7 (1) IN GENERAL.—Paragraph (2) of section  
8 55(b) is amended to read as follows:

9 “(2) CORPORATIONS.—

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

14 “(i) 15 percent of the adjusted finan-  
15 cial statement income for the taxable year  
16 (as determined under section 56A), over

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

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

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

1       “(k) APPLICABLE CORPORATION.—For purposes of  
2 this part—

3           “(1) APPLICABLE CORPORATION DEFINED.—

4                   “(A) IN GENERAL.—The term ‘applicable  
5 corporation’ means, with respect to any taxable  
6 year, any corporation (other than an S corpora-  
7 tion, a regulated investment company, or a real  
8 estate investment trust) which meets the aver-  
9 age annual adjusted financial statement income  
10 test of subparagraph (B) for one or more tax-  
11 able years which—

12                           “(i) are prior to such taxable year,

13                           and

14                           “(ii) end after December 31, 2021.

15                   “(B) AVERAGE ANNUAL ADJUSTED FINAN-  
16 CIAL STATEMENT INCOME TEST.—For purposes  
17 of this subsection—

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

1           “(ii) in the case of a corporation de-  
2           scribed in paragraph (2), such corporation  
3           meets the average annual adjusted finan-  
4           cial statement income test for a taxable  
5           year if—

6                         “(I) the corporation meets the re-  
7                         quirements of clause (i) for such tax-  
8                         able year (determined after the appli-  
9                         cation of paragraph (2)), and

10                        “(II) the average annual adjusted  
11                        financial statement income of such  
12                        corporation (determined without re-  
13                        gard to the application of paragraph  
14                        (2) and without regard to section  
15                        56A(d)) for the 3-taxable-year-period  
16                        ending with such taxable year is  
17                        \$100,000,000 or more.

18                        “(C) EXCEPTION.—Notwithstanding sub-  
19                        paragraph (A), the term ‘applicable corporation’  
20                        shall not include any corporation which other-  
21                        wise meets the requirements of subparagraph  
22                        (A) if—

23                                 “(i) such corporation—

24   “(I) has a change in ownership,  
25   or

1                   “(II) has a specified number (to  
2                   be determined by the Secretary and  
3                   which shall, as appropriate, take into  
4                   account the facts and circumstances  
5                   of the taxpayer) of consecutive taxable  
6                   years, including the most recent tax-  
7                   able year, in which the corporation  
8                   does not meet the average annual ad-  
9                   justed financial statement income test  
10                  of subparagraph (B), and

11                  “(ii) the Secretary determines that it  
12                  would not be appropriate to continue to  
13                  treat such corporation as an applicable cor-  
14                  poration.

15                  The preceding sentence shall not apply to any  
16                  corporation if, after the Secretary makes the  
17                  determination described in clause (ii), such cor-  
18                  poration meets the average annual adjusted fi-  
19                  nancial statement income test of subparagraph  
20                  (B) for any taxable year beginning after the  
21                  first taxable year for which such determination  
22                  applies.

23                  “(D) SPECIAL RULES FOR DETERMINING  
24                  APPLICABLE CORPORATION STATUS.—



1           ‘To the extent provided in regulations’  
2           in such paragraph (6)).

3           “(iii) COMPONENT MEMBER.—For  
4           purposes of this subparagraph, the term  
5           ‘component member’ has the meaning  
6           given such term by section 1563(b), except  
7           that the determination shall be made with-  
8           out regard to section 1563(b)(2).

9           “(E) OTHER SPECIAL RULES.—

10           “(i) CORPORATIONS IN EXISTENCE  
11           FOR LESS THAN 3 YEARS.—If the corpora-  
12           tion was in existence for less than 3-tax-  
13           able years, subparagraph (B) shall be ap-  
14           plied on the basis of the period during  
15           which such corporation was in existence.

16           “(ii) SHORT TAXABLE YEARS.—Ad-  
17           justed financial statement income for any  
18           taxable year of less than 12 months shall  
19           be annualized by multiplying the adjusted  
20           financial statement income for the short  
21           period by 12 and dividing the result by the  
22           number of months in the short period.

23           “(iii) TREATMENT OF PREDE-  
24           CESSORS.—Any reference in this subpara-  
25           graph to a corporation shall include a ref-

1                   erence to any predecessor of such corpora-  
2                   tion.

3                   “(2) SPECIAL RULE FOR FOREIGN-PARENTED  
4                   MULTINATIONAL GROUPS.—

5                   “(A) IN GENERAL.—If a corporation is a  
6                   member of a foreign-parented multinational  
7                   group for any taxable year, then, solely for pur-  
8                   poses of determining whether such corporation  
9                   meets the average annual adjusted financial  
10                  statement income test under paragraph  
11                  (1)(B)(ii)(I) for such taxable year, the adjusted  
12                  financial statement income of such corporation  
13                  for such taxable year shall include the adjusted  
14                  financial statement income of all members of  
15                  such group. Solely for purposes of this subpara-  
16                  graph, adjusted financial statement income  
17                  shall be determined without regard to para-  
18                  graphs (2)(D)(i), (3), (4), and (11) of section  
19                  56A(c).

20                  “(B) FOREIGN-PARENTED MULTINATIONAL  
21                  GROUP.—For purposes of subparagraph (A),  
22                  the term ‘foreign-parented multinational group’  
23                  means, with respect to any taxable year, two or  
24                  more entities if—





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

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

7                   “(iii) the common parent of a foreign-  
8                   parented multinational group.

9                   “(3) REGULATIONS OR OTHER GUIDANCE.—

10                  The Secretary shall provide regulations or other  
11                  guidance for the purposes of carrying out this sub-  
12                  section, including regulations or other guidance—

13                         “(A) providing a simplified method for de-  
14                         termining whether a corporation meets the re-  
15                         quirements of paragraph (1), and

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

19                   (3) REDUCTION FOR BASE EROSION AND ANTI-  
20                  ABUSE TAX.—Section 55(a)(2) is amended by insert-  
21                  ing “plus, in the case of an applicable corporation,  
22                  the tax imposed by section 59A” before the period  
23                  at the end.

24                   (4) CONFORMING AMENDMENTS.—

1 (A) Section 55(a) is amended by striking  
2 “In the case of a taxpayer other than a cor-  
3 poration, there” and inserting “There”.

4 (B)(i) Section 55(b)(1) is amended—

5 (I) by striking so much as precedes  
6 subparagraph (A) and inserting the fol-  
7 lowing:

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

10 (II) by adding at the end the fol-  
11 lowing new subparagraph:

12 “(D) ALTERNATIVE MINIMUM TAXABLE IN-  
13 COME.—The term ‘alternative minimum taxable  
14 income’ means the taxable income of the tax-  
15 payer for the taxable year—

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

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

21 If a taxpayer is subject to the regular tax, such  
22 taxpayer shall be subject to the tax imposed by  
23 this section (and, if the regular tax is deter-  
24 mined by reference to an amount other than  
25 taxable income, such amount shall be treated as

1 the taxable income of such taxpayer for pur-  
2 poses of the preceding sentence).”.

3 (ii) Section 860E(a)(4) is amended by  
4 striking “55(b)(2)” and inserting  
5 “55(b)(1)(D)”.

6 (iii) Section 897(a)(2)(A)(i) is amended by  
7 striking “55(b)(2)” and inserting  
8 “55(b)(1)(D)”.

9 (C) Section 11(d) is amended by striking  
10 “the tax imposed by subsection (a)” and insert-  
11 ing “the taxes imposed by subsection (a) and  
12 section 55”.

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

15 “(5) For alternative minimum tax, see section  
16 55.”.

17 (E) Section 882(a)(1) is amended by in-  
18 serting “, 55,” after “section 11”.

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

21 “(A) the sum of—

22 “(i) the tax imposed by section 11 or  
23 subchapter L of chapter 1, whichever is  
24 applicable, plus

1                   “(ii) the tax imposed by section 55,  
2                   plus  
3                   “(iii) the tax imposed by section 59A,  
4                   over”.

5                   (G) Section 6655(e)(2) is amended by in-  
6                   serting “, adjusted financial statement income  
7                   (as defined in section 56A),” before “and modi-  
8                   fied taxable income” each place it appears in  
9                   subparagraphs (A)(i) and (B)(i).

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

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

15                  (b) ADJUSTED FINANCIAL STATEMENT INCOME.—

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

19                  **“SEC. 56A. ADJUSTED FINANCIAL STATEMENT INCOME.**

20                                 “(a) IN GENERAL.—For purposes of this part, the  
21                  term ‘adjusted financial statement income’ means, with re-  
22                  spect to any corporation for any taxable year, the net in-  
23                  come or loss of the taxpayer set forth on the taxpayer’s  
24                  applicable financial statement for such taxable year, ad-  
25                  justed as provided in this section.

1       “(b) APPLICABLE FINANCIAL STATEMENT.—For  
2 purposes of this section, the term ‘applicable financial  
3 statement’ means, with respect to any taxable year, an ap-  
4 plicable financial statement (as defined in section  
5 451(b)(3) or as specified by the Secretary in regulations  
6 or other guidance) which covers such taxable year.

7       “(c) GENERAL ADJUSTMENTS.—

8               “(1) STATEMENTS COVERING DIFFERENT TAX-  
9 ABLE YEARS.—Appropriate adjustments shall be  
10 made in adjusted financial statement income in any  
11 case in which an applicable financial statement cov-  
12 ers a period other than the taxable year.

13               “(2) SPECIAL RULES FOR RELATED ENTI-  
14 TIES.—

15                       “(A) CONSOLIDATED FINANCIAL STATE-  
16 MENTS.—If the financial results of a taxpayer  
17 are reported on the applicable financial state-  
18 ment for a group of entities, rules similar to the  
19 rules of section 451(b)(5) shall apply.

20                       “(B) CONSOLIDATED RETURNS.—Except  
21 as provided in regulations prescribed by the  
22 Secretary, if the taxpayer is part of an affili-  
23 ated group of corporations filing a consolidated  
24 return for any taxable year, adjusted financial  
25 statement income for such group for such tax-

1           able year shall take into account items on the  
2           group's applicable financial statement which are  
3           properly allocable to members of such group.

4           “(C) TREATMENT OF DIVIDENDS AND  
5           OTHER AMOUNTS.—In the case of any corpora-  
6           tion which is not included on a consolidated re-  
7           turn with the taxpayer, adjusted financial state-  
8           ment income of the taxpayer with respect to  
9           such other corporation shall be determined by  
10          only taking into account the dividends received  
11          from such other corporation (reduced to the ex-  
12          tent provided by the Secretary in regulations or  
13          other guidance) and other amounts which are  
14          includible in gross income or deductible as a  
15          loss under this chapter (other than amounts re-  
16          quired to be included under sections 951 and  
17          951A or such other amounts as provided by the  
18          Secretary) with respect to such other corpora-  
19          tion.

20          “(D) TREATMENT OF PARTNERSHIPS.—

21                 “(i) IN GENERAL.—Except as pro-  
22                 vided by the Secretary, if the taxpayer is  
23                 a partner in a partnership, adjusted finan-  
24                 cial statement income of the taxpayer with  
25                 respect to such partnership shall be ad-

1           justed to only take into account the tax-  
2           payer’s distributive share of adjusted fi-  
3           nancial statement income of such partner-  
4           ship.

5                   “(ii) ADJUSTED FINANCIAL STATE-  
6           MENT INCOME OF PARTNERSHIPS.—For  
7           the purposes of this part, the adjusted fi-  
8           nancial statement income of a partnership  
9           shall be the partnership’s net income or  
10          loss set forth on such partnership’s appli-  
11          cable financial statement (adjusted under  
12          rules similar to the rules of this section).

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

15                   “(A) IN GENERAL.—If, for any taxable  
16          year, a taxpayer is a United States shareholder  
17          of one or more controlled foreign corporations,  
18          the adjusted financial statement income of such  
19          taxpayer with respect to such controlled foreign  
20          corporation (as determined under paragraph  
21          (2)(C)) shall be adjusted to also take into ac-  
22          count such taxpayer’s pro rata share (deter-  
23          mined under rules similar to the rules under  
24          section 951(a)(2)) of items taken into account  
25          in computing the net income or loss set forth on



1 the applicable financial statement (as adjusted  
2 under rules similar to those that apply in deter-  
3 mining adjusted financial statement income) of  
4 each such controlled foreign corporation with  
5 respect to which such taxpayer is a United  
6 States shareholder.

7 “(B) NEGATIVE ADJUSTMENTS.—In any  
8 case in which the adjustment determined under  
9 subparagraph (A) would result in a negative ad-  
10 justment for such taxable year—

11 “(i) no adjustment shall be made  
12 under this paragraph for such taxable  
13 year, and

14 “(ii) the amount of the adjustment  
15 determined under this paragraph for the  
16 succeeding taxable year (determined with-  
17 out regard to this paragraph) shall be re-  
18 duced by an amount equal to the negative  
19 adjustment for such taxable year.

20 “(4) EFFECTIVELY CONNECTED INCOME.—In  
21 the case of a foreign corporation, to determine ad-  
22 justed financial statement income, the principles of  
23 section 882 shall apply.

24 “(5) ADJUSTMENTS FOR CERTAIN TAXES.—Ad-  
25 justed financial statement income shall be appro-

1       priately adjusted to disregard any Federal income  
2       taxes, or income, war profits, or excess profits taxes  
3       (within the meaning of section 901) with respect to  
4       a foreign country or possession of the United States,  
5       which are taken into account on the taxpayer's ap-  
6       plicable financial statement. To the extent provided  
7       by the Secretary, the preceding sentence shall not  
8       apply to income, war profits, or excess profits taxes  
9       (within the meaning of section 901) that are im-  
10      posed by a foreign country or possession of the  
11      United States and taken into account on the tax-  
12      payer's applicable financial statement if the taxpayer  
13      does not choose to have the benefits of subpart A of  
14      part III of subchapter N for the taxable year. The  
15      Secretary shall prescribe such regulations or other  
16      guidance as may be necessary and appropriate to  
17      provide for the proper treatment of current and de-  
18      ferred taxes for purposes of this paragraph, includ-  
19      ing the time at which such taxes are properly taken  
20      into account.

21           “(6) ADJUSTMENT WITH RESPECT TO DIS-  
22      REGARDED ENTITIES.—Adjusted financial statement  
23      income shall be adjusted to take into account any  
24      adjusted financial statement income of a disregarded  
25      entity owned by the taxpayer.

1           “(7) SPECIAL RULE FOR COOPERATIVES.—In  
2           the case of a cooperative to which section 1381 ap-  
3           plies, the adjusted financial statement income (deter-  
4           mined without regard to this paragraph) shall be re-  
5           duced by the amounts referred to in section 1382(b)  
6           (relating to patronage dividends and per-unit retain  
7           allocations) to the extent such amounts were not  
8           otherwise taken into account in determining ad-  
9           justed financial statement income.

10           “(8) RULES FOR ALASKA NATIVE CORPORA-  
11           TIONS.—Adjusted financial statement income shall  
12           be appropriately adjusted to allow—

13                   “(A) cost recovery and depletion attrib-  
14                   utable to property the basis of which is deter-  
15                   mined under section 21(c) of the Alaska Native  
16                   Claims Settlement Act (43 U.S.C. 1620(c)),  
17                   and

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

23           “(9) AMOUNTS ATTRIBUTABLE TO ELECTIONS  
24           FOR DIRECT PAYMENT OF CERTAIN CREDITS.—Ad-  
25           justed financial statement income shall be appro-

1       priately adjusted to disregard any amount treated as  
2       a payment against the tax imposed by subtitle A  
3       pursuant to an election under section 48D(d) or  
4       6417, to the extent such amount was not otherwise  
5       taken into account under paragraph (5).

6               “(10) CONSISTENT TREATMENT OF MORTGAGE  
7       SERVICING INCOME OF TAXPAYER OTHER THAN A  
8       REGULATED INVESTMENT COMPANY.—

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

15               “(B) RULES FOR AMOUNTS NOT REP-  
16       RESENTING REASONABLE COMPENSATION.—  
17       The Secretary shall provide regulations to pre-  
18       vent the avoidance of taxes imposed by this  
19       chapter with respect to amounts not rep-  
20       resenting reasonable compensation (as deter-  
21       mined by the Secretary) with respect to a mort-  
22       gage servicing contract.

23               “(11) ADJUSTMENT WITH RESPECT TO DE-  
24       FINED BENEFIT PENSIONS.—

1           “(A) IN GENERAL.—Except as otherwise  
2 provided in rules prescribed by the Secretary in  
3 regulations or other guidance, adjusted finan-  
4 cial statement income shall be—

5                   “(i) adjusted to disregard any amount  
6 of income, cost, or expense that would oth-  
7 erwise be included on the applicable finan-  
8 cial statement in connection with any cov-  
9 ered benefit plan,

10                   “(ii) increased by any amount of in-  
11 come in connection with any such covered  
12 benefit plan that is included in the gross  
13 income of the corporation under any other  
14 provision of this chapter, and

15                   “(iii) reduced by deductions allowed  
16 under any other provision of this chapter  
17 with respect to any such covered benefit  
18 plan.

19           “(B) COVERED BENEFIT PLAN.—For pur-  
20 poses of this paragraph, the term ‘covered ben-  
21 efit plan’ means—

22                   “(i) a defined benefit plan (other than  
23 a multiemployer plan described in section  
24 414(f)) if the trust which is part of such  
25 plan is an employees’ trust described in

1 section 401(a) which is exempt from tax  
2 under section 501(a),

3 “(ii) any qualified foreign plan (as de-  
4 fined in section 404A(e)), or

5 “(iii) any other defined benefit plan  
6 which provides post-employment benefits  
7 other than pension benefits.

8 “(12) TAX-EXEMPT ENTITIES.—In the case of  
9 an organization subject to tax under section 511, ad-  
10 justed financial statement income shall be appro-  
11 priately adjusted to only take into account any ad-  
12 justed financial statement income—

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

15 “(B) derived from debt-financed property  
16 (as defined in section 514) to the extent that  
17 income from such property is treated as unre-  
18 lated business taxable income.

19 “(13) DEPRECIATION.—Adjusted financial  
20 statement income shall be—

21 “(A) reduced by depreciation deductions  
22 allowed under section 167 with respect to prop-  
23 erty to which section 168 applies to the extent  
24 of the amount allowed as deductions in com-  
25 puting taxable income for the taxable year, and

1 “(B) appropriately adjusted—

2 “(i) to disregard any amount of de-  
3 preciation expense that is taken into ac-  
4 count on the taxpayer’s applicable financial  
5 statement with respect to such property,  
6 and

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

12 “(14) QUALIFIED WIRELESS SPECTRUM.—

13 “(A) IN GENERAL.—Adjusted financial  
14 statement income shall be—

15 “(i) reduced by amortization deduc-  
16 tions allowed under section 197 with re-  
17 spect to qualified wireless spectrum to the  
18 extent of the amount allowed as deductions  
19 in computing taxable income for the tax-  
20 able year, and

21 “(ii) appropriately adjusted—

22 “(I) to disregard any amount of  
23 amortization expense that is taken  
24 into account on the taxpayer’s appli-  
25 cable financial statement with respect

1 to such qualified wireless spectrum,  
2 and

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

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

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

15 “(ii) was acquired after December 31,  
16 2007, and before the date of enactment of  
17 this section.

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

24 “(A) to prevent the omission or duplication  
25 of any item, and



1           “(B) to carry out the principles of part II  
2           of subchapter C of this chapter (relating to cor-  
3           porate liquidations), part III of subchapter C of  
4           this chapter (relating to corporate organizations  
5           and reorganizations), and part II of subchapter  
6           K of this chapter (relating to partnership con-  
7           tributions and distributions).

8           “(d) DEDUCTION FOR FINANCIAL STATEMENT NET  
9           OPERATING LOSS.—

10           “(1) IN GENERAL.—Adjusted financial state-  
11           ment income (determined after application of sub-  
12           section (c) and without regard to this subsection)  
13           shall be reduced by an amount equal to the lesser  
14           of—

15           “(A) the aggregate amount of financial  
16           statement net operating loss carryovers to the  
17           taxable year, or

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

21           “(2) FINANCIAL STATEMENT NET OPERATING  
22           LOSS CARRYOVER.—A financial statement net oper-  
23           ating loss for any taxable year shall be a financial  
24           statement net operating loss carryover to each tax-  
25           able year following the taxable year of the loss. The

1       portion of such loss which shall be carried to subse-  
2       quent taxable years shall be the amount of such loss  
3       remaining (if any) after the application of paragraph  
4       (1).

5           “(3) FINANCIAL STATEMENT NET OPERATING  
6       LOSS DEFINED.—For purposes of this subsection,  
7       the term ‘financial statement net operating loss’  
8       means the amount of the net loss (if any) set forth  
9       on the corporation’s applicable financial statement  
10      (determined after application of subsection (c) and  
11      without regard to this subsection) for taxable years  
12      ending after December 31, 2019.

13          “(e) REGULATIONS AND OTHER GUIDANCE.—The  
14      Secretary shall provide for such regulations and other  
15      guidance as necessary to carry out the purposes of this  
16      section, including regulations and other guidance relating  
17      to the effect of the rules of this section on partnerships  
18      with income taken into account by an applicable corpora-  
19      tion.”.

20           (2) CLERICAL AMENDMENT.—The table of sec-  
21      tions for part VI of subchapter A of chapter 1 is  
22      amended by inserting after the item relating to sec-  
23      tion 56 the following new item:

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

1 (c) CORPORATE AMT FOREIGN TAX CREDIT.—Sec-  
2 tion 59, as amended by this section, is amended by adding  
3 at the end the following new subsection:

4 “(l) CORPORATE AMT FOREIGN TAX CREDIT.—

5 “(1) IN GENERAL.—For purposes of this part,  
6 if an applicable corporation chooses to have the ben-  
7 efits of subpart A of part III of subchapter N for  
8 any taxable year, the corporate AMT foreign tax  
9 credit for the taxable year of the applicable corpora-  
10 tion is an amount equal to sum of—

11 “(A) the lesser of—

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

20 “(I) taken into account on the  
21 applicable financial statement of each  
22 controlled foreign corporation with re-  
23 spect to which the applicable corpora-  
24 tion is a United States shareholder,  
25 and

1                   “(II) paid or accrued (for Fed-  
2                   eral income tax purposes) by each  
3                   such controlled foreign corporation, or

4                   “(ii) the product of the amount of the  
5                   adjustment under section 56A(c)(3) and  
6                   the percentage specified in section  
7                   55(b)(2)(A)(i), and

8                   “(B) in the case of an applicable corpora-  
9                   tion that is a domestic corporation, the amount  
10                  of income, war profits, and excess profits taxes  
11                  (within the meaning of section 901) imposed by  
12                  any foreign country or possession of the United  
13                  States to the extent such taxes are—

14                  “(i) taken into account on the applica-  
15                  ble corporation’s applicable financial state-  
16                  ment, and

17                  “(ii) paid or accrued (for Federal in-  
18                  come tax purposes) by the applicable cor-  
19                  poration.

20                  “(2) CARRYOVER OF EXCESS TAX PAID.—For  
21                  any taxable year for which an applicable corporation  
22                  chooses to have the benefits of subpart A of part III  
23                  of subchapter N, the excess of the amount described  
24                  in paragraph (1)(A)(i) over the amount described in  
25                  paragraph (1)(A)(ii) shall increase the amount de-

1 scribed in paragraph (1)(A)(i) in any of the first 5  
2 succeeding taxable years to the extent not taken into  
3 account in a prior taxable year.

4 “(3) REGULATIONS OR OTHER GUIDANCE.—  
5 The Secretary shall provide for such regulations or  
6 other guidance as is necessary to carry out the pur-  
7 poses of this subsection.”.

8 (d) TREATMENT OF GENERAL BUSINESS CREDIT.—  
9 Section 38(c)(6)(E) is amended to read as follows:

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

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

17 “(ii) paragraph (2)(A) shall be applied  
18 without regard to clause (ii)(I) thereof,  
19 and

20 “(iii) paragraph (4)(A) shall be ap-  
21 plied without regard to clause (ii)(I) there-  
22 of.”.

23 (e) CREDIT FOR PRIOR YEAR MINIMUM TAX LIABIL-  
24 ITY.—

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

3       “(e) APPLICATION TO APPLICABLE CORPORA-  
4 TIONS.—In the case of a corporation—

5           “(1) subsection (b)(1) shall be applied by sub-  
6       stituting ‘the net minimum tax for all prior taxable  
7       years beginning after 2022’ for ‘the adjusted net  
8       minimum tax imposed for all prior taxable years be-  
9       ginning after 1986’, and

10          “(2) the amount determined under subsection  
11       (c)(1) shall be increased by the amount of tax im-  
12       posed under section 59A for the taxable year.”.

13          (2) CONFORMING AMENDMENTS.—Section  
14       53(d) is amended—

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

18           (B) by striking paragraph (3).

19          (f) EFFECTIVE DATE.—The amendments made by  
20       this section shall apply to taxable years beginning after  
21       December 31, 2022.

1           **PART 2—EXCISE TAX ON REPURCHASE OF**  
2                           **CORPORATE STOCK**  
3   **SEC. 10201. EXCISE TAX ON REPURCHASE OF CORPORATE**  
4                           **STOCK.**

5           (a) IN GENERAL.—Subtitle D is amended by insert-  
6 ing after chapter 36 the following new chapter:

7                   **“CHAPTER 37—REPURCHASE OF**  
8                           **CORPORATE STOCK**

“Sec. 4501. Repurchase of corporate stock.

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

10           “(a) GENERAL RULE.—There is hereby imposed on  
11 each covered corporation a tax equal to 1 percent of the  
12 fair market value of any stock of the corporation which  
13 is repurchased by such corporation during the taxable  
14 year.

15           “(b) COVERED CORPORATION.—For purposes of this  
16 section, the term ‘covered corporation’ means any domes-  
17 tic corporation the stock of which is traded on an estab-  
18 lished securities market (within the meaning of section  
19 7704(b)(1)).

20           “(c) REPURCHASE.—For purposes of this section—

21                   “(1) IN GENERAL.—The term ‘repurchase’  
22 means—

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

1           “(B) any transaction determined by the  
2           Secretary to be economically similar to a trans-  
3           action described in subparagraph (A).

4           “(2) TREATMENT OF PURCHASES BY SPECIFIED  
5           AFFILIATES.—

6           “(A) IN GENERAL.—The acquisition of  
7           stock of a covered corporation by a specified af-  
8           filiate of such covered corporation, from a per-  
9           son who is not the covered corporation or a  
10          specified affiliate of such covered corporation,  
11          shall be treated as a repurchase of the stock of  
12          the covered corporation by such covered cor-  
13          poration.

14          “(B) SPECIFIED AFFILIATE.—For pur-  
15          poses of this section, the term ‘specified affil-  
16          iate’ means, with respect to any corporation—

17                 “(i) any corporation more than 50  
18                 percent of the stock of which is owned (by  
19                 vote or by value), directly or indirectly, by  
20                 such corporation, and

21                 “(ii) any partnership more than 50  
22                 percent of the capital interests or profits  
23                 interests of which is held, directly or indi-  
24                 rectly, by such corporation.



1           “(3) ADJUSTMENT.—The amount taken into  
2           account under subsection (a) with respect to any  
3           stock repurchased by a covered corporation shall be  
4           reduced by the fair market value of any stock issued  
5           by the covered corporation during the taxable year,  
6           including the fair market value of any stock issued  
7           or provided to employees of such covered corporation  
8           or employees of a specified affiliate of such covered  
9           corporation during the taxable year, whether or not  
10          such stock is issued or provided in response to the  
11          exercise of an option to purchase such stock.

12          “(d) SPECIAL RULES FOR ACQUISITION OF STOCK OF  
13          CERTAIN FOREIGN CORPORATIONS.—

14                 “(1) IN GENERAL.—In the case of an acqui-  
15                 sition of stock of an applicable foreign corporation by  
16                 a specified affiliate of such corporation (other than  
17                 a foreign corporation or a foreign partnership (un-  
18                 less such partnership has a domestic entity as a di-  
19                 rect or indirect partner)) from a person who is not  
20                 the applicable foreign corporation or a specified affil-  
21                 iate of such applicable foreign corporation, for pur-  
22                 poses of this section—

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

1           “(B) such acquisition shall be treated as a  
2           repurchase of stock of a covered corporation by  
3           such covered corporation, and

4           “(C) the adjustment under subsection  
5           (c)(3) shall be determined only with respect to  
6           stock issued or provided by such specified affil-  
7           iate to employees of the specified affiliate.

8           “(2) SURROGATE FOREIGN CORPORATIONS.—In  
9           the case of a repurchase of stock of a covered surro-  
10          gate foreign corporation by such covered surrogate  
11          foreign corporation, or an acquisition of stock of a  
12          covered surrogate foreign corporation by a specified  
13          affiliate of such corporation, for purposes of this sec-  
14          tion—

15           “(A) the expatriated entity with respect to  
16           such covered surrogate foreign corporation shall  
17           be treated as a covered corporation with respect  
18           to such repurchase or acquisition,

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

22           “(C) the adjustment under subsection  
23           (c)(3) shall be determined only with respect to  
24           stock issued or provided by such expatriated en-  
25           tity to employees of the expatriated entity.

1           “(3) DEFINITIONS.—For purposes of this sub-  
2 section—

3           “(A) APPLICABLE FOREIGN CORPORA-  
4 TION.—The term ‘applicable foreign corpora-  
5 tion’ means any foreign corporation the stock of  
6 which is traded on an established securities  
7 market (within the meaning of section  
8 7704(b)(1)).

9           “(B) COVERED SURROGATE FOREIGN COR-  
10 PORATION.—The term ‘covered surrogate for-  
11 eign corporation’ means any surrogate foreign  
12 corporation (as determined under section  
13 7874(a)(2)(B) by substituting ‘September 20,  
14 2021’ for ‘March 4, 2003’ each place it ap-  
15 pears) the stock of which is traded on an estab-  
16 lished securities market (within the meaning of  
17 section 7704(b)(1)), but only with respect to  
18 taxable years which include any portion of the  
19 applicable period with respect to such corpora-  
20 tion under section 7874(d)(1).

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

24           “(e) EXCEPTIONS.—Subsection (a) shall not apply—

1           “(1) to the extent that the repurchase is part  
2 of a reorganization (within the meaning of section  
3 368(a)) and no gain or loss is recognized on such re-  
4 purchase by the shareholder under chapter 1 by rea-  
5 son of such reorganization,

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

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

14           “(4) under regulations prescribed by the Sec-  
15 retary, in cases in which the repurchase is by a deal-  
16 er in securities in the ordinary course of business,

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

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

22           “(f) REGULATIONS AND GUIDANCE.—The Secretary  
23 shall prescribe such regulations and other guidance as are  
24 necessary or appropriate to carry out, and to prevent the

1 avoidance of, the purposes of this section, including regu-  
2 lations and other guidance—

3 “(1) to prevent the abuse of the exceptions pro-  
4 vided by subsection (e),

5 “(2) to address special classes of stock and pre-  
6 ferred stock, and

7 “(3) for the application of the rules under sub-  
8 section (d).”.

9 (b) TAX NOT DEDUCTIBLE.—Paragraph (6) of sec-  
10 tion 275(a) is amended by inserting “37,” before “41”.

11 (c) CLERICAL AMENDMENT.—The table of chapters  
12 for subtitle D is amended by inserting after the item relat-  
13 ing to chapter 36 the following new item:

“CHAPTER 37—REPURCHASE OF CORPORATE STOCK”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to repurchases (within the meaning  
16 of section 4501(c) of the Internal Revenue Code of 1986,  
17 as added by this section) of stock after December 31,  
18 2022.

19 **PART 3—FUNDING THE INTERNAL REVENUE**  
20 **SERVICE AND IMPROVING TAXPAYER COM-**  
21 **PLIANCE**

22 **SEC. 10301. ENHANCEMENT OF INTERNAL REVENUE SERV-**  
23 **ICE RESOURCES.**

24 (a) IN GENERAL.—The following sums are appro-  
25 priated, out of any money in the Treasury not otherwise

1 appropriated, for the fiscal year ending September 30,  
2 2022:

3 (1) INTERNAL REVENUE SERVICE.—

4 (A) IN GENERAL.—

5 (i) TAXPAYER SERVICES.—For nec-  
6 essary expenses of the Internal Revenue  
7 Service to provide taxpayer services, in-  
8 cluding pre-filing assistance and education,  
9 filing and account services, taxpayer advo-  
10 cacy services, and other services as author-  
11 ized by 5 U.S.C. 3109, at such rates as  
12 may be determined by the Commissioner,  
13 \$3,181,500,000, to remain available until  
14 September 30, 2031: *Provided*, That these  
15 amounts shall be in addition to amounts  
16 otherwise available for such purposes.

17 (ii) ENFORCEMENT.—For necessary  
18 expenses for tax enforcement activities of  
19 the Internal Revenue Service to determine  
20 and collect owed taxes, to provide legal and  
21 litigation support, to conduct criminal in-  
22 vestigations (including investigative tech-  
23 nology), to provide digital asset monitoring  
24 and compliance activities, to enforce crimi-  
25 nal statutes related to violations of internal

1 revenue laws and other financial crimes, to  
2 purchase and hire passenger motor vehicles  
3 (31 U.S.C. 1343(b)), and to provide other  
4 services as authorized by 5 U.S.C. 3109, at  
5 such rates as may be determined by the  
6 Commissioner, \$45,637,400,000, to remain  
7 available until September 30, 2031: *Pro-*  
8 *vided*, That these amounts shall be in addi-  
9 tion to amounts otherwise available for  
10 such purposes.

11 (iii) OPERATIONS SUPPORT.—For nec-  
12 essary expenses of the Internal Revenue  
13 Service to support taxpayer services and  
14 enforcement programs, including rent pay-  
15 ments; facilities services; printing; postage;  
16 physical security; headquarters and other  
17 IRS-wide administration activities; re-  
18 search and statistics of income; tele-  
19 communications; information technology  
20 development, enhancement, operations,  
21 maintenance, and security; the hire of pas-  
22 senger motor vehicles (31 U.S.C. 1343(b));  
23 the operations of the Internal Revenue  
24 Service Oversight Board; and other serv-  
25 ices as authorized by 5 U.S.C. 3109, at

1 such rates as may be determined by the  
2 Commissioner, \$25,326,400,000, to remain  
3 available until September 30, 2031: *Pro-*  
4 *vided*, That these amounts shall be in addi-  
5 tion to amounts otherwise available for  
6 such purposes.

7 (iv) BUSINESS SYSTEMS MODERNIZA-  
8 TION.—For necessary expenses of the In-  
9 ternal Revenue Service’s business systems  
10 modernization program, including develop-  
11 ment of callback technology and other  
12 technology to provide a more personalized  
13 customer service but not including the op-  
14 eration and maintenance of legacy systems,  
15 \$4,750,700,000, to remain available until  
16 September 30, 2031: *Provided*, That these  
17 amounts shall be in addition to amounts  
18 otherwise available for such purposes.

19 (B) TASK FORCE TO DESIGN AN IRS-RUN  
20 FREE “DIRECT EFILE” TAX RETURN SYSTEM.—  
21 For necessary expenses of the Internal Revenue  
22 Service to deliver to Congress, within nine  
23 months following the date of the enactment of  
24 this Act, a report on (I) the cost (including op-  
25 tions for differential coverage based on taxpayer



1 adjusted gross income and return complexity)  
2 of developing and running a free direct efile tax  
3 return system, including costs to build and ad-  
4 minister each release, with a focus on multi-lin-  
5 gual and mobile-friendly features and safe-  
6 guards for taxpayer data; (II) taxpayer opin-  
7 ions, expectations, and level of trust, based on  
8 surveys, for such a free direct efile system; and  
9 (III) the opinions of an independent third-party  
10 on the overall feasibility, approach, schedule,  
11 cost, organizational design, and Internal Rev-  
12 enue Service capacity to deliver such a direct  
13 efile tax return system, \$15,000,000, to remain  
14 available until September 30, 2023: *Provided*,  
15 That these amounts shall be in addition to  
16 amounts otherwise available for such purposes.

17 (2) TREASURY INSPECTOR GENERAL FOR TAX  
18 ADMINISTRATION.—For necessary expenses of the  
19 Treasury Inspector General for Tax Administration  
20 in carrying out the Inspector General Act of 1978,  
21 as amended, including purchase and hire of pas-  
22 senger motor vehicles (31 U.S.C. 1343(b)); and serv-  
23 ices authorized by 5 U.S.C. 3109, at such rates as  
24 may be determined by the Inspector General for Tax  
25 Administration, \$403,000,000, to remain available

1       until September 30, 2031: *Provided*, That these  
2       amounts shall be in addition to amounts otherwise  
3       available for such purposes.

4           (3) OFFICE OF TAX POLICY.—For necessary ex-  
5       penses of the Office of Tax Policy of the Depart-  
6       ment of the Treasury to carry out functions related  
7       to promulgating regulations under the Internal Rev-  
8       enue Code of 1986, \$104,533,803, to remain avail-  
9       able until September 30, 2031: *Provided*, That these  
10      amounts shall be in addition to amounts otherwise  
11      available for such purposes.

12          (4) UNITED STATES TAX COURT.—For nec-  
13      essary expenses of the United States Tax Court, in-  
14      cluding contract reporting and other services as au-  
15      thorized by 5 U.S.C. 3109; \$153,000,000, to remain  
16      available until September 30, 2031: *Provided*, That  
17      these amounts shall be in addition to amounts other-  
18      wise available for such purposes.

19          (5) TREASURY DEPARTMENTAL OFFICES.—For  
20      necessary expenses of the Departmental Offices of  
21      the Department of the Treasury to provide for over-  
22      sight and implementation support for actions by the  
23      Internal Revenue Service to implement this Act and  
24      the amendments made by this Act, \$50,000,000, to  
25      remain available until September 30, 2031: *Pro-*

1        *vided*, That these amounts shall be in addition to  
2        amounts otherwise available for such purposes.

3        (b) NO TAX INCREASES ON CERTAIN TAXPAYERS.—

4        Nothing in this section is intended to increase taxes on  
5        any taxpayer or small business with a taxable income  
6        below \$400,000. Further, nothing in this section is in-  
7        tended to increase taxes on any taxpayer not in the top  
8        1 percent.

9                    **Subtitle B—Prescription Drug**  
10                   **Pricing Reform**

11           **PART 1—LOWERING PRICES THROUGH DRUG**  
12                    **PRICE NEGOTIATION**

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

15        (a) PROGRAM TO LOWER PRICES FOR CERTAIN  
16        HIGH-PRICED SINGLE SOURCE DRUGS.—Title XI of the  
17        Social Security Act is amended by adding after section  
18        1184 (42 U.S.C. 1320e–3) the following new part:

19        **“PART E—PRICE NEGOTIATION PROGRAM TO**  
20                    **LOWER PRICES FOR CERTAIN HIGH-PRICED**  
21                    **SINGLE SOURCE DRUGS**

22        **“SEC. 1191. ESTABLISHMENT OF PROGRAM.**

23        “(a) IN GENERAL.—The Secretary shall establish a  
24        Drug Price Negotiation Program (in this part referred to

1 as the ‘program’). Under the program, with respect to  
2 each price applicability period, the Secretary shall—

3 “(1) publish a list of selected drugs in accord-  
4 ance with section 1192;

5 “(2) enter into agreements with manufacturers  
6 of selected drugs with respect to such period, in ac-  
7 cordance with section 1193;

8 “(3) negotiate and, if applicable, renegotiate  
9 maximum fair prices for such selected drugs, in ac-  
10 cordance with section 1194;

11 “(4) carry out the publication and administra-  
12 tive duties and compliance monitoring in accordance  
13 with sections 1195 and 1196.

14 “(b) DEFINITIONS RELATING TO TIMING.—For pur-  
15 poses of this part:

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

19 “(2) PRICE APPLICABILITY PERIOD.—The term  
20 ‘price applicability period’ means, with respect to a  
21 qualifying single source drug, the period beginning  
22 with the first initial price applicability year with re-  
23 spect to which such drug is a selected drug and end-  
24 ing with the last year during which the drug is a se-  
25 lected drug.

1           “(3) SELECTED DRUG PUBLICATION DATE.—

2           The term ‘selected drug publication date’ means,  
3           with respect to each initial price applicability year,  
4           February 1 of the year that begins 2 years prior to  
5           such year.

6           “(4) NEGOTIATION PERIOD.—The term ‘nego-  
7           tiation period’ means, with respect to an initial price  
8           applicability year with respect to a selected drug, the  
9           period—

10                   “(A) beginning on the sooner of—

11                           “(i) the date on which the manufac-  
12                           turer of the drug and the Secretary enter  
13                           into an agreement under section 1193 with  
14                           respect to such drug; or

15                           “(ii) February 28 following the se-  
16                           lected drug publication date with respect to  
17                           such selected drug; and

18                   “(B) ending on November 1 of the year  
19                   that begins 2 years prior to the initial price ap-  
20                   plicability year.

21           “(c) OTHER DEFINITIONS.—For purposes of this  
22 part:

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

1           “(2) MAXIMUM FAIR PRICE ELIGIBLE INDI-  
2           VIDUAL.—The term ‘maximum fair price eligible in-  
3           dividual’ means, with respect to a selected drug—

4                   “(A) in the case such drug is dispensed to  
5                   the individual at a pharmacy, by a mail order  
6                   service, or by another dispenser, an individual  
7                   who is enrolled in a prescription drug plan  
8                   under part D of title XVIII or an MA–PD plan  
9                   under part C of such title if coverage is pro-  
10                  vided under such plan for such selected drug;  
11                  and

12                   “(B) in the case such drug is furnished or  
13                   administered to the individual by a hospital,  
14                   physician, or other provider of services or sup-  
15                   plier, an individual who is enrolled under part  
16                   B of title XVIII, including an individual who is  
17                   enrolled in an MA plan under part C of such  
18                   title, if payment may be made under part B for  
19                   such selected drug.

20           “(3) MAXIMUM FAIR PRICE.—The term ‘max-  
21           imum fair price’ means, with respect to a year dur-  
22           ing a price applicability period and with respect to  
23           a selected drug (as defined in section 1192(c)) with  
24           respect to such period, the price negotiated pursuant

1 to section 1194, and updated pursuant to section  
2 1195(b), as applicable, for such drug and year.

3 “(4) REFERENCE PRODUCT.—The term ‘ref-  
4 erence product’ has the meaning given such term in  
5 section 351(i) of the Public Health Service Act.

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

15 “(6) UNIT.—The term ‘unit’ means, with re-  
16 spect to a drug or biological product, the lowest  
17 identifiable amount (such as a capsule or tablet, mil-  
18 ligram of molecules, or grams) of the drug or bio-  
19 logical product that is dispensed or furnished.

20 “(d) TIMING FOR INITIAL PRICE APPLICABILITY  
21 YEAR 2026.—Notwithstanding the provisions of this part,  
22 in the case of initial price applicability year 2026, the fol-  
23 lowing rules shall apply for purposes of implementing the  
24 program:

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

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

6           “(A) in subparagraph (A)(ii), by sub-  
7           stituting ‘October 1, 2023’ for ‘February 28  
8           following the selected drug publication date  
9           with respect to such selected drug’; and

10          “(B) in subparagraph (B), by substituting  
11          ‘August 1, 2024’ for ‘November 1 of the year  
12          that begins 2 years prior to the initial price ap-  
13          plicability year’.

14          “(3) Section 1192 shall be applied—

15          “(A) in subsection (b)(1)(A), by sub-  
16          stituting ‘during the period beginning on June  
17          1, 2022, and ending on May 31, 2023’ for ‘dur-  
18          ing the most recent period of 12 months prior  
19          to the selected drug publication date (but end-  
20          ing not later than October 31 of the year prior  
21          to the year of such drug publication date), with  
22          respect to such year, for which data are avail-  
23          able’; and

24          “(B) in subsection (d)(1)(A), by sub-  
25          stituting ‘during the period beginning on June



1 1, 2022, and ending on May 31, 2023’ for ‘dur-  
2 ing the most recent period for which data are  
3 available of at least 12 months prior to the se-  
4 lected drug publication date (but ending no  
5 later than October 31 of the year prior to the  
6 year of such drug publication date), with re-  
7 spect to such year’.

8 “(4) Section 1193(a) shall be applied by sub-  
9 stituting ‘October 1, 2023’ for ‘February 28 fol-  
10 lowing the selected drug publication date with re-  
11 spect to such selected drug’.

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

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

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

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

1           “(6) Section 1195(a)(1) shall be applied by sub-  
2           stituting ‘September 1, 2024’ for ‘November 30 of  
3           the year that is 2 years prior to such initial price  
4           applicability year’.

5   **“SEC. 1192. SELECTION OF NEGOTIATION-ELIGIBLE DRUGS**  
6                           **AS SELECTED DRUGS.**

7           “(a) IN GENERAL.—Not later than the selected drug  
8           publication date with respect to an initial price applica-  
9           bility year, in accordance with subsection (b), the Sec-  
10          retary shall select and publish a list of—

11           “(1) with respect to the initial price applica-  
12          bility year 2026, 10 negotiation-eligible drugs de-  
13          scribed in subparagraph (A) of subsection (d)(1),  
14          but not subparagraph (B) of such subsection, with  
15          respect to such year (or, all (if such number is less  
16          than 10) such negotiation-eligible drugs with respect  
17          to such year);

18           “(2) with respect to the initial price applica-  
19          bility year 2027, 15 negotiation-eligible drugs de-  
20          scribed in subparagraph (A) of subsection (d)(1),  
21          but not subparagraph (B) of such subsection, with  
22          respect to such year (or, all (if such number is less  
23          than 15) such negotiation-eligible drugs with respect  
24          to such year);

1           “(3) with respect to the initial price applica-  
2           bility year 2028, 15 negotiation-eligible drugs de-  
3           scribed in subparagraph (A) or (B) of subsection  
4           (d)(1) with respect to such year (or, all (if such  
5           number is less than 15) such negotiation-eligible  
6           drugs with respect to such year); and

7           “(4) with respect to the initial price applica-  
8           bility year 2029 or a subsequent year, 20 negotia-  
9           tion-eligible drugs described in subparagraph (A) or  
10          (B) of subsection (d)(1), with respect to such year  
11          (or, all (if such number is less than 20) such nego-  
12          tiation-eligible drugs with respect to such year).

13 Subject to subsection (c)(2) and section 1194(f)(5), each  
14 drug published on the list pursuant to the previous sen-  
15 tence shall be subject to the negotiation process under sec-  
16 tion 1194 for the negotiation period with respect to such  
17 initial price applicability year (and the renegotiation proc-  
18 ess under such section as applicable for any subsequent  
19 year during the applicable price applicability period).

20          “(b) SELECTION OF DRUGS.—

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

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

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

16          “(2) HIGH SPEND PART D DRUGS FOR 2026 AND  
17          2027.—With respect to the initial price applicability  
18          year 2026 and with respect to the initial price appli-  
19          cability year 2027, the Secretary shall apply para-  
20          graph (1) as if the reference to ‘negotiation-eligible  
21          drugs described in subsection (d)(1)’ were a ref-  
22          erence to ‘negotiation-eligible drugs described in sub-  
23          section (d)(1)(A)’ and as if the reference to ‘total ex-  
24          penditures for such drugs under parts B and D of

1 title XVIII' were a reference to 'total expenditures  
2 for such drugs under part D of title XVIII'.

3 "(c) SELECTED DRUG.—

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

14 "(A) is approved or licensed (as applica-  
15 ble)—

16 "(i) under section 505(j) of the Fed-  
17 eral Food, Drug, and Cosmetic Act using  
18 such drug as the listed drug; or

19 "(ii) under section 351(k) of the Pub-  
20 lic Health Service Act using such drug as  
21 the reference product; and

22 "(B) is marketed pursuant to such ap-  
23 proval or licensure.

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

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

4           “(B) for which the Secretary makes a de-  
5           termination described in paragraph (1) before  
6           or during the negotiation period with respect to  
7           such initial price applicability year;

8           shall not be subject to the negotiation process under  
9           section 1194 with respect to such negotiation period  
10          and shall continue to be considered a selected drug  
11          under this part with respect to the number of nego-  
12          tiation-eligible drugs published on the list under sub-  
13          section (a) with respect to such initial price applica-  
14          bility year.

15          “(d) NEGOTIATION-ELIGIBLE DRUG.—

16                 “(1) IN GENERAL.—For purposes of this part,  
17                 subject to paragraph (2), the term ‘negotiation-eli-  
18                 gible drug’ means, with respect to the selected drug  
19                 publication date with respect to an initial price ap-  
20                 plicability year, a qualifying single source drug, as  
21                 defined in subsection (e), that is described in either  
22                 of the following subparagraphs (or, with respect to  
23                 the initial price applicability year 2026 or 2027, that  
24                 is described in subparagraph (A)):

1           “(A) PART D HIGH SPEND DRUGS.—The  
2           qualifying single source drug is, determined in  
3           accordance with subsection (e)(2), among the  
4           50 qualifying single source drugs with the high-  
5           est total expenditures under part D of title  
6           XVIII, as determined by the Secretary in ac-  
7           cordance with paragraph (3), during the most  
8           recent 12-month period for which data are  
9           available prior to such selected drug publication  
10          date (but ending no later than October 31 of  
11          the year prior to the year of such drug publica-  
12          tion date).

13          “(B) PART B HIGH SPEND DRUGS.—The  
14          qualifying single source drug is, determined in  
15          accordance with subsection (e)(2), among the  
16          50 qualifying single source drugs with the high-  
17          est total expenditures under part B of title  
18          XVIII, as determined by the Secretary in ac-  
19          cordance with paragraph (3), during such most  
20          recent 12-month period, as described in sub-  
21          paragraph (A).

22          “(2) EXCEPTION FOR SMALL BIOTECH  
23          DRUGS.—

24                 “(A) IN GENERAL.—Subject to subpara-  
25                 graph (C), the term ‘negotiation-eligible drug’

1 shall not include, with respect to the initial  
2 price applicability years 2026, 2027, and 2028,  
3 a qualifying single source drug that meets ei-  
4 ther of the following:

5 “(i) PART D DRUGS.—The total ex-  
6 penditures for the qualifying single source  
7 drug under part D of title XVIII, as deter-  
8 mined by the Secretary in accordance with  
9 paragraph (3)(B), during 2021—

10 “(I) are equal to or less than 1  
11 percent of the total expenditures  
12 under such part D, as so determined,  
13 for all covered part D drugs (as de-  
14 fined in section 1860D–2(e)) during  
15 such year; and

16 “(II) are equal to at least 80 per-  
17 cent of the total expenditures under  
18 such part D, as so determined, for all  
19 covered part D drugs for which the  
20 manufacturer of the drug has an  
21 agreement in effect under section  
22 1860D–14A during such year.

23 “(ii) PART B DRUGS.—The total ex-  
24 penditures for the qualifying single source  
25 drug under part B of title XVIII, as deter-



1                   mined by the Secretary in accordance with  
2                   paragraph (3)(B), during 2021—

3                   “(I) are equal to or less than 1  
4                   percent of the total expenditures  
5                   under such part B, as so determined,  
6                   for all qualifying single source drugs  
7                   for which payment may be made  
8                   under such part B during such year;  
9                   and

10                  “(II) are equal to at least 80 per-  
11                  cent of the total expenditures under  
12                  such part B, as so determined, for all  
13                  qualifying single source drugs of the  
14                  manufacturer for which payment may  
15                  be made under such part B during  
16                  such year.

17                  “(B) CLARIFICATIONS RELATING TO MAN-  
18                  UFACTURERS.—

19                  “(i) AGGREGATION RULE.—All per-  
20                  sons treated as a single employer under  
21                  subsection (a) or (b) of section 52 of the  
22                  Internal Revenue Code of 1986 shall be  
23                  treated as one manufacturer for purposes  
24                  of this paragraph.

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

13                  “(C) DRUGS NOT INCLUDED AS SMALL  
14                  BIOTECH DRUGS.—A new formulation, such as  
15                  an extended release formulation, of a qualifying  
16                  single source drug shall not be considered a  
17                  qualifying single source drug described in sub-  
18                  paragraph (A).

19                  “(3) CLARIFICATIONS AND DETERMINATIONS.—

20                  “(A) PREVIOUSLY SELECTED DRUGS AND  
21                  SMALL BIOTECH DRUGS EXCLUDED.—In apply-  
22                  ing subparagraphs (A) and (B) of paragraph  
23                  (1), the Secretary shall not consider or count—

24                  “(i) drugs that are already selected  
25                  drugs; and

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

5                   “(B) USE OF DATA.—In determining  
6                   whether a qualifying single source drug satisfies  
7                   any of the criteria described in paragraph (1)  
8                   or (2), the Secretary shall use data that is ag-  
9                   gregated across dosage forms and strengths of  
10                  the drug, including new formulations of the  
11                  drug, such as an extended release formulation,  
12                  and not based on the specific formulation or  
13                  package size or package type of the drug.

14                  “(e) QUALIFYING SINGLE SOURCE DRUG.—

15                  “(1) IN GENERAL.—For purposes of this part,  
16                  the term ‘qualifying single source drug’ means, with  
17                  respect to an initial price applicability year, subject  
18                  to paragraphs (2) and (3), a covered part D drug  
19                  (as defined in section 1860D–2(e)) that is described  
20                  in any of the following or a drug or biological prod-  
21                  uct for which payment may be made under part B  
22                  of title XVIII that is described in any of the fol-  
23                  lowing:

24                  “(A) DRUG PRODUCTS.—A drug—

1           “(i) that is approved under section  
2           505(e) of the Federal Food, Drug, and  
3           Cosmetic Act and is marketed pursuant to  
4           such approval;

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

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

13           “(B) BIOLOGICAL PRODUCTS.—A biologi-  
14           cal product—

15           “(i) that is licensed under section  
16           351(a) of the Public Health Service Act  
17           and is marketed under section 351 of such  
18           Act;

19           “(ii) for which, as of the selected drug  
20           publication date with respect to such initial  
21           price applicability year, at least 11 years  
22           will have elapsed since the date of such li-  
23           censure; and

24           “(iii) that is not the reference product  
25           for any biological product that is licensed

1                   and marketed under section 351(k) of such  
2                   Act.

3                   “(2) TREATMENT OF AUTHORIZED GENERIC  
4 DRUGS.—

5                   “(A) IN GENERAL.—In the case of a quali-  
6                   fying single source drug described in subpara-  
7                   graph (A) or (B) of paragraph (1) that is the  
8                   listed drug (as such term is used in section  
9                   505(j) of the Federal Food, Drug, and Cos-  
10                  metic Act) or a product described in clause (ii)  
11                  of subparagraph (B), with respect to an author-  
12                  ized generic drug, in applying the provisions of  
13                  this part, such authorized generic drug and  
14                  such listed drug or such product shall be treat-  
15                  ed as the same qualifying single source drug.

16                  “(B) AUTHORIZED GENERIC DRUG DE-  
17                  FINED.—For purposes of this paragraph, the  
18                  term ‘authorized generic drug’ means—

19                         “(i) in the case of a drug, an author-  
20                         ized generic drug (as such term is defined  
21                         in section 505(t)(3) of the Federal Food,  
22                         Drug, and Cosmetic Act); and

23                         “(ii) in the case of a biological prod-  
24                         uct, a product that—

1                   “(I) has been licensed under sec-  
2                   tion 351(a) of such Act; and

3                   “(II) is marketed, sold, or dis-  
4                   tributed directly or indirectly to retail  
5                   class of trade under a different label-  
6                   ing, packaging (other than repack-  
7                   aging as the reference product in blis-  
8                   ter packs, unit doses, or similar pack-  
9                   aging for use in institutions), product  
10                  code, labeler code, trade name, or  
11                  trade mark than the reference prod-  
12                  uct.

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

16                  “(A) CERTAIN ORPHAN DRUGS.—A drug  
17                  that is designated as a drug for only one rare  
18                  disease or condition under section 526 of the  
19                  Federal Food, Drug, and Cosmetic Act and for  
20                  which the only approved indication (or indica-  
21                  tions) is for such disease or condition.

22                  “(B) LOW SPEND MEDICARE DRUGS.—A  
23                  drug or biological product with respect to which  
24                  the total expenditures under parts B and D of

1 title XVIII, as determined by the Secretary in  
2 accordance with subsection (d)(3)(B)—

3 “(i) with respect to initial price appli-  
4 cability year 2026, is less than, during the  
5 period beginning on June 1, 2022, and  
6 ending on May 31, 2023, \$200,000,000;

7 “(ii) with respect to initial price appli-  
8 cability year 2027, is less than, during the  
9 most recent 12-month period applicable  
10 under subparagraphs (A) and (B) of sub-  
11 section (d)(1) for such year, the dollar  
12 amount specified in clause (i) increased by  
13 the annual percentage increase in the con-  
14 sumer price index for all urban consumers  
15 (all items; United States city average) for  
16 the period beginning on June 1, 2023, and  
17 ending on September 30, 2024; or

18 “(iii) with respect to a subsequent ini-  
19 tial price applicability year, is less than,  
20 during the most recent 12-month period  
21 applicable under subparagraphs (A) and  
22 (B) of subsection (d)(1) for such year, the  
23 dollar amount specified in this subpara-  
24 graph for the previous initial price applica-  
25 bility year increased by the annual percent-

1           age increase in such consumer price index  
2           for the 12-month period ending on Sep-  
3           tember 30 of the year prior to the year of  
4           the selected drug publication date with re-  
5           spect to such subsequent initial price appli-  
6           cability year.

7           “(C) PLASMA-DERIVED PRODUCTS.—A bio-  
8           logical product that is derived from human  
9           whole blood or plasma.

10 **“SEC. 1193. MANUFACTURER AGREEMENTS.**

11       “(a) IN GENERAL.—For purposes of section  
12 1191(a)(2), the Secretary shall enter into agreements with  
13 manufacturers of selected drugs with respect to a price  
14 applicability period, by not later than February 28 fol-  
15 lowing the selected drug publication date with respect to  
16 such selected drug, under which—

17           “(1) during the negotiation period for the initial  
18 price applicability year for the selected drug, the  
19 Secretary and the manufacturer, in accordance with  
20 section 1194, negotiate to determine (and, by not  
21 later than the last date of such period, agree to) a  
22 maximum fair price for such selected drug of the  
23 manufacturer in order for the manufacturer to pro-  
24 vide access to such price—



1           “(A) to maximum fair price eligible indi-  
2           viduals who with respect to such drug are de-  
3           scribed in subparagraph (A) of section  
4           1191(c)(2) and are dispensed such drug (and to  
5           pharmacies, mail order services, and other dis-  
6           pensers, with respect to such maximum fair  
7           price eligible individuals who are dispensed such  
8           drugs) during, subject to paragraph (2), the  
9           price applicability period; and

10           “(B) to hospitals, physicians, and other  
11           providers of services and suppliers with respect  
12           to maximum fair price eligible individuals who  
13           with respect to such drug are described in sub-  
14           paragraph (B) of such section and are fur-  
15           nished or administered such drug during, sub-  
16           ject to paragraph (2), the price applicability pe-  
17           riod;

18           “(2) the Secretary and the manufacturer shall,  
19           in accordance with section 1194, renegotiate (and,  
20           by not later than the last date of the period of re-  
21           negotiation, agree to) the maximum fair price for  
22           such drug, in order for the manufacturer to provide  
23           access to such maximum fair price (as so renegoti-  
24           ated)—

1           “(A) to maximum fair price eligible indi-  
2           viduals who with respect to such drug are de-  
3           scribed in subparagraph (A) of section  
4           1191(c)(2) and are dispensed such drug (and to  
5           pharmacies, mail order services, and other dis-  
6           pensers, with respect to such maximum fair  
7           price eligible individuals who are dispensed such  
8           drugs) during any year during the price appli-  
9           cability period (beginning after such renegoti-  
10          ation) with respect to such selected drug; and

11          “(B) to hospitals, physicians, and other  
12          providers of services and suppliers with respect  
13          to maximum fair price eligible individuals who  
14          with respect to such drug are described in sub-  
15          paragraph (B) of such section and are fur-  
16          nished or administered such drug during any  
17          year described in subparagraph (A);

18          “(3) subject to subsection (d), access to the  
19          maximum fair price (including as renegotiated pur-  
20          suant to paragraph (2)), with respect to such a se-  
21          lected drug, shall be provided by the manufacturer  
22          to—

23          “(A) maximum fair price eligible individ-  
24          uals, who with respect to such drug are de-  
25          scribed in subparagraph (A) of section

1           1191(c)(2), at the pharmacy, mail order service,  
2           or other dispenser at the point-of-sale of such  
3           drug (and shall be provided by the manufac-  
4           turer to the pharmacy, mail order service, or  
5           other dispenser, with respect to such maximum  
6           fair price eligible individuals who are dispensed  
7           such drugs), as described in paragraph (1)(A)  
8           or (2)(A), as applicable; and

9           “(B) hospitals, physicians, and other pro-  
10          viders of services and suppliers with respect to  
11          maximum fair price eligible individuals who  
12          with respect to such drug are described in sub-  
13          paragraph (B) of such section and are fur-  
14          nished or administered such drug, as described  
15          in paragraph (1)(B) or (2)(B), as applicable;

16          “(4) the manufacturer submits to the Sec-  
17          retary, in a form and manner specified by the Sec-  
18          retary, for the negotiation period for the price appli-  
19          cability period (and, if applicable, before any period  
20          of renegotiation pursuant to section 1194(f)) with  
21          respect to such drug—

22          “(A) information on the non-Federal aver-  
23          age manufacturer price (as defined in section  
24          8126(h)(5) of title 38, United States Code) for  
25          the drug for the applicable year or period; and

1                   “(B) information that the Secretary re-  
2                   quires to carry out the negotiation (or renegoti-  
3                   ation process) under this part; and

4                   “(5) the manufacturer complies with require-  
5                   ments determined by the Secretary to be necessary  
6                   for purposes of administering the program and mon-  
7                   itoring compliance with the program.

8                   “(b) AGREEMENT IN EFFECT UNTIL DRUG IS NO  
9                   LONGER A SELECTED DRUG.—An agreement entered into  
10                  under this section shall be effective, with respect to a se-  
11                  lected drug, until such drug is no longer considered a se-  
12                  lected drug under section 1192(c).

13                  “(c) CONFIDENTIALITY OF INFORMATION.—Informa-  
14                  tion submitted to the Secretary under this part by a man-  
15                  ufacturer of a selected drug that is proprietary informa-  
16                  tion of such manufacturer (as determined by the Sec-  
17                  retary) shall be used only by the Secretary or disclosed  
18                  to and used by the Comptroller General of the United  
19                  States for purposes of carrying out this part.

20                  “(d) NONDUPLICATION WITH 340B CEILING  
21                  PRICE.—Under an agreement entered into under this sec-  
22                  tion, the manufacturer of a selected drug—

23                         “(1) shall not be required to provide access to  
24                         the maximum fair price under subsection (a)(3),  
25                         with respect to such selected drug and maximum

1 fair price eligible individuals who are eligible to be  
2 furnished, administered, or dispensed such selected  
3 drug at a covered entity described in section  
4 340B(a)(4) of the Public Health Service Act, to  
5 such covered entity if such selected drug is subject  
6 to an agreement described in section 340B(a)(1) of  
7 such Act and the ceiling price (defined in section  
8 340B(a)(1) of such Act) is lower than the maximum  
9 fair price for such selected drug; and

10 “(2) shall be required to provide access to the  
11 maximum fair price to such covered entity with re-  
12 spect to maximum fair price eligible individuals who  
13 are eligible to be furnished, administered, or dis-  
14 pensed such selected drug at such entity at such  
15 ceiling price in a nonduplicated amount to the ceil-  
16 ing price if such maximum fair price is below the  
17 ceiling price for such selected drug.

18 **“SEC. 1194. NEGOTIATION AND RENEGOTIATION PROCESS.**

19 “(a) IN GENERAL.—For purposes of this part, under  
20 an agreement under section 1193 between the Secretary  
21 and a manufacturer of a selected drug (or selected drugs),  
22 with respect to the period for which such agreement is  
23 in effect and in accordance with subsections (b), (c), and  
24 (d), the Secretary and the manufacturer—

1           “(1) shall during the negotiation period with re-  
2           spect to such drug, in accordance with this section,  
3           negotiate a maximum fair price for such drug for  
4           the purpose described in section 1193(a)(1); and

5           “(2) renegotiate, in accordance with the process  
6           specified pursuant to subsection (f), such maximum  
7           fair price for such drug for the purpose described in  
8           section 1193(a)(2) if such drug is a renegotiation-el-  
9           igible drug under such subsection.

10          “(b) NEGOTIATION PROCESS REQUIREMENTS.—

11           “(1) METHODOLOGY AND PROCESS.—The Sec-  
12           retary shall develop and use a consistent method-  
13           ology and process, in accordance with paragraph (2),  
14           for negotiations under subsection (a) that aims to  
15           achieve the lowest maximum fair price for each se-  
16           lected drug.

17           “(2) SPECIFIC ELEMENTS OF NEGOTIATION  
18           PROCESS.—As part of the negotiation process under  
19           this section, with respect to a selected drug and the  
20           negotiation period with respect to the initial price  
21           applicability year with respect to such drug, the fol-  
22           lowing shall apply:

23           “(A) SUBMISSION OF INFORMATION.—Not  
24           later than March 1 of the year of the selected  
25           drug publication date, with respect to the se-



1           “(D) RESPONSE TO COUNTEROFFER.—

2           After receiving a counteroffer under subpara-  
3           graph (C), the Secretary shall respond in writ-  
4           ing to such counteroffer.

5           “(E) DEADLINE.—All negotiations between  
6           the Secretary and the manufacturer of the se-  
7           lected drug shall end prior to the first day of  
8           November following the selected drug publica-  
9           tion date, with respect to the initial price appli-  
10          cability year.

11          “(F) LIMITATIONS ON OFFER AMOUNT.—

12          In negotiating the maximum fair price of a se-  
13          lected drug, with respect to the initial price ap-  
14          plicability year for the selected drug, and, as  
15          applicable, in renegotiating the maximum fair  
16          price for such drug, with respect to a subse-  
17          quent year during the price applicability period  
18          for such drug, the Secretary shall not offer (or  
19          agree to a counteroffer for) a maximum fair  
20          price for the selected drug that—

21                  “(i) exceeds the ceiling determined  
22                  under subsection (e) for the selected drug  
23                  and year; or



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

4                   “(c) CEILING FOR MAXIMUM FAIR PRICE.—

5                   “(1) GENERAL CEILING.—

6                   “(A) IN GENERAL.—The maximum fair  
7                   price negotiated under this section for a se-  
8                   lected drug, with respect to the first initial price  
9                   applicability year of the price applicability pe-  
10                  riod with respect to such drug, shall not exceed  
11                  the lower of the amount under subparagraph  
12                  (B) or the amount under subparagraph (C).

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

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

21                  “(ii) PART B DRUG OR BIOLOGICAL.—  
22                  In the case of a drug or biological product  
23                  for which payment may be made under  
24                  part B of title XVIII, the payment amount  
25                  under section 1847A(b)(4) for the drug or

1 biological product for the year prior to the  
2 year of the selected drug publication date  
3 with respect to the initial price applica-  
4 bility year for the drug or biological prod-  
5 uct.

6 “(C) SUBPARAGRAPH (C) AMOUNT.—An  
7 amount equal to the applicable percent de-  
8 scribed in paragraph (3), with respect to such  
9 drug, of the following:

10 “(i) INITIAL PRICE APPLICABILITY  
11 YEAR 2026.—In the case of a selected drug  
12 with respect to which such initial price ap-  
13 plicability year is 2026, the average non-  
14 Federal average manufacturer price for  
15 such drug for 2021 (or, in the case that  
16 there is not an average non-Federal aver-  
17 age manufacturer price available for such  
18 drug for 2021, for the first full year fol-  
19 lowing the market entry for such drug), in-  
20 creased by the percentage increase in the  
21 consumer price index for all urban con-  
22 sumers (all items; United States city aver-  
23 age) from September 2021 (or December  
24 of such first full year following the market  
25 entry), as applicable, to September of the

1 year prior to the year of the selected drug  
2 publication date with respect to such initial  
3 price applicability year.

4 “(ii) INITIAL PRICE APPLICABILITY  
5 YEAR 2027 AND SUBSEQUENT YEARS.—In  
6 the case of a selected drug with respect to  
7 which such initial price applicability year is  
8 2027 or a subsequent year, the lower of—

9 “(I) the average non-Federal av-  
10 erage manufacturer price for such  
11 drug for 2021 (or, in the case that  
12 there is not an average non-Federal  
13 average manufacturer price available  
14 for such drug for 2021, for the first  
15 full year following the market entry  
16 for such drug), increased by the per-  
17 centage increase in the consumer price  
18 index for all urban consumers (all  
19 items; United States city average)  
20 from September 2021 (or December  
21 of such first full year following the  
22 market entry), as applicable, to Sep-  
23 tember of the year prior to the year of  
24 the selected drug publication date

1 with respect to such initial price appli-  
2 cability year; or

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

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

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

20 “(B) a fraction—

21 “(i) the numerator of which is the  
22 total number of individuals enrolled in  
23 such plan in such year; and

24 “(ii) the denominator of which is the  
25 total number of individuals enrolled in a

1 prescription drug plan or an MA–PD plan  
2 in such year.

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

6 “(A) SHORT-MONOPOLY DRUGS AND VAC-  
7 CINES.—With respect to a selected drug (other  
8 than an extended-monopoly drug and a long-  
9 monopoly drug), 75 percent.

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

13 “(C) LONG-MONOPOLY DRUGS.—With re-  
14 spect to a long-monopoly drug, 40 percent.

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

16 “(A) IN GENERAL.—In this part, subject  
17 to subparagraph (B), the term ‘extended-mo-  
18 nopoly drug’ means, with respect to an initial  
19 price applicability year, a selected drug for  
20 which at least 12 years, but fewer than 16  
21 years, have elapsed since the date of approval  
22 of such drug under section 505(c) of the Fed-  
23 eral Food, Drug, and Cosmetic Act or since the  
24 date of licensure of such drug under section

1 351(a) of the Public Health Service Act, as ap-  
2 plicable.

3 “(B) EXCLUSIONS.—The term ‘extended-  
4 monopoly drug’ shall not include any of the fol-  
5 lowing:

6 “(i) A vaccine that is licensed under  
7 section 351 of the Public Health Service  
8 Act and marketed pursuant to such sec-  
9 tion.

10 “(ii) A selected drug for which a man-  
11 ufacturer had an agreement under this  
12 part with the Secretary with respect to an  
13 initial price applicability year that is before  
14 2030.

15 “(C) CLARIFICATION.—Nothing in sub-  
16 paragraph (B)(ii) shall limit the transition of a  
17 selected drug described in paragraph (3)(A) to  
18 a long-monopoly drug if the selected drug meets  
19 the definition of a long-monopoly drug.

20 “(5) LONG-MONOPOLY DRUG DEFINED.—

21 “(A) IN GENERAL.—In this part, subject  
22 to subparagraph (B), the term ‘long-monopoly  
23 drug’ means, with respect to an initial price ap-  
24 plicability year, a selected drug for which at  
25 least 16 years have elapsed since the date of

1 approval of such drug under section 505(c) of  
2 the Federal Food, Drug, and Cosmetic Act or  
3 since the date of licensure of such drug under  
4 section 351(a) of the Public Health Service Act,  
5 as applicable.

6 “(B) EXCLUSION.—The term ‘long-monop-  
7 oly drug’ shall not include a vaccine that is li-  
8 censed under section 351 of the Public Health  
9 Service Act and marketed pursuant to such sec-  
10 tion.

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

18 “(d) TEMPORARY FLOOR FOR SMALL BIOTECH  
19 DRUGS.—In the case of a selected drug that is a quali-  
20 fying single source drug described in section 1192(d)(2)  
21 and with respect to which the first initial price applica-  
22 bility year of the price applicability period with respect to  
23 such drug is 2029 or 2030, the maximum fair price nego-  
24 tiated under this section for such drug for such initial  
25 price applicability year may not be less than 66 percent

1 of the average non-Federal average manufacturer price for  
2 such drug (as defined in subsection (c)(6)) for 2021 (or,  
3 in the case that there is not an average non-Federal aver-  
4 age manufacturer price available for such drug for 2021,  
5 for the first full year following the market entry for such  
6 drug), increased by the percentage increase in the con-  
7 sumer price index for all urban consumers (all items;  
8 United States city average) from September 2021 (or De-  
9 cember of such first full year following the market entry),  
10 as applicable, to September of the year prior to the se-  
11 lected drug publication date with respect to the initial  
12 price applicability year.

13 “(e) FACTORS.—For purposes of negotiating the  
14 maximum fair price of a selected drug under this part with  
15 the manufacturer of the drug, the Secretary shall consider  
16 the following factors, as applicable to the drug, as the  
17 basis for determining the offers and counteroffers under  
18 subsection (b) for the drug:

19 “(1) MANUFACTURER-SPECIFIC DATA.—The  
20 following data, with respect to such selected drug, as  
21 submitted by the manufacturer:

22 “(A) Research and development costs of  
23 the manufacturer for the drug and the extent to  
24 which the manufacturer has recouped research  
25 and development costs.



1           “(B) Current unit costs of production and  
2           distribution of the drug.

3           “(C) Prior Federal financial support for  
4           novel therapeutic discovery and development  
5           with respect to the drug.

6           “(D) Data on pending and approved pat-  
7           ent applications, exclusivities recognized by the  
8           Food and Drug Administration, and applica-  
9           tions and approvals under section 505(e) of the  
10          Federal Food, Drug, and Cosmetic Act or sec-  
11          tion 351(a) of the Public Health Service Act for  
12          the drug.

13          “(E) Market data and revenue and sales  
14          volume data for the drug in the United States.

15          “(2) EVIDENCE ABOUT ALTERNATIVE TREAT-  
16          MENTS.—The following evidence, as available, with  
17          respect to such selected drug and therapeutic alter-  
18          natives to such drug:

19                 “(A) The extent to which such drug rep-  
20                 resents a therapeutic advance as compared to  
21                 existing therapeutic alternatives and the costs  
22                 of such existing therapeutic alternatives.

23                 “(B) Prescribing information approved by  
24                 the Food and Drug Administration for such  
25                 drug and therapeutic alternatives to such drug.

1           “(C) Comparative effectiveness of such  
2           drug and therapeutic alternatives to such drug,  
3           taking into consideration the effects of such  
4           drug and therapeutic alternatives to such drug  
5           on specific populations, such as individuals with  
6           disabilities, the elderly, the terminally ill, chil-  
7           dren, and other patient populations.

8           “(D) The extent to which such drug and  
9           therapeutic alternatives to such drug address  
10          unmet medical needs for a condition for which  
11          treatment or diagnosis is not addressed ade-  
12          quately by available therapy.

13          In using evidence described in subparagraph (C), the  
14          Secretary shall not use evidence from comparative  
15          clinical effectiveness research in a manner that  
16          treats extending the life of an elderly, disabled, or  
17          terminally ill individual as of lower value than ex-  
18          tending the life of an individual who is younger, non-  
19          disabled, or not terminally ill.

20          “(f) RENEGOTIATION PROCESS.—

21                 “(1) IN GENERAL.—In the case of a renegoti-  
22                 ation-eligible drug (as defined in paragraph (2)) that  
23                 is selected under paragraph (3), the Secretary shall  
24                 provide for a process of renegotiation (for years (be-  
25                 ginning with 2028) during the price applicability pe-

1 riod, with respect to such drug) of the maximum fair  
2 price for such drug consistent with paragraph (4).

3 “(2) RENEGOTIATION-ELIGIBLE DRUG DE-  
4 FINED.—In this section, the term ‘renegotiation-eli-  
5 gible drug’ means a selected drug that is any of the  
6 following:

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

10 “(B) CHANGE OF STATUS TO AN EX-  
11 TENDED-MONOPOLY DRUG.—A selected drug  
12 that—

13 “(i) is not an extended-monopoly or a  
14 long-monopoly drug; and

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

18 “(C) CHANGE OF STATUS TO A LONG-MO-  
19 NOPOLY DRUG.—A selected drug that—

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

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

23 “(D) MATERIAL CHANGES.—A selected  
24 drug for which the Secretary determines there  
25 has been a material change of any of the fac-

1           tors described in paragraph (1) or (2) of sub-  
2           section (e).

3           “(3) SELECTION OF DRUGS FOR RENEGOTI-  
4           ATION.—For each year (beginning with 2028), the  
5           Secretary shall select among renegotiation-eligible  
6           drugs for renegotiation as follows:

7                   “(A) ALL EXTENDED-MONOPOLY NEGOTIA-  
8                   TION-ELIGIBLE DRUGS.—The Secretary shall  
9                   select all renegotiation-eligible drugs described  
10                  in paragraph (2)(B).

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

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

22           “(4) RENEGOTIATION PROCESS.—

23                   “(A) IN GENERAL.—The Secretary shall  
24                   specify the process for renegotiation of max-  
25                   imum fair prices with the manufacturer of a re-

1 negotiation-eligible drug selected for renegoti-  
2 ation under this subsection.

3 “(B) CONSISTENT WITH NEGOTIATION  
4 PROCESS.—The process specified under sub-  
5 paragraph (A) shall, to the extent practicable,  
6 be consistent with the methodology and process  
7 established under subsection (b) and in accord-  
8 ance with subsections (c), (d), and (e), and for  
9 purposes of applying subsections (c)(1)(A) and  
10 (d), the reference to the first initial price appli-  
11 cability year of the price applicability period  
12 with respect to such drug shall be treated as  
13 the first initial price applicability year of such  
14 period for which the maximum fair price estab-  
15 lished pursuant to such renegotiation applies,  
16 including for applying subsection (c)(3)(B) in  
17 the case of renegotiation-eligible drugs de-  
18 scribed in paragraph (3)(A) of this subsection  
19 and subsection (c)(3)(C) in the case of renegoti-  
20 ation-eligible drugs described in paragraph  
21 (3)(B) of this subsection.

22 “(5) CLARIFICATION.—A renegotiation-eligible  
23 drug for which the Secretary makes a determination  
24 described in section 1192(c)(1) before or during the

1 period of renegotiation shall not be subject to the re-  
2 negotiation process under this section.

3 “(g) CLARIFICATION.—The maximum fair price for  
4 a selected drug described in subparagraph (A) or (B) of  
5 paragraph (1) shall take effect no later than the first day  
6 of the first calendar quarter that begins after the date de-  
7 scribed in subparagraph (A) or (B), as applicable.

8 **“SEC. 1195. PUBLICATION OF MAXIMUM FAIR PRICES.**

9 “(a) IN GENERAL.—With respect to an initial price  
10 applicability year and a selected drug with respect to such  
11 year—

12 “(1) not later than November 30 of the year  
13 that is 2 years prior to such initial price applicability  
14 year, the Secretary shall publish the maximum fair  
15 price for such drug negotiated with the manufac-  
16 turer of such drug under this part; and

17 “(2) not later than March 1 of the year prior  
18 to such initial price applicability year, the Secretary  
19 shall publish, subject to section 1193(c), the expla-  
20 nation for the maximum fair price with respect to  
21 the factors as applied under section 1194(e) for such  
22 drug described in paragraph (1).

23 “(b) UPDATES.—

24 “(1) SUBSEQUENT YEAR MAXIMUM FAIR  
25 PRICES.—For a selected drug, for each year subse-

1       quent to the first initial price applicability year of  
2       the price applicability period with respect to such  
3       drug, with respect to which an agreement for such  
4       drug is in effect under section 1193, not later than  
5       November 30 of the year that is 2 years prior to  
6       such subsequent year, the Secretary shall publish  
7       the maximum fair price applicable to such drug and  
8       year, which shall be—

9               “(A) subject to subparagraph (B), the  
10              amount equal to the maximum fair price pub-  
11              lished for such drug for the previous year, in-  
12              creased by the annual percentage increase in  
13              the consumer price index for all urban con-  
14              sumers (all items; United States city average)  
15              for the 12-month period ending with the July  
16              immediately preceding such November 30; or

17              “(B) in the case the maximum fair price  
18              for such drug was renegotiated, for the first  
19              year for which such price as so renegotiated ap-  
20              plies, such renegotiated maximum fair price.

21              “(2) PRICES NEGOTIATED AFTER DEADLINE.—

22       In the case of a selected drug with respect to an ini-  
23       tial price applicability year for which the maximum  
24       fair price is determined under this part after the  
25       date of publication under this section, the Secretary

1 shall publish such maximum fair price by not later  
2 than 30 days after the date such maximum price is  
3 so determined.

4 **“SEC. 1196. ADMINISTRATIVE DUTIES AND COMPLIANCE**  
5 **MONITORING.**

6 “(a) ADMINISTRATIVE DUTIES.—For purposes of  
7 section 1191(a)(4), the administrative duties described in  
8 this section are the following:

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

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

18 “(B) any other discounts.

19 “(2) The establishment of procedures to com-  
20 pute and apply the maximum fair price across dif-  
21 ferent strengths and dosage forms of a selected drug  
22 and not based on the specific formulation or package  
23 size or package type of such drug.



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

4           “(A) maximum fair price eligible individ-  
5 uals who are enrolled in a prescription drug  
6 plan under part D of title XVIII or an MA–PD  
7 plan under part C of such title; and

8           “(B) maximum fair price eligible individ-  
9 uals who are enrolled under part B of such  
10 title, including who are enrolled in an MA plan  
11 under part C of such title.

12           “(4) The establishment of a negotiation process  
13 and renegotiation process in accordance with section  
14 1194.

15           “(5) The establishment of a process for manu-  
16 facturers to submit information described in section  
17 1194(b)(2)(A).

18           “(6) The sharing with the Secretary of the  
19 Treasury of such information as is necessary to de-  
20 termine the tax imposed by section 5000D of the In-  
21 ternal Revenue Code of 1986, including the applica-  
22 tion of such tax to a manufacturer, producer, or im-  
23 porter or the determination of any date described in  
24 section 5000D(c)(1) of such Code. For purposes of

1 the preceding sentence, such information shall in-  
2 clude—

3 “(A) the date on which the Secretary re-  
4 ceives notification of any termination of an  
5 agreement under the Medicare coverage gap  
6 discount program under section 1860D-14A  
7 and the date on which any subsequent agree-  
8 ment under such program is entered into;

9 “(B) the date on which the Secretary re-  
10 ceives notification of any termination of an  
11 agreement under the manufacturer discount  
12 program under section 1860D-14C and the date  
13 on which any subsequent agreement under such  
14 program is entered into; and

15 “(C) the date on which the Secretary re-  
16 ceives notification of any termination of a re-  
17bate agreement described in section 1927(b)  
18 and the date on which any subsequent rebate  
19 agreement described in such section is entered  
20 into.

21 “(7) The establishment of procedures for pur-  
22 poses of applying section 1192(d)(2)(B).

23 “(b) COMPLIANCE MONITORING.—The Secretary  
24 shall monitor compliance by a manufacturer with the  
25 terms of an agreement under section 1193 and establish

1 a mechanism through which violations of such terms shall  
2 be reported.

3 **“SEC. 1197. CIVIL MONETARY PENALTIES.**

4 “(a) VIOLATIONS RELATING TO OFFERING OF MAX-  
5 IMUM FAIR PRICE.—Any manufacturer of a selected drug  
6 that has entered into an agreement under section 1193,  
7 with respect to a year during the price applicability period  
8 with respect to such drug, that does not provide access  
9 to a price that is equal to or less than the maximum fair  
10 price for such drug for such year—

11 “(1) to a maximum fair price eligible individual  
12 who with respect to such drug is described in sub-  
13 paragraph (A) of section 1191(c)(2) and who is dis-  
14 pensed such drug during such year (and to phar-  
15 macies, mail order services, and other dispensers,  
16 with respect to such maximum fair price eligible in-  
17 dividuals who are dispensed such drugs); or

18 “(2) to a hospital, physician, or other provider  
19 of services or supplier with respect to maximum fair  
20 price eligible individuals who with respect to such  
21 drug is described in subparagraph (B) of such sec-  
22 tion and is furnished or administered such drug by  
23 such hospital, physician, or provider or supplier dur-  
24 ing such year;

1 shall be subject to a civil monetary penalty equal to ten  
2 times the amount equal to the product of the number of  
3 units of such drug so furnished, dispensed, or adminis-  
4 tered during such year and the difference between the  
5 price for such drug made available for such year by such  
6 manufacturer with respect to such individual or hospital,  
7 physician, provider of services, or supplier and the max-  
8 imum fair price for such drug for such year.

9       “(b) VIOLATIONS OF CERTAIN TERMS OF AGREE-  
10 MENT.—Any manufacturer of a selected drug that has en-  
11 tered into an agreement under section 1193, with respect  
12 to a year during the price applicability period with respect  
13 to such drug, that is in violation of a requirement imposed  
14 pursuant to section 1193(a)(5), including the requirement  
15 to submit information pursuant to section 1193(a)(4),  
16 shall be subject to a civil monetary penalty equal to  
17 \$1,000,000 for each day of such violation.

18       “(c) FALSE INFORMATION.—Any manufacturer that  
19 knowingly provides false information pursuant to section  
20 1196(a)(7) shall be subject to a civil monetary penalty  
21 equal to \$100,000,000 for each item of such false informa-  
22 tion.

23       “(d) APPLICATION.—The provisions of section 1128A  
24 (other than subsections (a) and (b)) shall apply to a civil  
25 monetary penalty under this section in the same manner

1 as such provisions apply to a penalty or proceeding under  
2 section 1128A(a).

3 **“SEC. 1198. LIMITATION ON ADMINISTRATIVE AND JUDI-**  
4 **CIAL REVIEW.**

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

7 “(1) The determination of a unit, with respect  
8 to a drug or biological product, pursuant to section  
9 1191(e)(6).

10 “(2) The selection of drugs under section  
11 1192(b), the determination of negotiation-eligible  
12 drugs under section 1192(d), and the determination  
13 of qualifying single source drugs under section  
14 1192(e).

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

17 “(4) The determination of renegotiation-eligible  
18 drugs under section 1194(f)(2) and the selection of  
19 renegotiation-eligible drugs under section  
20 1194(f)(3).”.

21 (b) APPLICATION OF MAXIMUM FAIR PRICES AND  
22 CONFORMING AMENDMENTS.—

23 (1) UNDER MEDICARE.—

24 (A) APPLICATION TO PAYMENTS UNDER  
25 PART B.—Section 1847A(b)(1)(B) of the Social

1 Security Act (42 U.S.C. 1395w–3a(b)(1)(B)) is  
2 amended by inserting “or in the case of such a  
3 drug or biological product that is a selected  
4 drug (as referred to in section 1192(c)), with  
5 respect to a price applicability period (as de-  
6 fined in section 1191(b)(2)), 106 percent of the  
7 maximum fair price (as defined in section  
8 1191(c)(3)) applicable for such drug and a year  
9 during such period” after “paragraph (4)”.

10 (B) APPLICATION UNDER MA OF COST-  
11 SHARING FOR PART B DRUGS BASED OFF OF  
12 NEGOTIATED PRICE.—Section  
13 1852(a)(1)(B)(iv) of the Social Security Act  
14 (42 U.S.C. 1395w–22(a)(1)(B)(iv)) is amend-  
15 ed—

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

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

20 “(VII) A drug or biological prod-  
21 uct that is a selected drug (as referred  
22 to in section 1192(c)).”.

23 (C) EXCEPTION TO PART D NON-INTER-  
24 FERENCE.—Section 1860D–11(i) of the Social

1 Security Act (42 U.S.C. 1395w–111(i)) is  
2 amended—

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

5 (ii) in paragraph (2), by striking “or  
6 institute a price structure for the reim-  
7 bursement of covered part D drugs.” and  
8 inserting “, except as provided under sec-  
9 tion 1860D–4(b)(3)(l); and”;

10 (iii) by adding at the end the fol-  
11 lowing new paragraph:

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

15 (D) APPLICATION AS NEGOTIATED PRICE  
16 UNDER PART D.—Section 1860D–2(d)(1) of the  
17 Social Security Act (42 U.S.C. 1395w–  
18 102(d)(1)) is amended—

19 (i) in subparagraph (B), by inserting  
20 “, subject to subparagraph (D),” after  
21 “negotiated prices”; and

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

24 “(D) APPLICATION OF MAXIMUM FAIR  
25 PRICE FOR SELECTED DRUGS.—In applying this

1 section, in the case of a covered part D drug  
2 that is a selected drug (as referred to in section  
3 1192(c)), with respect to a price applicability  
4 period (as defined in section 1191(b)(2)), the  
5 negotiated prices used for payment (as de-  
6 scribed in this subsection) shall be no greater  
7 than the maximum fair price (as defined in sec-  
8 tion 1191(c)(3)) for such drug and for each  
9 year during such period plus any dispensing  
10 fees for such drug.”.

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

16 “(I) REQUIRED INCLUSION OF SELECTED  
17 DRUGS.—

18 “(i) IN GENERAL.—For 2026 and  
19 each subsequent year, the PDP sponsor of-  
20 fering a prescription drug plan shall in-  
21 clude each covered part D drug that is a  
22 selected drug under section 1192 for which  
23 a maximum fair price (as defined in sec-  
24 tion 1191(c)(3)) is in effect with respect to  
25 the year.



1                   “(ii) CLARIFICATION.—Nothing in  
2                   clause (i) shall be construed as prohibiting  
3                   a PDP sponsor from removing such a se-  
4                   lected drug from a formulary if such re-  
5                   moval would be permitted under section  
6                   423.120(b)(5)(iv) of title 42, Code of Fed-  
7                   eral Regulations (or any successor regula-  
8                   tion).”.

9                   (F) INFORMATION FROM PRESCRIPTION  
10                  DRUG PLANS AND MA-PD PLANS REQUIRED.—

11                  (i) PRESCRIPTION DRUG PLANS.—Sec-  
12                  tion 1860D-12(b) of the Social Security  
13                  Act (42 U.S.C. 1395w-112(b)) is amended  
14                  by adding at the end the following new  
15                  paragraph:

16                  “(8) PROVISION OF INFORMATION RELATED TO  
17                  MAXIMUM FAIR PRICES.—Each contract entered into  
18                  with a PDP sponsor under this part with respect to  
19                  a prescription drug plan offered by such sponsor  
20                  shall require the sponsor to provide information to  
21                  the Secretary as requested by the Secretary for pur-  
22                  poses of carrying out section 1194.”.

23                  (ii) MA-PD PLANS.—Section  
24                  1857(f)(3) of the Social Security Act (42  
25                  U.S.C. 1395w-27(f)(3)) is amended by

1 adding at the end the following new sub-  
2 paragraph:

3 “(E) PROVISION OF INFORMATION RE-  
4 LATED TO MAXIMUM FAIR PRICES.—Section  
5 1860D–12(b)(8).”.

6 (G) CONDITIONS FOR COVERAGE.—

7 (i) MEDICARE PART D.—Section  
8 1860D–43(c) of the Social Security Act  
9 (42 U.S.C. 1395w–153(c)) is amended—

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

13 (II) by striking “AGREE-  
14 MENTS.—Subsection” and inserting  
15 the following: “AGREEMENTS.—

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

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

20 “(2) EXCEPTION.—Paragraph (1)(A) shall not  
21 apply to a covered part D drug of a manufacturer  
22 for any period described in section 5000D(e)(1) of  
23 the Internal Revenue Code of 1986 with respect to  
24 the manufacturer.”.

1 (ii) MEDICAID AND MEDICARE PART  
2 B.—Section 1927(a)(3) of the Social Secu-  
3 rity Act (42 U.S.C. 1396r–8(a)(3)) is  
4 amended by adding at the end the fol-  
5 lowing new sentence: “The preceding sen-  
6 tence shall not apply to a single source  
7 drug or innovator multiple source drug of  
8 a manufacturer for any period described in  
9 section 5000D(c)(1) of the Internal Rev-  
10 enue Code of 1986 with respect to the  
11 manufacturer.”.

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

14 (i) CONTRACT REQUIREMENTS.—Sec-  
15 tion 1860D–12(b)(3)(D)(i) of the Social  
16 Security Act (42 U.S.C. 1395w–  
17 112(b)(3)(D)(i)) is amended by inserting  
18 “, or carrying out part E of title XI” after  
19 “appropriate”.

20 (ii) SUBSIDIES.—Section 1860D–  
21 15(f)(2)(A)(i) of the Social Security Act  
22 (42 U.S.C. 1395w–115(f)(2)(A)(i)) is  
23 amended by inserting “or part E of title  
24 XI” after “this section”.

1           (2) DRUG PRICE NEGOTIATION PROGRAM  
2 PRICES INCLUDED IN BEST PRICE.—Section  
3 1927(c)(1)(C) of the Social Security Act (42 U.S.C.  
4 1396r-8(c)(1)(C)) is amended—

5           (A) in clause (i)(VI), by striking “any  
6 prices charged” and inserting “subject to clause  
7 (ii)(V), any prices charged”; and

8           (B) in clause (ii)—

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

11           (ii) in subclause (IV), by striking the  
12 period at the end and inserting “; and”;  
13 and

14           (iii) by adding at the end the fol-  
15 lowing new subclause:

16           “(V) in the case of a rebate pe-  
17 riod and a covered outpatient drug  
18 that is a selected drug (as referred to  
19 in section 1192(e)) during such rebate  
20 period, shall be inclusive of the max-  
21 imum fair price (as defined in section  
22 1191(e)(3)) for such drug with re-  
23 spect to such period.”.

24           (3) MAXIMUM FAIR PRICES EXCLUDED FROM  
25 AVERAGE MANUFACTURER PRICE.—Section

1       1927(k)(1)(B)(i) of the Social Security Act (42  
2       U.S.C. 1396r–8(k)(1)(B)(i)) is amended—

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

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

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

9                               “(VI) any reduction in price paid  
10                              during the rebate period to the manu-  
11                              facturer for a drug by reason of appli-  
12                              cation of part E of title XI.”.

13       (c) IMPLEMENTATION FOR 2026 THROUGH 2028.—  
14       The Secretary of Health and Human Services shall imple-  
15       ment this section, including the amendments made by this  
16       section, for 2026, 2027, and 2028 by program instruction  
17       or other forms of program guidance.

18       **SEC. 11002. SPECIAL RULE TO DELAY SELECTION AND NE-**  
19                               **GOTIATION OF BIOLOGICS FOR BIOSIMILAR**  
20                               **MARKET ENTRY.**

21       (a) IN GENERAL.—Part E of title XI of the Social  
22       Security Act, as added by section 11001, is amended—

23               (1) in section 1192—

1 (A) in subsection (a), in the flush matter  
2 following paragraph (4), by inserting “and sub-  
3 section (b)(3)” after “the previous sentence”;

4 (B) in subsection (b)—

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

7 “(C) In the case of a biological product for  
8 which the inclusion of the biological product as  
9 a selected drug on a list published under sub-  
10 section (a) has been delayed under subsection  
11 (f)(2), remove such biological product from the  
12 rankings under subparagraph (A) before mak-  
13 ing the selections under subparagraph (B).”;  
14 and

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

17 “(3) INCLUSION OF DELAYED BIOLOGICAL  
18 PRODUCTS.—Pursuant to subparagraphs (B)(ii)(I)  
19 and (C)(i) of subsection (f)(2), the Secretary shall  
20 select and include on the list published under sub-  
21 section (a) the biological products described in such  
22 subparagraphs. Such biological products shall count  
23 towards the required number of drugs to be selected  
24 under subsection (a)(1).”; and

1 (C) by adding at the end the following new  
2 subsection:

3 “(f) SPECIAL RULE TO DELAY SELECTION AND NE-  
4 GOTIATION OF BIOLOGICS FOR BIOSIMILAR MARKET  
5 ENTRY.—

6 “(1) APPLICATION.—

7 “(A) IN GENERAL.—Subject to subpara-  
8 graph (B), in the case of a biological product  
9 that would (but for this subsection) be an ex-  
10 tended-monopoly drug (as defined in section  
11 1194(c)(4)) included as a selected drug on the  
12 list published under subsection (a) with respect  
13 to an initial price applicability year, the rules  
14 described in paragraph (2) shall apply if the  
15 Secretary determines that there is a high likeli-  
16 hood (as described in paragraph (3)) that a bio-  
17 similar biological product (for which such bio-  
18 logical product will be the reference product)  
19 will be licensed and marketed under section  
20 351(k) of the Public Health Service Act before  
21 the date that is 2 years after the selected drug  
22 publication date with respect to such initial  
23 price applicability year.

24 “(B) REQUEST REQUIRED.—

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

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

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



1                   “(ii) INFORMATION AND DOCU-  
2                   MENTS.—

3                   “(I) IN GENERAL.—A request  
4                   made under clause (i) shall be sub-  
5                   mitted to the Secretary by such man-  
6                   ufacturer at a time and in a form and  
7                   manner specified by the Secretary,  
8                   and contain—

9                   “(aa) information and docu-  
10                  ments necessary for the Sec-  
11                  retary to make determinations  
12                  under this subsection, as speci-  
13                  fied by the Secretary and includ-  
14                  ing, to the extent available, items  
15                  described in subclause (III); and

16                  “(bb) all agreements related  
17                  to the biosimilar biological prod-  
18                  uct filed with the Federal Trade  
19                  Commission or the Assistant At-  
20                  torney General pursuant to sub-  
21                  sections (a) and (c) of section  
22                  1112 of the Medicare Prescrip-  
23                  tion Drug, Improvement, and  
24                  Modernization Act of 2003.

1                   “(II) ADDITIONAL INFORMATION  
2                   AND DOCUMENTS.—After the Sec-  
3                   retary has reviewed the request and  
4                   materials submitted under subclause  
5                   (I), the manufacturer shall submit  
6                   any additional information and docu-  
7                   ments requested by the Secretary nec-  
8                   essary to make determinations under  
9                   this subsection.

10                   “(III) ITEMS DESCRIBED.—The  
11                   items described in this clause are the  
12                   following:

13                   “(aa) The manufacturing  
14                   schedule for such biosimilar bio-  
15                   logical product submitted to the  
16                   Food and Drug Administration  
17                   during its review of the applica-  
18                   tion under such section 351(k).

19                   “(bb) Disclosures (in filings  
20                   by the manufacturer of such bio-  
21                   similar biological product with  
22                   the Securities and Exchange  
23                   Commission required under sec-  
24                   tion 12(b), 12(g), 13(a), or 15(d)  
25                   of the Securities Exchange Act of

1 1934 about capital investment,  
2 revenue expectations, and actions  
3 taken by the manufacturer that  
4 are typical of the normal course  
5 of business in the year (or the 2  
6 years, as applicable) before mar-  
7 keting of a biosimilar biological  
8 product) that pertain to the mar-  
9 keting of such biosimilar biologi-  
10 cal product, or comparable docu-  
11 mentation that is distributed to  
12 the shareholders of privately held  
13 companies.

14 “(C) AGGREGATION RULE.—

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

21 “(ii) PARTNERSHIP DEFINED.—In  
22 clause (i), the term ‘partnership’ means a  
23 syndicate, group, pool, joint venture, or  
24 other organization through or by means of  
25 which any business, financial operation, or

1                   venture is carried on by the manufacturer  
2                   of the biological product and the manufac-  
3                   turer of the biosimilar biological product.

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

6                   “(A) DELAYED SELECTION AND NEGOTIA-  
7                   TION FOR 1 YEAR.—If a determination of high  
8                   likelihood is made under paragraph (3), the  
9                   Secretary shall delay the inclusion of the bio-  
10                  logical product as a selected drug on the list  
11                  published under subsection (a) until such list is  
12                  published with respect to the initial price appli-  
13                  cability year that is 1 year after the initial price  
14                  applicability year for which the biological prod-  
15                  uct would have been included as a selected drug  
16                  on such list.

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

19                  “(i) IN GENERAL.—If, during the  
20                  time period between the selected drug pub-  
21                  lication date on which the biological prod-  
22                  uct would have been included on the list as  
23                  a selected drug pursuant to subsection (a)  
24                  but for subparagraph (A) and the selected  
25                  drug publication date with respect to the

1 initial price applicability year that is 1  
2 year after the initial price applicability  
3 year for which such biological product  
4 would have been included as a selected  
5 drug on such list, the Secretary determines  
6 that the biosimilar biological product for  
7 which the manufacturer submitted the re-  
8 quest under paragraph (1)(B)(i)(II) (and  
9 for which the Secretary previously made a  
10 high likelihood determination under para-  
11 graph (3)) has not been licensed and mar-  
12 keted under section 351(k) of the Public  
13 Health Service Act, the Secretary shall, at  
14 the request of such manufacturer—

15 “(I) reevaluate whether there is a  
16 high likelihood (as described in para-  
17 graph (3)) that such biosimilar bio-  
18 logical product will be licensed and  
19 marketed under such section 351(k)  
20 before the date that is 2 years after  
21 the selected drug publication date for  
22 which such biological product would  
23 have been included as a selected drug  
24 on such list published but for sub-  
25 paragraph (A); and

1                   “(II) evaluate whether, on the  
2                   basis of clear and convincing evidence,  
3                   the manufacturer of such biosimilar  
4                   biological product has made a signifi-  
5                   cant amount of progress (as deter-  
6                   mined by the Secretary) towards both  
7                   such licensure and the marketing of  
8                   such biosimilar biological product  
9                   (based on information from items de-  
10                  scribed in subclauses (I)(bb) and (II)  
11                  of paragraph (1)(B)(ii)) since the re-  
12                  ceipt by the Secretary of the request  
13                  made by such manufacturer under  
14                  paragraph (1)(B)(i)(I).

15                  “(ii) SELECTION AND NEGOTIA-  
16                  TION.—If the Secretary determines that  
17                  there is not a high likelihood that such bio-  
18                  similar biological product will be licensed  
19                  and marketed as described in clause (i)(I)  
20                  or there has not been a significant amount  
21                  of progress as described in clause (i)(II)—

22                  “(I) the Secretary shall include  
23                  the biological product as a selected  
24                  drug on the list published under sub-  
25                  section (a) with respect to the initial

1 price applicability year that is 1 year  
2 after the initial price applicability year  
3 for which such biological product  
4 would have been included as a selected  
5 drug on such list but for subpara-  
6 graph (A); and

7 “(II) the manufacturer of such  
8 biological product shall pay a rebate  
9 under paragraph (4) with respect to  
10 the year for which such manufacturer  
11 would have provided access to a max-  
12 imum fair price for such biological  
13 product but for subparagraph (A).

14 “(iii) SECOND 1-YEAR DELAY.—If the  
15 Secretary determines that there is a high  
16 likelihood that such biosimilar biological  
17 product will be licensed and marketed (as  
18 described in clause (i)(I)) and a significant  
19 amount of progress has been made by the  
20 manufacturer of such biosimilar biological  
21 product towards such licensure and mar-  
22 keting (as described in clause (i)(II)), the  
23 Secretary shall delay the inclusion of the  
24 biological product as a selected drug on the  
25 list published under subsection (a) until

1 the selected drug publication date of such  
2 list with respect to the initial price applica-  
3 bility year that is 2 years after the initial  
4 price applicability year for which such bio-  
5 logical product would have been included  
6 as a selected drug on such list but for this  
7 subsection.

8 “(C) IF NOT LICENSED AND MARKETED  
9 DURING THE YEAR TWO DELAY.—If, during the  
10 time period between the selected drug publica-  
11 tion date of the list for which the biological  
12 product would have been included as a selected  
13 drug but for subparagraph (B)(iii) and the se-  
14 lected drug publication date with respect to the  
15 initial price applicability year that is 2 years  
16 after the initial price applicability year for  
17 which such biological product would have been  
18 included as a selected drug on such list but for  
19 this subsection, the Secretary determines that  
20 such biosimilar biological product has not been  
21 licensed and marketed—

22 “(i) the Secretary shall include such  
23 biological product as a selected drug on  
24 such list with respect to the initial price  
25 applicability year that is 2 years after the



1 initial price applicability year for which  
2 such biological product would have been in-  
3 cluded as a selected drug on such list; and

4 “(ii) the manufacturer of such biologi-  
5 cal product shall pay a rebate under para-  
6 graph (4) with respect to the years for  
7 which such manufacturer would have pro-  
8 vided access to a maximum fair price for  
9 such biological product but for this sub-  
10 section.

11 “(D) LIMITATIONS ON DELAYS.—

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

17 “(ii) EXCLUSION OF BIOLOGICAL  
18 PRODUCTS THAT TRANSITIONED TO A  
19 LONG-MONOPOLY DRUG DURING THE  
20 DELAY.—In the case of a biological prod-  
21 uct for which the inclusion on the list pub-  
22 lished pursuant to subsection (a) was de-  
23 layed by 1 year under subparagraph (A)  
24 and for which there would have been a  
25 change in status to a long-monopoly drug

1 (as defined in section 1194(c)(5)) if such  
2 biological product had been a selected  
3 drug, in no case may the Secretary provide  
4 for a second 1-year delay under subpara-  
5 graph (B)(iii).

6 “(iii) EXCLUSION OF BIOLOGICAL  
7 PRODUCTS IF MORE THAN 1 YEAR SINCE  
8 LICENSURE.—In no case shall the Sec-  
9 retary delay the inclusion of a biological  
10 product on the list published under sub-  
11 section (a) if more than 1 year has elapsed  
12 since the biosimilar biological product has  
13 been licensed under section 351(k) of the  
14 Public Health Service Act and marketing  
15 has not commenced for such biosimilar bio-  
16 logical product.

17 “(iv) CERTAIN MANUFACTURERS OF  
18 BIOSIMILAR BIOLOGICAL PRODUCTS EX-  
19 CLUDED.—In no case shall the Secretary  
20 delay the inclusion of a biological product  
21 as a selected drug on the list published  
22 under subsection (a) if Secretary deter-  
23 mined that the manufacturer of the bio-  
24 similar biological product described in  
25 paragraph (1)(A)—

1                   “(I) is the same as the manufac-  
2                   turer of the reference product de-  
3                   scribed in such paragraph or is treat-  
4                   ed as being the same pursuant to  
5                   paragraph (1)(C); or

6                   “(II) has, based on information  
7                   from items described in paragraph  
8                   (1)(B)(ii)(I)(bb), entered into any  
9                   agreement described in such para-  
10                  graph with the manufacturer of the  
11                  reference product described in para-  
12                  graph (1)(A) that—

13                         “(aa)           requires        or  
14                         incentivizes the manufacturer of  
15                         the biosimilar biological product  
16                         to submit a request described in  
17                         paragraph (1)(B); or

18                         “(bb) restricts the quantity  
19                         (either directly or indirectly) of  
20                         the biosimilar biological product  
21                         that may be sold in the United  
22                         States over a specified period of  
23                         time.

24                         “(3) HIGH LIKELIHOOD.—For purposes of this  
25                         subsection, there is a high likelihood described in

1 paragraph (1) or paragraph (2), as applicable, if the  
2 Secretary finds that—

3 “(A) an application for licensure under  
4 section 351(k) of the Public Health Service Act  
5 for the biosimilar biological product has been  
6 accepted for review or approved by the Food  
7 and Drug Administration; and

8 “(B) information from items described in  
9 sub clauses (I)(bb) and (III) of paragraph  
10 (1)(B)(ii) submitted to the Secretary by the  
11 manufacturer requesting a delay under such  
12 paragraph provides clear and convincing evi-  
13 dence that such biosimilar biological product  
14 will, within the time period specified under  
15 paragraph (1)(A) or (2)(B)(i)(I), be marketed.

16 “(4) REBATE.—

17 “(A) IN GENERAL.—For purposes of sub-  
18 paragraphs (B)(ii)(II) and (C)(ii) of paragraph  
19 (2), in the case of a biological product for which  
20 the inclusion on the list under subsection (a)  
21 was delayed under this subsection and for  
22 which the Secretary has negotiated and entered  
23 into an agreement under section 1193 with re-  
24 spect to such biological product, the manufac-  
25 turer shall be required to pay a rebate to the

1 Secretary at such time and in such manner as  
2 determined by the Secretary.

3 “(B) AMOUNT.—Subject to subparagraph  
4 (C), the amount of the rebate under subpara-  
5 graph (A) with respect to a biological product  
6 shall be equal to the estimated amount—

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

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

13 “(aa) the average manufac-  
14 turer price, as reported by the  
15 manufacturer of such covered  
16 part D drug under section 1927  
17 (or, if not reported by such man-  
18 ufacturer under section 1927, as  
19 reported by such manufacturer to  
20 the Secretary pursuant to the  
21 agreement under section  
22 1193(a)) for such biological prod-  
23 uct, with respect to each of the  
24 calendar quarters of the price ap-  
25 plicability period that would have

1 applied but for this subsection;  
2 exceeds

3 “(bb) in the initial price ap-  
4 plicability year that would have  
5 applied but for a delay under—

6 “(AA) paragraph  
7 (2)(A), the maximum fair  
8 price negotiated under sec-  
9 tion 1194 for such biological  
10 product under such agree-  
11 ment; or

12 “(BB) paragraph  
13 (2)(B)(iii), such maximum  
14 fair price, increased as de-  
15 scribed in section  
16 1195(b)(1)(A); and

17 “(II) the number of units dis-  
18 pensed under part D of title XVIII  
19 for such covered part D drug during  
20 each such calendar quarter of such  
21 price applicability period; and

22 “(ii) in the case of a biological prod-  
23 uct for which payment may be made under  
24 part B of title XVIII, that is the sum of  
25 the products of—

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

3 “(aa) the payment amount  
4 for such biological product under  
5 section 1847A(b), with respect to  
6 each of the calendar quarters of  
7 the price applicability period that  
8 would have applied but for this  
9 subsection; exceeds

10 “(bb) in the initial price ap-  
11 plicability year that would have  
12 applied but for a delay under—

13 “(AA) paragraph  
14 (2)(A), the maximum fair  
15 price negotiated under sec-  
16 tion 1194 for such biological  
17 product under such agree-  
18 ment; or

19 “(BB) paragraph  
20 (2)(B)(iii), such maximum  
21 fair price, increased as de-  
22 scribed in section  
23 1195(b)(1)(A); and

24 “(II) the number of units (ex-  
25 cluding units that are packaged into

1 the payment amount for an item or  
2 service and are not separately payable  
3 under such part B) of the billing and  
4 payment code of such biological prod-  
5 uct administered or furnished under  
6 such part B during each such cal-  
7 endar quarter of such price applica-  
8 bility period.

9 “(C) SPECIAL RULE FOR DELAYED BIO-  
10 LOGICAL PRODUCTS THAT ARE LONG-MONOP-  
11 OLY DRUGS.—

12 “(i) IN GENERAL.—In the case of a  
13 biological product with respect to which a  
14 rebate is required to be paid under this  
15 paragraph, if such biological product quali-  
16 fies as a long-monopoly drug (as defined in  
17 section 1194(c)(5)) at the time of its inclu-  
18 sion on the list published under subsection  
19 (a), in determining the amount of the re-  
20 bate for such biological product under sub-  
21 paragraph (B), the amount described in  
22 clause (ii) shall be substituted for the max-  
23 imum fair price described in clause (i)(I)  
24 or (ii)(I) of such subparagraph (B), as ap-  
25 plicable.





1 title XVIII, the Federal Supplementary  
2 Medical Insurance Trust Fund established  
3 under section 1841; and

4 “(ii) in the case such biological prod-  
5 uct is a covered part D drug (as defined in  
6 section 1860D–2(e)), the Medicare Pre-  
7 scription Drug Account under section  
8 1860D–16 in such Trust Fund.

9 “(5) DEFINITIONS OF BIOSIMILAR BIOLOGICAL  
10 PRODUCT.—In this subsection, the term ‘biosimilar  
11 biological product’ has the meaning given such term  
12 in section 1847A(c)(6).”;

13 (2) in section 1193(a)(4)—

14 (A) in the matter preceding subparagraph  
15 (A), by inserting “, and for section 1192(f),”  
16 after “section 1194(f)”;

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

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

21 “(C) information that the Secretary re-  
22 quires to carry out section 1192(f), including  
23 rebates under paragraph (4) of such section;  
24 and”;

1           (3) in section 1196(a)(7), by striking “section  
2           1192(d)(2)(B)” and inserting “subsections (d)(2)(B)  
3           and (f)(1)(C) of section 1192”;

4           (4) in section 1197—

5           (A) by redesignating subsections (b), (c),  
6           and (d) as subsections (c), (d), and (e), respec-  
7           tively; and

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

10          “(b) VIOLATIONS RELATING TO PROVIDING RE-  
11          BATES.—Any manufacturer that fails to comply with the  
12          rebate requirements under section 1192(f)(4) shall be sub-  
13          ject to a civil monetary penalty equal to 10 times the  
14          amount of the rebate the manufacturer failed to pay under  
15          such section.”; and

16          (5) in section 1198(b)(2), by inserting “the ap-  
17          plication of section 1192(f),” after “section  
18          1192(e)”.

19          (b) CONFORMING AMENDMENTS FOR DISCLOSURE  
20          OF CERTAIN INFORMATION.—Section 1927(b)(3)(D)(i) of  
21          the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)(i))  
22          is amended by striking “or to carry out section 1847B”  
23          and inserting “or to carry out section 1847B or section  
24          1192(f), including rebates under paragraph (4) of such  
25          section”.

1 (c) IMPLEMENTATION FOR 2026 THROUGH 2028.—

2 The Secretary of Health and Human Services shall imple-  
3 ment this section, including the amendments made by this  
4 section, for 2026, 2027, and 2028 by program instruction  
5 or other forms of program guidance.

6 **SEC. 11003. EXCISE TAX IMPOSED ON DRUG MANUFACTUR-**  
7 **ERS DURING NONCOMPLIANCE PERIODS.**

8 (a) IN GENERAL.—Subtitle D of the Internal Rev-  
9 enue Code of 1986 is amended by adding at the end the  
10 following new chapter:

11 **“CHAPTER 50A—DESIGNATED DRUGS**

“Sec. 5000D. Designated drugs during noncompliance periods.

12 **“SEC. 5000D. DESIGNATED DRUGS DURING NONCOMPLI-**  
13 **ANCE PERIODS.**

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

19 “(1) such tax, divided by

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

22 “(b) NONCOMPLIANCE PERIODS.—A day is described  
23 in this subsection with respect to a designated drug if it  
24 is a day during one of the following periods:

1           “(1) The period beginning on the March 1st  
2           (or, in the case of initial price applicability year  
3           2026, the October 2nd) immediately following the  
4           date on which such drug is included on the list pub-  
5           lished under section 1192(a) of the Social Security  
6           Act and ending on the earlier of—

7                   “(A) the first date on which the manufac-  
8                   turer of such designated drug has in place an  
9                   agreement described in section 1193(a) of such  
10                  Act with respect to such drug, or

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

15           “(2) The period beginning on the November  
16           2nd immediately following the March 1st described  
17           in paragraph (1) (or, in the case of initial price ap-  
18           plicability year 2026, the August 2nd immediately  
19           following the October 2nd described in such para-  
20           graph) and ending on the earlier of—

21                   “(A) the first date on which the manufac-  
22                   turer of such designated drug and the Secretary  
23                   of Health and Human Services have agreed to  
24                   a maximum fair price under an agreement de-

1           scribed in section 1193(a) of the Social Security  
2           Act, or

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

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

17                   “(A) the first date on which the manufac-  
18          turer of such designated drug has agreed to a  
19          renegotiated maximum fair price under such  
20          agreement, or

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

1           “(4) With respect to information that is re-  
2           quired to be submitted to the Secretary of Health  
3           and Human Services under an agreement described  
4           in section 1193(a) of the Social Security Act, the pe-  
5           riod beginning on the date on which such Secretary  
6           certifies that such information is overdue and ending  
7           on the date that such information is so submitted.

8           “(c) SUSPENSION OF TAX.—

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

13                 “(A) beginning on the first date on  
14          which—

15                         “(i) the notice of terminations of all  
16                         applicable agreements of the manufacturer  
17                         have been received by the Secretary of  
18                         Health and Human Services, and

19                         “(ii) none of the drugs of the manu-  
20                         facturer of the designated drug are covered  
21                         by an agreement under section 1860D-14A  
22                         or 1860D-14C of the Social Security Act,  
23                         and

24                         “(B) ending on the last day of February  
25          following the earlier of—

1 “(i) the first day after the date de-  
2 scribed in subparagraph (A) on which the  
3 manufacturer enters into any subsequent  
4 applicable agreement, or

5 “(ii) the first date any drug of the  
6 manufacturer of the designated drug is  
7 covered by an agreement under section  
8 1860D-14A or 1860D-14C of the Social  
9 Security Act.

10 “(2) APPLICABLE AGREEMENT.—For purposes  
11 of this subsection, the term ‘applicable agreement’  
12 means the following:

13 “(A) An agreement under—

14 “(i) the Medicare coverage gap dis-  
15 count program under section 1860D-14A  
16 of the Social Security Act, or

17 “(ii) the manufacturer discount pro-  
18 gram under section 1860D-14C of such  
19 Act.

20 “(B) A rebate agreement described in sec-  
21 tion 1927(b) of such Act.

22 “(d) APPLICABLE PERCENTAGE.—For purposes of  
23 this section, the term ‘applicable percentage’ means—



1           “(1) in the case of sales of a designated drug  
2 during the first 90 days described in subsection (b)  
3 with respect to such drug, 65 percent,

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

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

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

13           “(e) DEFINITIONS.—For purposes of this section—

14           “(1) DESIGNATED DRUG.—The term ‘des-  
15 ignated drug’ means any negotiation-eligible drug  
16 (as defined in section 1192(d) of the Social Security  
17 Act) included on the list published under section  
18 1192(a) of such Act which is manufactured or pro-  
19 duced in the United States or entered into the  
20 United States for consumption, use, or warehousing.

21           “(2) UNITED STATES.—The term ‘United  
22 States’ has the meaning given such term by section  
23 4612(a)(4).

24           “(3) OTHER TERMS.—The terms ‘initial price  
25 applicability year’, ‘price applicability period’, and

1 ‘maximum fair price’ have the meaning given such  
2 terms in section 1191 of the Social Security Act.

3 “(f) SPECIAL RULES.—

4 “(1) COORDINATION WITH RULES FOR POSSES-  
5 SIONS OF THE UNITED STATES.—Rules similar to  
6 the rules of paragraphs (2) and (4) of section  
7 4132(e) shall apply for purposes of this section.

8 “(2) ANTI-ABUSE RULE.—In the case of a sale  
9 which was timed for the purpose of avoiding the tax  
10 imposed by this section, the Secretary may treat  
11 such sale as occurring during a day described in  
12 subsection (b).

13 “(g) EXPORTS.—Rules similar to the rules of section  
14 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall  
15 apply for purposes of this chapter.

16 “(h) REGULATIONS.—The Secretary shall prescribe  
17 such regulations and other guidance as may be necessary  
18 to carry out this section.”.

19 (b) NO DEDUCTION FOR EXCISE TAX PAYMENTS.—  
20 Section 275(a)(6) of the Internal Revenue Code of 1986  
21 is amended by inserting “50A,” after “46,”.

22 (c) CLERICAL AMENDMENT.—The table of chapters  
23 for subtitle D of the Internal Revenue Code of 1986 is  
24 amended by adding at the end the following new item:

“CHAPTER 50A—DESIGNATED DRUGS”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to sales after the date of the enact-  
3 ment of this Act.

4 **SEC. 11004. FUNDING.**

5 In addition to amounts otherwise available, there is  
6 appropriated to the Centers for Medicare & Medicaid Serv-  
7 ices, out of any money in the Treasury not otherwise ap-  
8 propriated, \$3,000,000,000 for fiscal year 2022, to remain  
9 available until expended, to carry out the provisions of,  
10 including the amendments made by, this part.

11 **PART 2—PRESCRIPTION DRUG INFLATION**

12 **REBATES**

13 **SEC. 11101. MEDICARE PART B REBATE BY MANUFACTUR-**

14 **ERS.**

15 (a) IN GENERAL.—Section 1847A of the Social Secu-  
16 rity Act (42 U.S.C. 1395w–3a) is amended by redesign-  
17 ating subsection (i) as subsection (j) and by inserting  
18 after subsection (h) the following subsection:

19 “(i) REBATE BY MANUFACTURERS FOR SINGLE  
20 SOURCE DRUGS AND BIOLOGICALS WITH PRICES IN-  
21 CREASING FASTER THAN INFLATION.—

22 “(1) REQUIREMENTS.—

23 “(A) SECRETARIAL PROVISION OF INFOR-  
24 MATION.—Not later than 6 months after the  
25 end of each calendar quarter beginning on or

1 after January 1, 2023, the Secretary shall, for  
2 each part B rebatable drug, report to each  
3 manufacturer of such part B rebatable drug the  
4 following for such calendar quarter:

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

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

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

18 “(B) MANUFACTURER REQUIREMENT.—  
19 For each calendar quarter beginning on or after  
20 January 1, 2023, the manufacturer of a part B  
21 rebatable drug shall, for such drug, not later  
22 than 30 days after the date of receipt from the  
23 Secretary of the information described in sub-  
24 paragraph (A) for such calendar quarter, pro-  
25 vide to the Secretary a rebate that is equal to

1 the amount specified in paragraph (3) for such  
2 drug for such calendar quarter.

3 “(C) TRANSITION RULE FOR REPORT-  
4 ING.—The Secretary may, for each part B  
5 rebatable drug, delay the timeframe for report-  
6 ing the information described in subparagraph  
7 (A) for calendar quarters beginning in 2023  
8 and 2024 until not later than September 30,  
9 2025.

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

11 “(A) IN GENERAL.—In this subsection, the  
12 term ‘part B rebatable drug’ means a single  
13 source drug or biological (as defined in sub-  
14 paragraph (D) of subsection (e)(6)), including a  
15 biosimilar biological product (as defined in sub-  
16 paragraph (H) of such subsection) but exclud-  
17 ing a qualifying biosimilar biological product  
18 (as defined in subsection (b)(8)(B)(iii)), for  
19 which payment is made under this part, except  
20 such term shall not include such a drug or bio-  
21 logical—

22 “(i) if, as determined by the Sec-  
23 retary, the average total allowed charges  
24 for such drug or biological under this part  
25 for a year per individual that uses such a

1 drug or biological are less than, subject to  
2 subparagraph (B), \$100; or

3 “(ii) that is a vaccine described in  
4 subparagraph (A) or (B) of section  
5 1861(s)(10).

6 “(B) INCREASE.—The dollar amount ap-  
7 plied under subparagraph (A)(i)—

8 “(i) for 2024, shall be the dollar  
9 amount specified under such subparagraph  
10 for 2023, increased by the percentage in-  
11 crease in the consumer price index for all  
12 urban consumers (United States city aver-  
13 age) for the 12-month period ending with  
14 June of the previous year; and

15 “(ii) for a subsequent year, shall be  
16 the dollar amount specified in this clause  
17 (or clause (i)) for the previous year (with-  
18 out application of subparagraph (C)), in-  
19 creased by the percentage increase in the  
20 consumer price index for all urban con-  
21 sumers (United States city average) for  
22 the 12-month period ending with June of  
23 the previous year.

24 “(C) ROUNDING.—Any dollar amount de-  
25 termined under subparagraph (B) that is not a

1 multiple of \$10 shall be rounded to the nearest  
2 multiple of \$10.

3 “(3) REBATE AMOUNT.—

4 “(A) IN GENERAL.—For purposes of para-  
5 graph (1), the amount specified in this para-  
6 graph for a part B rebatable drug assigned to  
7 a billing and payment code for a calendar quar-  
8 ter is, subject to subparagraphs (B) and (G)  
9 and paragraph (4), the estimated amount equal  
10 to the product of—

11 “(i) the total number of units deter-  
12 mined under subparagraph (B) for the bill-  
13 ing and payment code of such drug; and

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

15 “(I) the amount equal to—

16 “(aa) in the case of a part B  
17 rebatable drug described in para-  
18 graph (1)(B) of subsection (b),  
19 106 percent of the amount deter-  
20 mined under paragraph (4) of  
21 such section for such drug during  
22 the calendar quarter; or

23 “(bb) in the case of a part B  
24 rebatable drug described in para-  
25 graph (1)(C) of such subsection,

1 the payment amount under such  
2 paragraph for such drug during  
3 the calendar quarter; exceeds

4 “(II) the inflation-adjusted pay-  
5 ment amount determined under sub-  
6 paragraph (C) for such part B  
7 rebatable drug during the calendar  
8 quarter.

9 “(B) TOTAL NUMBER OF UNITS.—For  
10 purposes of subparagraph (A)(i), the total num-  
11 ber of units for the billing and payment code  
12 with respect to a part B rebatable drug fur-  
13 nished during a calendar quarter described in  
14 subparagraph (A) is equal to—

15 “(i) the number of units for the bill-  
16 ing and payment code of such drug fur-  
17 nished during such calendar quarter,  
18 minus

19 “(ii) the number of units for such bill-  
20 ing and payment code of such drug fur-  
21 nished during such calendar quarter—

22 “(I) with respect to which the  
23 manufacturer provides a discount  
24 under the program under section



1 340B of the Public Health Service  
2 Act or a rebate under section 1927; or

3 “(II) that are packaged into the  
4 payment amount for an item or serv-  
5 ice and are not separately payable.

6 “(C) DETERMINATION OF INFLATION-AD-  
7 JUSTED PAYMENT AMOUNT.—The inflation-ad-  
8 justed payment amount determined under this  
9 subparagraph for a part B rebatable drug for  
10 a calendar quarter is—

11 “(i) the payment amount for the bill-  
12 ing and payment code for such drug in the  
13 payment amount benchmark quarter (as  
14 defined in subparagraph (D)); increased by

15 “(ii) the percentage by which the re-  
16 bate period CPI-U (as defined in subpara-  
17 graph (F)) for the calendar quarter ex-  
18 ceeds the benchmark period CPI-U (as de-  
19 fined in subparagraph (E)).

20 “(D) PAYMENT AMOUNT BENCHMARK  
21 QUARTER.—The term ‘payment amount bench-  
22 mark quarter’ means the calendar quarter be-  
23 ginning July 1, 2021.

24 “(E) BENCHMARK PERIOD CPI-U.—The  
25 term ‘benchmark period CPI-U’ means the con-

1 consumer price index for all urban consumers  
2 (United States city average) for January 2021.

3 “(F) REBATE PERIOD CPI-U.—The term  
4 ‘rebate period CPI-U’ means, with respect to a  
5 calendar quarter described in subparagraph  
6 (C), the greater of the benchmark period CPI-  
7 U and the consumer price index for all urban  
8 consumers (United States city average) for the  
9 first month of the calendar quarter that is two  
10 calendar quarters prior to such described cal-  
11 endar quarter.

12 “(G) REDUCTION OR WAIVER FOR SHORT-  
13 AGES AND SEVERE SUPPLY CHAIN DISRUP-  
14 TIONS.—The Secretary shall reduce or waive  
15 the amount under subparagraph (A) with re-  
16 spect to a part B rebatable drug and a calendar  
17 quarter—

18 “(i) in the case of a part B rebatable  
19 drug that is described as currently in  
20 shortage on the shortage list in effect  
21 under section 506E of the Federal Food,  
22 Drug, and Cosmetic Act at any point dur-  
23 ing the calendar quarter; or

24 “(ii) in the case of a biosimilar bio-  
25 logical product, when the Secretary deter-

1           mines there is a severe supply chain dis-  
2           ruption during the calendar quarter, such  
3           as that caused by a natural disaster or  
4           other unique or unexpected event.

5           “(4) SPECIAL TREATMENT OF CERTAIN DRUGS  
6           AND EXEMPTION.—

7           “(A) SUBSEQUENTLY APPROVED DRUGS.—

8           In the case of a part B rebatable drug first ap-  
9           proved or licensed by the Food and Drug Ad-  
10          ministration after December 1, 2020, clause (i)  
11          of paragraph (3)(C) shall be applied as if the  
12          term ‘payment amount benchmark quarter’  
13          were defined under paragraph (3)(D) as the  
14          third full calendar quarter after the day on  
15          which the drug was first marketed and clause  
16          (ii) of paragraph (3)(C) shall be applied as if  
17          the term ‘benchmark period CPI-U’ were de-  
18          fined under paragraph (3)(E) as if the ref-  
19          erence to ‘January 2021’ under such paragraph  
20          were a reference to ‘the first month of the first  
21          full calendar quarter after the day on which the  
22          drug was first marketed’.

23          “(B) TIMELINE FOR PROVISION OF RE-  
24          BATES FOR SUBSEQUENTLY APPROVED  
25          DRUGS.—In the case of a part B rebatable drug

1 first approved or licensed by the Food and  
2 Drug Administration after December 1, 2020,  
3 paragraph (1)(B) shall be applied as if the ref-  
4 erence to ‘January 1, 2023’ under such para-  
5 graph were a reference to ‘the later of the 6th  
6 full calendar quarter after the day on which the  
7 drug was first marketed or January 1, 2023’.

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

1 as if the reference to ‘January 2021’ under  
2 such paragraph were a reference to ‘the July of  
3 the year preceding such last year’.

4 “(5) APPLICATION TO BENEFICIARY COINSUR-  
5 ANCE.—In the case of a part B rebatable drug fur-  
6 nished on or after April 1, 2023, if the payment  
7 amount described in paragraph (3)(A)(ii)(I) (or, in  
8 the case of a part B rebatable drug that is a selected  
9 drug (as defined in section 1192(c)), the payment  
10 amount described in subsection (b)(1)(B) for such  
11 drug) for a calendar quarter exceeds the inflation  
12 adjusted payment for such quarter—

13 “(A) in computing the amount of any coin-  
14 surance applicable under this part to an indi-  
15 vidual to whom such drug is furnished, the  
16 computation of such coinsurance shall be equal  
17 to 20 percent of the inflation-adjusted payment  
18 amount determined under paragraph (3)(C) for  
19 such part B rebatable drug; and

20 “(B) the amount of such coinsurance for  
21 such calendar quarter, as computed under sub-  
22 paragraph (A), shall be applied as a percent, as  
23 determined by the Secretary, to the payment  
24 amount that would otherwise apply under sub-  
25 paragraphs (B) or (C) of subsection (b)(1).

1           “(6) REBATE DEPOSITS.—Amounts paid as re-  
2           bates under paragraph (1)(B) shall be deposited into  
3           the Federal Supplementary Medical Insurance Trust  
4           Fund established under section 1841.

5           “(7) CIVIL MONEY PENALTY.—If a manufac-  
6           turer of a part B rebatable drug has failed to com-  
7           ply with the requirements under paragraph (1)(B)  
8           for such drug for a calendar quarter, the manufac-  
9           turer shall be subject to, in accordance with a proc-  
10          ess established by the Secretary pursuant to regula-  
11          tions, a civil money penalty in an amount equal to  
12          at least 125 percent of the amount specified in para-  
13          graph (3) for such drug for such calendar quarter.  
14          The provisions of section 1128A (other than sub-  
15          sections (a) (with respect to amounts of penalties or  
16          additional assessments) and (b)) shall apply to a  
17          civil money penalty under this paragraph in the  
18          same manner as such provisions apply to a penalty  
19          or proceeding under section 1128A(a).

20          “(8) LIMITATION ON ADMINISTRATIVE OR JUDI-  
21          CIAL REVIEW.—There shall be no administrative or  
22          judicial review of any of the following:

23                  “(A) The determination of units under this  
24                  subsection.

1           “(B) The determination of whether a drug  
2 is a part B rebatable drug under this sub-  
3 section.

4           “(C) The calculation of the rebate amount  
5 under this subsection.

6           “(D) The computation of coinsurance  
7 under paragraph (5) of this subsection.

8           “(E) The computation of amounts paid  
9 under section 1833(a)(1)(EE).”.

10       (b) AMOUNTS PAYABLE; COST-SHARING.—Section  
11 1833 of the Social Security Act (42 U.S.C. 1395l) is  
12 amended—

13       (1) in subsection (a)(1)—

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

17           (B) in subparagraph (S), by striking “with  
18 respect to” and inserting “subject to subpara-  
19 graph (EE), with respect to”;

20           (C) by striking “and (DD)” and inserting  
21 “(DD)”;

22           (D) by inserting before the semicolon at  
23 the end the following: “, and (EE) with respect  
24 to a part B rebatable drug (as defined in para-  
25 graph (2) of section 1847A(i)) furnished on or

1 after April 1, 2023, for which the payment  
2 amount for a calendar quarter under paragraph  
3 (3)(A)(ii)(I) of such section (or, in the case of  
4 a part B rebatable drug that is a selected drug  
5 (as defined in section 1192(c) for which, the  
6 payment amount described in section  
7 1847A(b)(1)(B)) for such drug for such quarter  
8 exceeds the inflation-adjusted payment under  
9 paragraph (3)(A)(ii)(II) of such section for  
10 such quarter, the amounts paid shall be equal  
11 to the percent of the payment amount under  
12 paragraph (3)(A)(ii)(I) of such section or sec-  
13 tion 1847A(b)(1)(B), as applicable, that equals  
14 the difference between (i) 100 percent, and (ii)  
15 the percent applied under section  
16 1847A(i)(5)(B)”;

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

19 “(9) In the case of a part B rebatable drug (as de-  
20 fined in paragraph (2) of section 1847A(i)) for which pay-  
21 ment under this subsection is not packaged into a payment  
22 for a service furnished on or after April 1, 2023, under  
23 the revised payment system under this subsection, in lieu  
24 of calculation of coinsurance and the amount of payment  
25 otherwise applicable under this subsection, the provisions



1 of section 1847A(i)(5) and paragraph (1)(EE) of sub-  
2 section (a), shall, as determined appropriate by the Sec-  
3 retary, apply under this subsection in the same manner  
4 as such provisions of section 1847A(i)(5) and subsection  
5 (a) apply under such section and subsection.”; and

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

8 “(F) PART B REBATABLE DRUGS.—In the  
9 case of a part B rebatable drug (as defined in  
10 paragraph (2) of section 1847A(i), except if  
11 such drug does not have a copayment amount  
12 as a result of application of subparagraph (E))  
13 for which payment under this part is not pack-  
14 aged into a payment for a covered OPD service  
15 (or group of services) furnished on or after  
16 April 1, 2023, and the payment for such drug  
17 under this subsection is the same as the  
18 amount for a calendar quarter under paragraph  
19 (3)(A)(ii)(I) of section 1847A(i), under the sys-  
20 tem under this subsection, in lieu of calculation  
21 of the copayment amount and the amount of  
22 payment otherwise applicable under this sub-  
23 section (other than the application of the limita-  
24 tion described in subparagraph (C)), the provi-  
25 sions of section 1847A(i)(5) and paragraph

1 (1)(EE) of subsection (a), shall, as determined  
2 appropriate by the Secretary, apply under this  
3 subsection in the same manner as such provi-  
4 sions of section 1847A(i)(5) and subsection (a)  
5 apply under such section and subsection.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) TO PART B ASP CALCULATION.—Section  
8 1847A(c)(3) of the Social Security Act (42 U.S.C.  
9 1395w-3a(c)(3)) is amended by inserting “sub-  
10 section (i) or” before “section 1927”.

11 (2) EXCLUDING PART B DRUG INFLATION RE-  
12 BATE FROM BEST PRICE.—Section  
13 1927(e)(1)(C)(ii)(I) of the Social Security Act (42  
14 U.S.C. 1396r-8(e)(1)(C)(ii)(I)) is amended by in-  
15 serting “or section 1847A(i)” after “this section”.

16 (3) COORDINATION WITH MEDICAID REBATE IN-  
17 FORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i)  
18 of the Social Security Act (42 U.S.C. 1396r-  
19 8(b)(3)(D)(i)) is amended by inserting “and the re-  
20 bate” after “the payment amount”.

21 (4) EXCLUDING PART B DRUG INFLATION RE-  
22 BATES FROM AVERAGE MANUFACTURER PRICE.—  
23 Section 1927(k)(1)(B)(i) of the Social Security Act  
24 (42 U.S.C. 1396r-8(k)(1)(B)(i)), as amended by  
25 section 11001(b)(3), is amended—

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

3 (B) in subclause (VI), by striking the pe-  
4 riod at the end and inserting a semicolon; and

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

7 “(VII) rebates paid by manufac-  
8 turers under section 1847A(i); and”.

9 (d) FUNDING.—In addition to amounts otherwise  
10 available, there are appropriated to the Centers for Medi-  
11 care & Medicaid Services, out of any money in the Treas-  
12 ury not otherwise appropriated, \$80,000,000 for fiscal  
13 year 2022, including \$12,500,000 to carry out the provi-  
14 sions of, including the amendments made by, this section  
15 in fiscal year 2022, and \$7,500,000 to carry out the provi-  
16 sions of, including the amendments made by, this section  
17 in each of fiscal years 2023 through 2031, to remain avail-  
18 able until expended.

19 **SEC. 11102. MEDICARE PART D REBATE BY MANUFACTUR-**  
20 **ERS.**

21 (a) IN GENERAL.—Part D of title XVIII of the Social  
22 Security Act is amended by inserting after section 1860D-  
23 14A (42 U.S.C. 1395w-114a) the following new section:

1 **“SEC. 1860D-14B. MANUFACTURER REBATE FOR CERTAIN**  
2 **DRUGS WITH PRICES INCREASING FASTER**  
3 **THAN INFLATION.**

4 “(a) REQUIREMENTS.—

5 “(1) SECRETARIAL PROVISION OF INFORMA-  
6 TION.—Not later than 9 months after the end of  
7 each applicable period (as defined in subsection  
8 (g)(7)), subject to paragraph (3), the Secretary  
9 shall, for each part D rebatable drug, report to each  
10 manufacturer of such part D rebatable drug the fol-  
11 lowing for such period:

12 “(A) The amount (if any) of the excess an-  
13 nual manufacturer price increase described in  
14 subsection (b)(1)(A)(ii) for each dosage form  
15 and strength with respect to such drug and pe-  
16 riod.

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

20 “(2) MANUFACTURER REQUIREMENTS.—For  
21 each applicable period, the manufacturer of a part D  
22 rebatable drug, for each dosage form and strength  
23 with respect to such drug, not later than 30 days  
24 after the date of receipt from the Secretary of the  
25 information described in paragraph (1) for such pe-  
26 riod, shall provide to the Secretary a rebate that is

1 equal to the amount specified in subsection (b) for  
2 such dosage form and strength with respect to such  
3 drug for such period.

4 “(3) TRANSITION RULE FOR REPORTING.—The  
5 Secretary may, for each rebatable covered part D  
6 drug, delay the timeframe for reporting the informa-  
7 tion and rebate amount described in subparagraphs  
8 (A) and (B) of such paragraph for the applicable pe-  
9 riods beginning October 1, 2022, and October 1,  
10 2023, until not later than December 31, 2025.

11 “(b) REBATE AMOUNT.—

12 “(1) IN GENERAL.—

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

20 “(i) subject to subparagraph (B) of  
21 this paragraph, the total number of units  
22 of such dosage form and strength for each  
23 rebatable covered part D drug dispensed  
24 under this part during the applicable pe-  
25 riod; and

1 “(ii) the amount (if any) by which—

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

7 “(II) the inflation-adjusted pay-  
8 ment amount determined under para-  
9 graph (3) for such dosage form and  
10 strength with respect to such part D  
11 rebatable drug for the period.

12 “(B) EXCLUDED UNITS.—For purposes of  
13 subparagraph (A)(i), beginning with plan year  
14 2026, the Secretary shall exclude from the total  
15 number of units for a dosage form and strength  
16 with respect to a part D rebatable drug, with  
17 respect to an applicable period, units of each  
18 dosage form and strength of such part D  
19 rebatable drug for which the manufacturer pro-  
20 vides a discount under the program under sec-  
21 tion 340B of the Public Health Service Act.

22 “(C) REDUCTION OR WAIVER FOR SHORT-  
23 AGES AND SEVERE SUPPLY CHAIN DISRUP-  
24 TIONS.—The Secretary shall reduce or waive  
25 the amount under subparagraph (A) with re-

1           spect to a part D rebatable drug and an appli-  
2           cable period—

3                   “(i) in the case of a part D rebatable  
4                   drug that is described as currently in  
5                   shortage on the shortage list in effect  
6                   under section 506E of the Federal Food,  
7                   Drug, and Cosmetic Act at any point dur-  
8                   ing the applicable period;

9                   “(ii) in the case of a generic part D  
10                  rebatable drug (described in subsection  
11                  (g)(1)(C)(ii)) or a biosimilar (defined as a  
12                  biological product licensed under section  
13                  351(k) of the Public Health Service Act),  
14                  when the Secretary determines there is a  
15                  severe supply chain disruption during the  
16                  applicable period, such as that caused by a  
17                  natural disaster or other unique or unex-  
18                  pected event; and

19                  “(iii) in the case of a generic Part D  
20                  rebatable drug (as so described), if the  
21                  Secretary determines that without such re-  
22                  duction or waiver, the drug is likely to be  
23                  described as in shortage on such shortage  
24                  list during a subsequent applicable period.

1           “(2) DETERMINATION OF ANNUAL MANUFAC-  
2           TURER PRICE.—The annual manufacturer price de-  
3           termined under this paragraph for a dosage form  
4           and strength, with respect to a part D rebatable  
5           drug and an applicable period, is the sum of the  
6           products of—

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

12                  “(B) the ratio of—

13                           “(i) the total number of units of such  
14                           dosage form and strength reported under  
15                           section 1927 with respect to each such cal-  
16                           endar quarter of such period; to

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

21           “(3) DETERMINATION OF INFLATION-ADJUSTED  
22           PAYMENT AMOUNT.—The inflation-adjusted payment  
23           amount determined under this paragraph for a dos-  
24           age form and strength with respect to a part D



1 rebatable drug for an applicable period, subject to  
2 paragraph (5), is—

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

7 “(B) the percentage by which the applica-  
8 ble period CPI-U (as defined in subsection  
9 (g)(5)) for the period exceeds the benchmark  
10 period CPI-U (as defined in subsection (g)(4)).

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

17 “(A) the average manufacturer price (as  
18 defined in subsection (g)(6)) of such dosage  
19 form and strength, as calculated for a unit of  
20 such drug, with respect to each of the calendar  
21 quarters of the payment amount benchmark pe-  
22 riod (as defined in subsection (g)(3)); and

23 “(B) the ratio of—

24 “(i) the total number of units re-  
25 ported under section 1927 of such dosage

1 form and strength with respect to each  
2 such calendar quarter of such payment  
3 amount benchmark period; to

4 “(ii) the total number of units re-  
5 ported under section 1927 of such dosage  
6 form and strength with respect to such  
7 payment amount benchmark period.

8 “(5) SPECIAL TREATMENT OF CERTAIN DRUGS  
9 AND EXEMPTION.—

10 “(A) SUBSEQUENTLY APPROVED DRUGS.—

11 In the case of a part D rebatable drug first ap-  
12 proved or licensed by the Food and Drug Ad-  
13 ministration after October 1, 2021, subpara-  
14 graphs (A) and (B) of paragraph (4) shall be  
15 applied as if the term ‘payment amount bench-  
16 mark period’ were defined under subsection  
17 (g)(3) as the first calendar year beginning after  
18 the day on which the drug was first marketed  
19 and subparagraph (B) of paragraph (3) shall be  
20 applied as if the term ‘benchmark period CPI-  
21 U’ were defined under subsection (g)(4) as if  
22 the reference to ‘January 2021’ under such  
23 subsection were a reference to ‘January of the  
24 first year beginning after the date on which the  
25 drug was first marketed’.

1                   “(B) TREATMENT OF NEW FORMULA-  
2 TIONS.—

3                   “(i) IN GENERAL.—In the case of a  
4 part D rebatable drug that is a line exten-  
5 sion of a part D rebatable drug that is an  
6 oral solid dosage form, the Secretary shall  
7 establish a formula for determining the re-  
8 bate amount under paragraph (1) and the  
9 inflation adjusted payment amount under  
10 paragraph (3) with respect to such part D  
11 rebatable drug and an applicable period,  
12 consistent with the formula applied under  
13 subsection (c)(2)(C) of section 1927 for  
14 determining a rebate obligation for a re-  
15 bate period under such section.

16                   “(ii) LINE EXTENSION DEFINED.—In  
17 this subparagraph, the term ‘line exten-  
18 sion’ means, with respect to a part D  
19 rebatable drug, a new formulation of the  
20 drug, such as an extended release formula-  
21 tion, but does not include an abuse-deter-  
22 rent formulation of the drug (as deter-  
23 mined by the Secretary), regardless of  
24 whether such abuse-deterrent formulation  
25 is an extended release formulation.

1           “(C) SELECTED DRUGS.—In the case of a  
2           part D rebatable drug that is a selected drug  
3           (as defined in section 1192(c)) with respect to  
4           a price applicability period (as defined in sec-  
5           tion 1191(b)(2)), in the case such drug is no  
6           longer considered to be a selected drug under  
7           section 1192(c), for each applicable period (as  
8           defined under subsection (g)(7)) beginning after  
9           the price applicability period with respect to  
10          such drug, subparagraphs (A) and (B) of para-  
11          graph (4) shall be applied as if the term ‘pay-  
12          ment amount benchmark period’ were defined  
13          under subsection (g)(3) as the last year begin-  
14          ning during such price applicability period with  
15          respect to such selected drug and subparagraph  
16          (B) of paragraph (3) shall be applied as if the  
17          term ‘benchmark period CPI-U’ were defined  
18          under subsection (g)(4) as if the reference to  
19          ‘January 2021’ under such subsection were a  
20          reference to ‘January of the last year beginning  
21          during such price applicability period with re-  
22          spect to such drug’.

23          “(6) RECONCILIATION IN CASE OF REVISED IN-  
24          FORMATION.—The Secretary shall provide for a  
25          method and process under which, in the case where

1 a PDP sponsor of a prescription drug plan or an  
2 MA organization offering an MA–PD plan submits  
3 revisions to the number of units of a rebatable cov-  
4 ered part D drug dispensed, the Secretary deter-  
5 mines, pursuant to such revisions, adjustments, if  
6 any, to the calculation of the amount specified in  
7 this subsection for a dosage form and strength with  
8 respect to such part D rebatable drug and an appli-  
9 cable period and reconciles any overpayments or un-  
10 derpayments in amounts paid as rebates under this  
11 subsection. Any identified underpayment shall be  
12 rectified by the manufacturer not later than 30 days  
13 after the date of receipt from the Secretary of infor-  
14 mation on such underpayment.

15 “(c) REBATE DEPOSITS.—Amounts paid as rebates  
16 under subsection (b) shall be deposited into the Medicare  
17 Prescription Drug Account in the Federal Supplementary  
18 Medical Insurance Trust Fund established under section  
19 1841.

20 “(d) INFORMATION.—For purposes of carrying out  
21 this section, the Secretary shall use information submitted  
22 by—

23 “(1) manufacturers under section 1927(b)(3);

24 “(2) States under section 1927(b)(2)(A); and

1           “(3) PDP sponsors of prescription drug plans  
2           and MA organization offering MA–PD plans under  
3           this part.

4           “(e) CIVIL MONEY PENALTY.—If a manufacturer of  
5 a part D rebatable drug has failed to comply with the re-  
6 quirement under subsection (a)(2) with respect to such  
7 drug for an applicable period, the manufacturer shall be  
8 subject to a civil money penalty in an amount equal to  
9 125 percent of the amount specified in subsection (b) for  
10 such drug for such period. The provisions of section  
11 1128A (other than subsections (a) (with respect to  
12 amounts of penalties or additional assessments) and (b))  
13 shall apply to a civil money penalty under this subsection  
14 in the same manner as such provisions apply to a penalty  
15 or proceeding under section 1128A(a).

16           “(f) LIMITATION ON ADMINISTRATIVE OR JUDICIAL  
17 REVIEW.—There shall be no administrative or judicial re-  
18 view of any of the following:

19           “(1) The determination of units under this sec-  
20 tion.

21           “(2) The determination of whether a drug is a  
22 part D rebatable drug under this section.

23           “(3) The calculation of the rebate amount  
24 under this section.

25           “(g) DEFINITIONS.—In this section:

1 “(1) PART D REBATABLE DRUG.—

2 “(A) IN GENERAL.—Except as provided in  
3 subparagraph (B), the term ‘part D rebatable  
4 drug’ means, with respect to an applicable pe-  
5 riod, a drug or biological described in subpara-  
6 graph (C) that is a covered part D drug (as  
7 such term is defined under section 1860D-  
8 2(e)).

9 “(B) EXCLUSION.—

10 “(i) IN GENERAL.—Such term shall,  
11 with respect to an applicable period, not  
12 include a drug or biological if the average  
13 annual total cost under this part for such  
14 period per individual who uses such a drug  
15 or biological, as determined by the Sec-  
16 retary, is less than, subject to clause (ii),  
17 \$100, as determined by the Secretary  
18 using the most recent data available or, if  
19 data is not available, as estimated by the  
20 Secretary.

21 “(ii) INCREASE.—The dollar amount  
22 applied under clause (i)—

23 “(I) for the applicable period be-  
24 ginning October 1, 2023, shall be the  
25 dollar amount specified under such

1 clause for the applicable period begin-  
2 ning October 1, 2022, increased by  
3 the percentage increase in the con-  
4 sumer price index for all urban con-  
5 sumers (United States city average)  
6 for the 12-month period beginning  
7 with October of 2023; and

8 “(II) for a subsequent applicable  
9 period, shall be the dollar amount  
10 specified in this clause for the pre-  
11 vious applicable period, increased by  
12 the percentage increase in the con-  
13 sumer price index for all urban con-  
14 sumers (United States city average)  
15 for the 12-month period beginning  
16 with October of the previous period.

17 Any dollar amount specified under this  
18 clause that is not a multiple of \$10 shall  
19 be rounded to the nearest multiple of \$10.

20 “(C) DRUG OR BIOLOGICAL DESCRIBED.—  
21 A drug or biological described in this subpara-  
22 graph is a drug or biological that, as of the first  
23 day of the applicable period involved, is—

24 “(i) a drug approved under a new  
25 drug application under section 505(c) of



1 the Federal Food, Drug, and Cosmetic  
2 Act;

3 “(ii) a drug approved under an abbrevi-  
4 ated new drug application under section  
5 505(j) of the Federal Food, Drug, and  
6 Cosmetic Act, in the case where—

7 “(I) the reference listed drug ap-  
8 proved under section 505(c) of the  
9 Federal Food, Drug, and Cosmetic  
10 Act, including any ‘authorized generic  
11 drug’ (as that term is defined in sec-  
12 tion 505(t)(3) of the Federal Food,  
13 Drug, and Cosmetic Act), is not being  
14 marketed, as identified in the Food  
15 and Drug Administration’s National  
16 Drug Code Directory;

17 “(II) there is no other drug ap-  
18 proved under section 505(j) of the  
19 Federal Food, Drug, and Cosmetic  
20 Act that is rated as therapeutically  
21 equivalent (under the Food and Drug  
22 Administration’s most recent publica-  
23 tion of ‘Approved Drug Products with  
24 Therapeutic Equivalence Evaluations’)  
25 and that is being marketed, as identi-

1                   fied in the Food and Drug Adminis-  
2                   tration’s National Drug Code Direc-  
3                   tory;

4                   “(III) the manufacturer is not a  
5                   ‘first applicant’ during the ‘180-day  
6                   exclusivity period’, as those terms are  
7                   defined in section 505(j)(5)(B)(iv) of  
8                   the Federal Food, Drug, and Cos-  
9                   metic Act; and

10                  “(IV) the manufacturer is not a  
11                  ‘first approved applicant’ for a com-  
12                  petitive generic therapy, as that term  
13                  is defined in section 505(j)(5)(B)(v)  
14                  of the Federal Food, Drug, and Cos-  
15                  metic Act; or

16                  “(iii) a biological licensed under sec-  
17                  tion 351 of the Public Health Service Act.

18                  “(2) UNIT.—The term ‘unit’ means, with re-  
19                  spect to a part D rebatable drug, the lowest dispen-  
20                  sable amount (such as a capsule or tablet, milligram  
21                  of molecules, or grams) of the part D rebatable  
22                  drug, as reported under section 1927.

23                  “(3) PAYMENT AMOUNT BENCHMARK PE-  
24                  RIOD.—The term ‘payment amount benchmark pe-  
25                  riod’ means the period beginning January 1, 2021,

1 and ending in the month immediately prior to Octo-  
2 ber 1, 2021.

3 “(4) BENCHMARK PERIOD CPI-U.—The term  
4 ‘benchmark period CPI-U’ means the consumer  
5 price index for all urban consumers (United States  
6 city average) for January 2021.

7 “(5) APPLICABLE PERIOD CPI-U.—The term  
8 ‘applicable period CPI-U’ means, with respect to an  
9 applicable period, the consumer price index for all  
10 urban consumers (United States city average) for  
11 the first month of such applicable period.

12 “(6) AVERAGE MANUFACTURER PRICE.—The  
13 term ‘average manufacturer price’ has the meaning,  
14 with respect to a part D rebatable drug of a manu-  
15 facturer, given such term in section 1927(k)(1), with  
16 respect to a covered outpatient drug of a manufac-  
17 turer for a rebate period under section 1927.

18 “(7) APPLICABLE PERIOD.—The term ‘applica-  
19 ble period’ means a 12-month period beginning with  
20 October 1 of a year (beginning with October 1,  
21 2022).

22 “(h) IMPLEMENTATION FOR 2022, 2023, AND  
23 2024.—The Secretary shall implement this section for  
24 2022, 2023, and 2024 by program instruction or other  
25 forms of program guidance.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) TO PART B ASP CALCULATION.—Section  
3 1847A(c)(3) of the Social Security Act (42 U.S.C.  
4 1395w–3a(c)(3)), as amended by section  
5 11101(c)(1), is amended by striking “subsection (i)  
6 or section 1927” and inserting “subsection (i), sec-  
7 tion 1927, or section 1860D–14B”.

8 (2) EXCLUDING PART D DRUG INFLATION RE-  
9 BATE FROM BEST PRICE.—Section  
10 1927(e)(1)(C)(ii)(I) of the Social Security Act (42  
11 U.S.C. 1396r–8(c)(1)(C)(ii)(I)), as amended by sec-  
12 tion 11101(c)(2), is amended by striking “or section  
13 1847A(i)” and inserting “, section 1847A(i), or sec-  
14 tion 1860D–14B”.

15 (3) COORDINATION WITH MEDICAID REBATE IN-  
16 FORMATION DISCLOSURE.—Section 1927(b)(3)(D)(i)  
17 of the Social Security Act (42 U.S.C. 1396r–  
18 8(b)(3)(D)(i)), as amended by sections 11002(b) and  
19 11101(c)(3), is amended by striking “or section  
20 1192(f), including rebates under paragraph (4) of  
21 such section” and inserting “, section 1192(f), in-  
22 cluding rebates under paragraph (4) of such section,  
23 or section 1860D–14B”.

24 (4) EXCLUDING PART D DRUG INFLATION RE-  
25 BATES FROM AVERAGE MANUFACTURER PRICE.—

1 Section 1927(k)(1)(B)(i) of the Social Security Act  
2 (42 U.S.C. 1396r–8(k)(1)(B)(i)), as amended by  
3 section 11001(b)(3) and section 11101(c)(4), is  
4 amended by adding at the end the following new  
5 subclause:

6 (A) in subclause (VI), by striking “and” at  
7 the end;

8 (B) in subclause (VII), by striking the pe-  
9 riod at the end and inserting a semicolon; and

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

12 “(VIII) rebates paid by manufac-  
13 turers under section 1860D–14B.”.

14 (c) FUNDING.—In addition to amounts otherwise  
15 available, there are appropriated to the Centers for Medi-  
16 care & Medicaid Services, out of any money in the Treas-  
17 ury not otherwise appropriated, \$80,000,000 for fiscal  
18 year 2022, including \$12,500,000 to carry out the provi-  
19 sions of, including the amendments made by, this section  
20 in fiscal year 2022, and \$7,500,000 to carry out the provi-  
21 sions of, including the amendments made by, this section  
22 in each of fiscal years 2023 through 2031, to remain avail-  
23 able until expended.

1 **PART 3—PART D IMPROVEMENTS AND MAXIMUM**  
2 **OUT-OF-POCKET CAP FOR MEDICARE BENE-**  
3 **FICIARIES**

4 **SEC. 11201. MEDICARE PART D BENEFIT REDESIGN.**

5 (a) BENEFIT STRUCTURE REDESIGN.—Section  
6 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–  
7 102(b)) is amended—

8 (1) in paragraph (2)—

9 (A) in subparagraph (A), in the matter  
10 preceding clause (i), by inserting “for a year  
11 preceding 2025 and for costs above the annual  
12 deductible specified in paragraph (1) and up to  
13 the annual out-of-pocket threshold specified in  
14 paragraph (4)(B) for 2025 and each subsequent  
15 year” after “paragraph (3)”;

16 (B) in subparagraph (C)—

17 (i) in clause (i), in the matter pre-  
18 ceding subclause (I), by inserting “for a  
19 year preceding 2025,” after “paragraph  
20 (4),”; and

21 (ii) in clause (ii)(III), by striking  
22 “and each subsequent year” and inserting  
23 “through 2024”; and

24 (C) in subparagraph (D)—

25 (i) in clause (i)—

1 (I) in the matter preceding sub-  
2 clause (I), by inserting “for a year  
3 preceding 2025,” after “paragraph  
4 (4),”; and

5 (II) in subclause (I)(bb), by  
6 striking “a year after 2018” and in-  
7 serting “each of years 2019 through  
8 2024”; and

9 (ii) in clause (ii)(V), by striking  
10 “2019 and each subsequent year” and in-  
11 serting “each of years 2019 through  
12 2024”;

13 (2) in paragraph (3)(A)—

14 (A) in the matter preceding clause (i), by  
15 inserting “for a year preceding 2025,” after  
16 “and (4),”; and

17 (B) in clause (ii), by striking “for a subse-  
18 quent year” and inserting “for each of years  
19 2007 through 2024”; and

20 (3) in paragraph (4)—

21 (A) in subparagraph (A)—

22 (i) in clause (i)—

23 (I) by redesignating subclauses  
24 (I) and (II) as items (aa) and (bb),  
25 respectively, and moving the margin

1 of each such redesignated item 2 ems  
2 to the right;

3 (II) in the matter preceding item  
4 (aa), as redesignated by subclause (I),  
5 by striking “is equal to the greater  
6 of—” and inserting “is equal to—

7 “(I) for a year preceding 2024,  
8 the greater of—”;

9 (III) by striking the period at the  
10 end of item (bb), as redesignated by  
11 subclause (I), and inserting “; and”;  
12 and

13 (IV) by adding at the end the fol-  
14 lowing:

15 “(II) for 2024 and each suc-  
16 ceeding year, \$0.”; and

17 (ii) in clause (ii)—

18 (I) by striking “clause (i)(I)” and  
19 inserting “clause (i)(I)(aa)”; and

20 (II) by adding at the end the fol-  
21 lowing new sentence: “The Secretary  
22 shall continue to calculate the dollar  
23 amounts specified in clause (i)(I)(aa),  
24 including with the adjustment under



1                   this clause, after 2023 for purposes of  
2                   section 1860D–14(a)(1)(D)(iii).”;

3                   (B) in subparagraph (B)—

4                   (i) in clause (i)—

5                   (I) in subclause (V), by striking  
6                   “or” at the end;

7                   (II) in subclause (VI)—

8                   (aa) by striking “for a sub-  
9                   sequent year” and inserting “for  
10                  each of years 2021 through  
11                  2024”; and

12                  (bb) by striking the period  
13                  at the end and inserting a semi-  
14                  colon; and

15                  (III) by adding at the end the  
16                  following new subclauses:

17                  “(VII) for 2025, is equal to  
18                  \$2,000; or

19                  “(VIII) for a subsequent year, is  
20                  equal to the amount specified in this  
21                  subparagraph for the previous year,  
22                  increased by the annual percentage in-  
23                  crease described in paragraph (6) for  
24                  the year involved.”; and

1 (ii) in clause (ii), by striking “clause  
2 (i)(II)” and inserting “clause (i)”;

3 (C) in subparagraph (C)—

4 (i) in clause (i), by striking “and for  
5 amounts” and inserting “and, for a year  
6 preceding 2025, for amounts”; and

7 (ii) in clause (iii)—

8 (I) by redesignating subclauses  
9 (I) through (IV) as items (aa)  
10 through (dd) and indenting appro-  
11 priately;

12 (II) by striking “if such costs are  
13 borne or paid” and inserting “if such  
14 costs—

15 “(I) are borne or paid—”; and

16 (III) in item (dd), by striking the  
17 period at the end and inserting “; or”;  
18 and

19 (IV) by adding at the end the fol-  
20 lowing new subclause:

21 “(II) for 2025 and subsequent  
22 years, are reimbursed through insur-  
23 ance, a group health plan, or certain  
24 other third party payment arrange-  
25 ments, but not including the coverage

1 provided by a prescription drug plan  
2 or an MA–PD plan that is basic pre-  
3 scription drug coverage (as defined in  
4 subsection (a)(3)) or any payments by  
5 a manufacturer under the manufac-  
6 turer discount program under section  
7 1860D–14C.”; and

8 (D) in subparagraph (E), by striking “In  
9 applying” and inserting “For each of years  
10 2011 through 2024, in applying”.

11 (b) REINSURANCE PAYMENT AMOUNT.—Section  
12 1860D–15(b) of the Social Security Act (42 U.S.C.  
13 1395w–115(b)) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “equal to 80 percent” and  
16 inserting “equal to—

17 “(A) for a year preceding 2025, 80 per-  
18 cent”;

19 (B) in subparagraph (A), as added by sub-  
20 paragraph (A), by striking the period at the  
21 end and inserting “; and”; and

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

24 “(B) for 2025 and each subsequent year,  
25 the sum of—

1           “(i) with respect to applicable drugs  
2           (as defined in section 1860D–14C(g)(2)),  
3           an amount equal to 20 percent of such al-  
4           lowable reinsurance costs attributable to  
5           that portion of gross covered prescription  
6           drug costs as specified in paragraph (3) in-  
7           curred in the coverage year after such indi-  
8           vidual has incurred costs that exceed the  
9           annual out-of-pocket threshold specified in  
10          section 1860D–2(b)(4)(B); and

11          “(ii) with respect to covered part D  
12          drugs that are not applicable drugs (as so  
13          defined), an amount equal to 40 percent of  
14          such allowable reinsurance costs attrib-  
15          utable to that portion of gross covered pre-  
16          scription drug costs as specified in para-  
17          graph (3) incurred in the coverage year  
18          after such individual has incurred costs  
19          that exceed the annual out-of-pocket  
20          threshold specified in section 1860D–  
21          2(b)(4)(B).”;

22          (2) in paragraph (2)—

23                 (A) by striking “COSTS.—For purposes”  
24                 and inserting “COSTS.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), for purposes”; and

3           (B) by adding at the end the following new  
4 subparagraph:

5           “(B) INCLUSION OF MANUFACTURER DIS-  
6 COUNTS ON APPLICABLE DRUGS.—For purposes  
7 of applying subparagraph (A), the term ‘allow-  
8 able reinsurance costs’ shall include the portion  
9 of the negotiated price (as defined in section  
10 1860D–14C(g)(6)) of an applicable drug (as  
11 defined in section 1860D–14C(g)(2)) that was  
12 paid by a manufacturer under the manufacturer  
13 discount program under section 1860D–14C.”;  
14 and

15 (3) in paragraph (3)—

16           (A) in the first sentence, by striking “For  
17 purposes” and inserting “Subject to paragraph  
18 (2)(B), for purposes”; and

19           (B) in the second sentence, by inserting  
20 “(or, with respect to 2025 and subsequent  
21 years, in the case of an applicable drug, as de-  
22 fined in section 1860D–14C(g)(2), by a manu-  
23 facturer)” after “by the individual or under the  
24 plan”.

25 (c) MANUFACTURER DISCOUNT PROGRAM.—

1           (1) IN GENERAL.—Part D of title XVIII of the  
2           Social Security Act (42 U.S.C. 1395w–101 through  
3           42 U.S.C. 1395w–153), as amended by section  
4           11102, is amended by inserting after section  
5           1860D–14B the following new sections:

6           **“SEC. 1860D–14C. MANUFACTURER DISCOUNT PROGRAM.**

7           “(a) ESTABLISHMENT.—The Secretary shall estab-  
8           lish a manufacturer discount program (in this section re-  
9           ferred to as the ‘program’). Under the program, the Sec-  
10          retary shall enter into agreements described in subsection  
11          (b) with manufacturers and provide for the performance  
12          of the duties described in subsection (c).

13          “(b) TERMS OF AGREEMENT.—

14                  “(1) IN GENERAL.—

15                          “(A) AGREEMENT.—An agreement under  
16                          this section shall require the manufacturer to  
17                          provide, in accordance with this section, dis-  
18                          counted prices for applicable drugs of the man-  
19                          ufacturer that are dispensed to applicable bene-  
20                          ficiaries on or after January 1, 2025.

21                          “(B) CLARIFICATION.—Nothing in this  
22                          section shall be construed as affecting—

23                                  “(i) the application of a coinsurance  
24                                  of 25 percent of the negotiated price, as  
25                                  applied under paragraph (2)(A) of section

1 1860D–2(b), for costs described in such  
2 paragraph; or

3 “(ii) the application of the copayment  
4 amount described in paragraph (4)(A) of  
5 such section, with respect to costs de-  
6 scribed in such paragraph.

7 “(C) TIMING OF AGREEMENT.—

8 “(i) SPECIAL RULE FOR 2025.—In  
9 order for an agreement with a manufac-  
10 turer to be in effect under this section with  
11 respect to the period beginning on January  
12 1, 2025, and ending on December 31,  
13 2025, the manufacturer shall enter into  
14 such agreement not later than March 1,  
15 2024.

16 “(ii) 2026 AND SUBSEQUENT  
17 YEARS.—In order for an agreement with a  
18 manufacturer to be in effect under this  
19 section with respect to plan year 2026 or  
20 a subsequent plan year, the manufacturer  
21 shall enter into such agreement not later  
22 than a calendar quarter or semi-annual  
23 deadline established by the Secretary.

24 “(2) PROVISION OF APPROPRIATE DATA.—Each  
25 manufacturer with an agreement in effect under this

1 section shall collect and have available appropriate  
2 data, as determined by the Secretary, to ensure that  
3 it can demonstrate to the Secretary compliance with  
4 the requirements under the program.

5 “(3) COMPLIANCE WITH REQUIREMENTS FOR  
6 ADMINISTRATION OF PROGRAM.—Each manufac-  
7 turer with an agreement in effect under this section  
8 shall comply with requirements imposed by the Sec-  
9 retary, as applicable, for purposes of administering  
10 the program, including any determination under  
11 subparagraph (A) of subsection (c)(1) or procedures  
12 established under such subsection (c)(1).

13 “(4) LENGTH OF AGREEMENT.—

14 “(A) IN GENERAL.—An agreement under  
15 this section shall be effective for an initial pe-  
16 riod of not less than 12 months and shall be  
17 automatically renewed for a period of not less  
18 than 1 year unless terminated under subpara-  
19 graph (B).

20 “(B) TERMINATION.—

21 “(i) BY THE SECRETARY.—The Sec-  
22 retary shall provide for termination of an  
23 agreement under this section for a knowing  
24 and willful violation of the requirements of  
25 the agreement or other good cause shown.



1           Such termination shall not be effective ear-  
2           lier than 30 days after the date of notice  
3           to the manufacturer of such termination.  
4           The Secretary shall provide, upon request,  
5           a manufacturer with a hearing concerning  
6           such a termination, and such hearing shall  
7           take place prior to the effective date of the  
8           termination with sufficient time for such  
9           effective date to be repealed if the Sec-  
10          retary determines appropriate.

11                 “(ii) BY A MANUFACTURER.—A man-  
12          ufacturer may terminate an agreement  
13          under this section for any reason. Any  
14          such termination shall be effective, with re-  
15          spect to a plan year—

16                         “(I) if the termination occurs be-  
17                         fore January 31 of a plan year, as of  
18                         the day after the end of the plan year;  
19                         and

20                         “(II) if the termination occurs on  
21                         or after January 31 of a plan year, as  
22                         of the day after the end of the suc-  
23                         ceeding plan year.

24                 “(iii) EFFECTIVENESS OF TERMI-  
25          NATION.—Any termination under this sub-

1 paragraph shall not affect discounts for  
2 applicable drugs of the manufacturer that  
3 are due under the agreement before the ef-  
4 fective date of its termination.

5 “(5) EFFECTIVE DATE OF AGREEMENT.—An  
6 agreement under this section shall take effect at the  
7 start of a calendar quarter or another date specified  
8 by the Secretary.

9 “(c) DUTIES DESCRIBED.—The duties described in  
10 this subsection are the following:

11 “(1) ADMINISTRATION OF PROGRAM.—Admin-  
12 istering the program, including—

13 “(A) the determination of the amount of  
14 the discounted price of an applicable drug of a  
15 manufacturer;

16 “(B) the establishment of procedures to  
17 ensure that, not later than the applicable num-  
18 ber of calendar days after the dispensing of an  
19 applicable drug by a pharmacy or mail order  
20 service, the pharmacy or mail order service is  
21 reimbursed for an amount equal to the dif-  
22 ference between—

23 “(i) the negotiated price of the appli-  
24 cable drug; and

1                   “(ii) the discounted price of the appli-  
2                   cable drug;

3                   “(C) the establishment of procedures to  
4                   ensure that the discounted price for an applica-  
5                   ble drug under this section is applied before any  
6                   coverage or financial assistance under other  
7                   health benefit plans or programs that provide  
8                   coverage or financial assistance for the pur-  
9                   chase or provision of prescription drug coverage  
10                  on behalf of applicable beneficiaries as specified  
11                  by the Secretary; and

12                  “(D) providing a reasonable dispute resolu-  
13                  tion mechanism to resolve disagreements be-  
14                  tween manufacturers, prescription drug plans  
15                  and MA–PD plans, and the Secretary.

16                  “(2) MONITORING COMPLIANCE.—The Sec-  
17                  retary shall monitor compliance by a manufacturer  
18                  with the terms of an agreement under this section.

19                  “(3) COLLECTION OF DATA FROM PRESCRIP-  
20                  TION DRUG PLANS AND MA–PD PLANS.—The Sec-  
21                  retary may collect appropriate data from prescrip-  
22                  tion drug plans and MA–PD plans in a timeframe  
23                  that allows for discounted prices to be provided for  
24                  applicable drugs under this section.

25                  “(d) ADMINISTRATION.—

1           “(1) IN GENERAL.—Subject to paragraph (2),  
2           the Secretary shall provide for the implementation of  
3           this section, including the performance of the duties  
4           described in subsection (c).

5           “(2) LIMITATION.—In providing for the imple-  
6           mentation of this section, the Secretary shall not re-  
7           ceive or distribute any funds of a manufacturer  
8           under the program.

9           “(e) CIVIL MONEY PENALTY.—

10           “(1) IN GENERAL.—A manufacturer that fails  
11           to provide discounted prices for applicable drugs of  
12           the manufacturer dispensed to applicable bene-  
13           ficiaries in accordance with an agreement in effect  
14           under this section shall be subject to a civil money  
15           penalty for each such failure in an amount the Sec-  
16           retary determines is equal to the sum of—

17           “(A) the amount that the manufacturer  
18           would have paid with respect to such discounts  
19           under the agreement, which will then be used to  
20           pay the discounts which the manufacturer had  
21           failed to provide; and

22           “(B) 25 percent of such amount.

23           “(2) APPLICATION.—The provisions of section  
24           1128A (other than subsections (a) and (b)) shall  
25           apply to a civil money penalty under this subsection

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

3 “(f) CLARIFICATION REGARDING AVAILABILITY OF  
4 OTHER COVERED PART D DRUGS.—Nothing in this sec-  
5 tion shall prevent an applicable beneficiary from pur-  
6 chasing a covered part D drug that is not an applicable  
7 drug (including a generic drug or a drug that is not on  
8 the formulary of the prescription drug plan or MA–PD  
9 plan that the applicable beneficiary is enrolled in).

10 “(g) DEFINITIONS.—In this section:

11 “(1) APPLICABLE BENEFICIARY.—The term  
12 ‘applicable beneficiary’ means an individual who, on  
13 the date of dispensing a covered part D drug—

14 “(A) is enrolled in a prescription drug plan  
15 or an MA–PD plan;

16 “(B) is not enrolled in a qualified retiree  
17 prescription drug plan; and

18 “(C) has incurred costs, as determined in  
19 accordance with section 1860D–2(b)(4)(C), for  
20 covered part D drugs in the year that exceed  
21 the annual deductible specified in section  
22 1860D–2(b)(1).

23 “(2) APPLICABLE DRUG.—The term ‘applicable  
24 drug’, with respect to an applicable beneficiary—

25 “(A) means a covered part D drug—

1           “(i) approved under a new drug appli-  
2 cation under section 505(c) of the Federal  
3 Food, Drug, and Cosmetic Act or, in the  
4 case of a biologic product, licensed under  
5 section 351 of the Public Health Service  
6 Act; and

7           “(ii)(I) if the PDP sponsor of the pre-  
8 scription drug plan or the MA organization  
9 offering the MA–PD plan uses a for-  
10 mulary, which is on the formulary of the  
11 prescription drug plan or MA–PD plan  
12 that the applicable beneficiary is enrolled  
13 in;

14           “(II) if the PDP sponsor of the pre-  
15 scription drug plan or the MA organization  
16 offering the MA–PD plan does not use a  
17 formulary, for which benefits are available  
18 under the prescription drug plan or MA–  
19 PD plan that the applicable beneficiary is  
20 enrolled in; or

21           “(III) is provided through an excep-  
22 tion or appeal; and

23           “(B) does not include a selected drug (as  
24 referred to under section 1192(c)) during a

1 price applicability period (as defined in section  
2 1191(b)(2)) with respect to such drug.

3 “(3) APPLICABLE NUMBER OF CALENDAR  
4 DAYS.—The term ‘applicable number of calendar  
5 days’ means—

6 “(A) with respect to claims for reimburse-  
7 ment submitted electronically, 14 days; and

8 “(B) with respect to claims for reimburse-  
9 ment submitted otherwise, 30 days.

10 “(4) DISCOUNTED PRICE.—

11 “(A) IN GENERAL.—The term ‘discounted  
12 price’ means, subject to subparagraphs (B) and  
13 (C), with respect to an applicable drug of a  
14 manufacturer dispensed during a year to an ap-  
15 plicable beneficiary—

16 “(i) who has not incurred costs, as de-  
17 termined in accordance with section  
18 1860D–2(b)(4)(C), for covered part D  
19 drugs in the year that are equal to or ex-  
20 ceed the annual out-of-pocket threshold  
21 specified in section 1860D–2(b)(4)(B)(i)  
22 for the year, 90 percent of the negotiated  
23 price of such drug; and

24 “(ii) who has incurred such costs, as  
25 so determined, in the year that are equal

1 to or exceed such threshold for the year,  
2 80 percent of the negotiated price of such  
3 drug.

4 “(B) PHASE-IN FOR CERTAIN DRUGS DIS-  
5 PENSED TO LIS BENEFICIARIES.—

6 “(i) IN GENERAL.—In the case of an  
7 applicable drug of a specified manufacturer  
8 (as defined in clause (ii)) that is marketed  
9 as of the date of enactment of this sub-  
10 paragraph and dispensed for an applicable  
11 beneficiary who is a subsidy eligible indi-  
12 vidual (as defined in section 1860D-  
13 14(a)(3)), the term ‘discounted price’  
14 means the specified LIS percent (as de-  
15 fined in clause (iii)) of the negotiated price  
16 of the applicable drug of the manufacturer.

17 “(ii) SPECIFIED MANUFACTURER.—

18 “(I) IN GENERAL.—In this sub-  
19 paragraph, subject to subclause (II),  
20 the term ‘specified manufacturer’  
21 means a manufacturer of an applica-  
22 ble drug for which, in 2021—

23 “(aa) the manufacturer had  
24 a coverage gap discount agree-  
25 ment under section 1860D-14A;



1           “(bb) the total expenditures  
2 for all of the specified drugs of  
3 the manufacturer covered by  
4 such agreement or agreements  
5 for such year and covered under  
6 this part during such year rep-  
7 resented less than 1.0 percent of  
8 the total expenditures under this  
9 part for all covered Part D drugs  
10 during such year; and

11           “(cc) the total expenditures  
12 for all of the specified drugs of  
13 the manufacturer that are single  
14 source drugs and biological prod-  
15 ucts for which payment may be  
16 made under part B during such  
17 year represented less than 1.0  
18 percent of the total expenditures  
19 under part B for all drugs or bio-  
20 logical products for which pay-  
21 ment may be made under such  
22 part during such year.

23           “(II) SPECIFIED DRUGS.—

24           “(aa) IN GENERAL.—For  
25 purposes of this clause, the term

1 ‘specified drug’ means, with re-  
2 spect to a specified manufac-  
3 turer, for 2021, an applicable  
4 drug that is produced, prepared,  
5 propagated, compounded, con-  
6 verted, or processed by the man-  
7 ufacturer.

8 “(bb) AGGREGATION  
9 RULE.—All persons treated as a  
10 single employer under subsection  
11 (a) or (b) of section 52 of the In-  
12 ternal Revenue Code of 1986  
13 shall be treated as one manufac-  
14 turer for purposes of this sub-  
15 paragraph. For purposes of mak-  
16 ing a determination pursuant to  
17 the previous sentence, an agree-  
18 ment under this section shall re-  
19 quire that a manufacturer pro-  
20 vide and attest to such informa-  
21 tion as specified by the Secretary  
22 as necessary.

23 “(III) LIMITATION.—The term  
24 ‘specified manufacturer’ shall not in-  
25 clude a manufacturer described in

1 subclause (I) if such manufacturer is  
2 acquired after 2021 by another manu-  
3 facturer that is not a specified manu-  
4 facturer, effective at the beginning of  
5 the plan year immediately following  
6 such acquisition or, in the case of an  
7 acquisition before 2025, effective Jan-  
8 uary 1, 2025.

9 “(iii) SPECIFIED LIS PERCENT.—In  
10 this subparagraph, the ‘specified LIS per-  
11 cent’ means, with respect to a year—

12 “(I) for an applicable drug dis-  
13 pensed for an applicable beneficiary  
14 described in clause (i) who has not in-  
15 curred costs, as determined in accord-  
16 ance with section 1860D–2(b)(4)(C),  
17 for covered part D drugs in the year  
18 that are equal to or exceed the annual  
19 out-of-pocket threshold specified in  
20 section 1860D–2(b)(4)(B)(i) for the  
21 year—

22 “(aa) for 2025, 99 percent;

23 “(bb) for 2026, 98 percent;

24 “(cc) for 2027, 95 percent;

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1 “(dd) for 2028, 92 percent;

2 and

3 “(ee) for 2029 and each

4 subsequent year, 90 percent; and

5 “(II) for an applicable drug dis-

6 pensed for an applicable beneficiary

7 described in clause (i) who has in-

8 curred costs, as determined in accord-

9 ance with section 1860D–2(b)(4)(C),

10 for covered part D drugs in the year

11 that are equal to or exceed the annual

12 out-of-pocket threshold specified in

13 section 1860D–2(b)(4)(B)(i) for the

14 year—

15 “(aa) for 2025, 99 percent;

16 “(bb) for 2026, 98 percent;

17 “(cc) for 2027, 95 percent;

18 “(dd) for 2028, 92 percent;

19 “(ee) for 2029, 90 percent;

20 “(ff) for 2030, 85 percent;

21 and

22 “(gg) for 2031 and each

23 subsequent year, 80 percent.

24 “(C) PHASE-IN FOR SPECIFIED SMALL

25 MANUFACTURERS.—



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1 are covered by the agreement or  
2 agreements under section  
3 1860D–14A of such manufac-  
4 turer for such year and covered  
5 under this part during such year  
6 are equal to or more than 80 per-  
7 cent of the total expenditures  
8 under this part for all specified  
9 small manufacturer drugs of the  
10 manufacturer that are covered by  
11 such agreement or agreements  
12 for such year and covered under  
13 this part during such year.

14 “(II) SPECIFIED SMALL MANU-  
15 FACTURER DRUGS.—

16 “(aa) IN GENERAL.—For  
17 purposes of this clause, the term  
18 ‘specified small manufacturer  
19 drugs’ means, with respect to a  
20 specified small manufacturer, for  
21 2021, an applicable drug that is  
22 produced, prepared, propagated,  
23 compounded, converted, or proc-  
24 essed by the manufacturer.

1                   “(bb)           AGGREGATION  
2                   RULE.—All persons treated as a  
3                   single employer under subsection  
4                   (a) or (b) of section 52 of the In-  
5                   ternal Revenue Code of 1986  
6                   shall be treated as one manufac-  
7                   turer for purposes of this sub-  
8                   paragraph. For purposes of mak-  
9                   ing a determination pursuant to  
10                  the previous sentence, an agree-  
11                  ment under this section shall re-  
12                  quire that a manufacturer pro-  
13                  vide and attest to such informa-  
14                  tion as specified by the Secretary  
15                  as necessary.

16                  “(III) LIMITATION.—The term  
17                  ‘specified small manufacturer’ shall  
18                  not include a manufacturer described  
19                  in subclause (I) if such manufacturer  
20                  is acquired after 2021 by another  
21                  manufacturer that is not a specified  
22                  small manufacturer, effective at the  
23                  beginning of the plan year imme-  
24                  diately following such acquisition or,

1 in the case of an acquisition before  
2 2025, effective January 1, 2025.

3 “(iii) SPECIFIED SMALL MANUFAC-  
4 Turer Percent.—In this subparagraph,  
5 the term ‘specified small manufacturer per-  
6 cent’ means, with respect to a year—

7 “(I) for an applicable drug dis-  
8 pensed for an applicable beneficiary  
9 who has not incurred costs, as deter-  
10 mined in accordance with section  
11 1860D–2(b)(4)(C), for covered part D  
12 drugs in the year that are equal to or  
13 exceed the annual out-of-pocket  
14 threshold specified in section 1860D–  
15 2(b)(4)(B)(i) for the year—

16 “(aa) for 2025, 99 percent;

17 “(bb) for 2026, 98 percent;

18 “(cc) for 2027, 95 percent;

19 “(dd) for 2028, 92 percent;

20 and

21 “(ee) for 2029 and each  
22 subsequent year, 90 percent; and

23 “(II) for an applicable drug dis-  
24 pensed for an applicable beneficiary  
25 who has incurred costs, as determined



1 in accordance with section 1860D–  
2 2(b)(4)(C), for covered part D drugs  
3 in the year that are equal to or exceed  
4 the annual out-of-pocket threshold  
5 specified in section 1860D–  
6 2(b)(4)(B)(i) for the year—

7 “(aa) for 2025, 99 percent;  
8 “(bb) for 2026, 98 percent;  
9 “(cc) for 2027, 95 percent;  
10 “(dd) for 2028, 92 percent;  
11 “(ee) for 2029, 90 percent;  
12 “(ff) for 2030, 85 percent;

13 and

14 “(gg) for 2031 and each  
15 subsequent year, 80 percent.

16 “(D) TOTAL EXPENDITURES.—For pur-  
17 poses of this paragraph, the term ‘total expend-  
18 itures’ includes, in the case of expenditures with  
19 respect to part D, the total gross covered pre-  
20 scription drug costs as defined in section  
21 1860D–15(b)(3). The term ‘total expenditures’  
22 excludes, in the case of expenditures with re-  
23 spect to part B, expenditures for a drug or bio-  
24 logical that are bundled or packaged into the  
25 payment for another service.

1                   “(E) SPECIAL CASE FOR CERTAIN  
2 CLAIMS.—

3                   “(i) CLAIMS SPANNING DEDUCT-  
4 IBLE.—In the case where the entire  
5 amount of the negotiated price of an indi-  
6 vidual claim for an applicable drug with re-  
7 spect to an applicable beneficiary does not  
8 fall above the annual deductible specified  
9 in section 1860D–2(b)(1) for the year, the  
10 manufacturer of the applicable drug shall  
11 provide the discounted price under this  
12 section on only the portion of the nego-  
13 tiated price of the applicable drug that  
14 falls above such annual deductible.

15                   “(ii) CLAIMS SPANNING OUT-OF-POCK-  
16 ET THRESHOLD.—In the case where the  
17 entire amount of the negotiated price of an  
18 individual claim for an applicable drug  
19 with respect to an applicable beneficiary  
20 does not fall entirely below or entirely  
21 above the annual out-of-pocket threshold  
22 specified in section 1860D–2(b)(4)(B)(i)  
23 for the year, the manufacturer of the ap-  
24 plicable drug shall provide the discounted  
25 price—

1                   “(I) in accordance with subpara-  
2                   graph (A)(i) on the portion of the ne-  
3                   gotiated price of the applicable drug  
4                   that falls below such threshold; and

5                   “(II) in accordance with subpara-  
6                   graph (A)(ii) on the portion of such  
7                   price of such drug that falls at or  
8                   above such threshold.

9                   “(5) MANUFACTURER.—The term ‘manufac-  
10                  turer’ means any entity which is engaged in the pro-  
11                  duction, preparation, propagation, compounding,  
12                  conversion, or processing of prescription drug prod-  
13                  ucts, either directly or indirectly by extraction from  
14                  substances of natural origin, or independently by  
15                  means of chemical synthesis, or by a combination of  
16                  extraction and chemical synthesis. Such term does  
17                  not include a wholesale distributor of drugs or a re-  
18                  tail pharmacy licensed under State law.

19                  “(6) NEGOTIATED PRICE.—The term ‘nego-  
20                  tiated price’ has the meaning given such term for  
21                  purposes of section 1860D–2(d)(1)(B), and, with re-  
22                  spect to an applicable drug, such negotiated price  
23                  shall include any dispensing fee and, if applicable,  
24                  any vaccine administration fee for the applicable  
25                  drug.

1           “(7) QUALIFIED RETIREE PRESCRIPTION DRUG  
2           PLAN.—The term ‘qualified retiree prescription drug  
3           plan’ has the meaning given such term in section  
4           1860D–22(a)(2).

5           **“SEC. 1860D–14D. SELECTED DRUG SUBSIDY PROGRAM.**

6           “With respect to covered part D drugs that would  
7           be applicable drugs (as defined in section 1860D–  
8           14C(g)(2)) but for the application of subparagraph (B)  
9           of such section, the Secretary shall provide a process  
10          whereby, in the case of an applicable beneficiary (as de-  
11          fined in section 1860D–14C(g)(1)) who, with respect to  
12          a year, is enrolled in a prescription drug plan or is enrolled  
13          in an MA–PD plan, has not incurred costs that are equal  
14          to or exceed the annual out-of-pocket threshold specified  
15          in section 1860D–2(b)(4)(B)(i), and is dispensed such a  
16          drug, the Secretary (periodically and on a timely basis)  
17          provides the PDP sponsor or the MA organization offering  
18          the plan, a subsidy with respect to such drug that is equal  
19          to 10 percent of the negotiated price (as defined in section  
20          1860D–14C(g)(6)) of such drug.”.

21                 (2) SUNSET OF MEDICARE COVERAGE GAP DIS-  
22                 COUNT PROGRAM.—Section 1860D–14A of the So-  
23                 cial Security Act (42 U.S.C. 1395w–114a) is amend-  
24                 ed—

1 (A) in subsection (a), in the first sentence,  
2 by striking “The Secretary” and inserting  
3 “Subject to subsection (h), the Secretary”; and

4 (B) by adding at the end the following new  
5 subsection:

6 “(h) SUNSET OF PROGRAM.—

7 “(1) IN GENERAL.—The program shall not  
8 apply with respect to applicable drugs dispensed on  
9 or after January 1, 2025, and, subject to paragraph  
10 (2), agreements under this section shall be termi-  
11 nated as of such date.

12 “(2) CONTINUED APPLICATION FOR APPLICA-  
13 BLE DRUGS DISPENSED PRIOR TO SUNSET.—The  
14 provisions of this section (including all responsibil-  
15 ities and duties) shall continue to apply on and after  
16 January 1, 2025, with respect to applicable drugs  
17 dispensed prior to such date.”.

18 (3) SELECTED DRUG SUBSIDY PAYMENTS FROM  
19 MEDICARE PRESCRIPTION DRUG ACCOUNT.—Section  
20 1860D–16(b)(1) of the Social Security Act (42  
21 U.S.C. 1395w–116(b)(1)) is amended—

22 (A) in subparagraph (C), by striking  
23 “and” at the end;

24 (B) in subparagraph (D), by striking the  
25 period at the end and inserting “; and”; and

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

3 “(E) payments under section 1860D–14D  
4 (relating to selected drug subsidy payments).”.

5 (d) MEDICARE PART D PREMIUM STABILIZATION.—

6 (1) 2024 THROUGH 2029.—Section 1860D–13  
7 of the Social Security Act (42 U.S.C. 1395w–113)  
8 is amended—

9 (A) in subsection (a)—

10 (i) in paragraph (1)(A), by inserting  
11 “or (8) (as applicable)” after “paragraph  
12 (2)”;

13 (ii) in paragraph (2), in the matter  
14 preceding subparagraph (A), by striking  
15 “The base” and inserting “Subject to  
16 paragraph (8), the base”;

17 (iii) in paragraph (7)—

18 (I) in subparagraph (B)(ii), by  
19 inserting “or (8) (as applicable)” after  
20 “paragraph (2)”; and

21 (II) in subparagraph (E)(i), by  
22 inserting “or (8) (as applicable)” after  
23 “paragraph (2)”; and

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

1 “(8) PREMIUM STABILIZATION.—

2 “(A) IN GENERAL.—The base beneficiary  
3 premium under this paragraph for a prescrip-  
4 tion drug plan for a month in 2024 through  
5 2029 shall be computed as follows:

6 “(i) 2024.—The base beneficiary pre-  
7 mium for a month in 2024 shall be equal  
8 to the lesser of—

9 “(I) the base beneficiary pre-  
10 mium computed under paragraph (2)  
11 for a month in 2023 increased by 6  
12 percent; or

13 “(II) the base beneficiary pre-  
14 mium computed under paragraph (2)  
15 for a month in 2024 that would have  
16 applied if this paragraph had not been  
17 enacted.

18 “(ii) 2025.—The base beneficiary pre-  
19 mium for a month in 2025 shall be equal  
20 to the lesser of—

21 “(I) the base beneficiary pre-  
22 mium computed under clause (i) for a  
23 month in 2024 increased by 6 per-  
24 cent; or

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1                   “(II) the base beneficiary pre-  
2                   mium computed under paragraph (2)  
3                   for a month in 2025 that would have  
4                   applied if this paragraph had not been  
5                   enacted.

6                   “(iii) 2026.—The base beneficiary  
7                   premium for a month in 2026 shall be  
8                   equal to the lesser of—

9                   “(I) the base beneficiary pre-  
10                  mium computed under clause (ii) for  
11                  a month in 2025 increased by 6 per-  
12                  cent; or

13                  “(II) the base beneficiary pre-  
14                  mium computed under paragraph (2)  
15                  for a month in 2026 that would have  
16                  applied if this paragraph had not been  
17                  enacted.

18                  “(iv) 2027.—The base beneficiary  
19                  premium for a month in 2027 shall be  
20                  equal to the lesser of—

21                  “(I) the base beneficiary pre-  
22                  mium computed under clause (iii) for  
23                  a month in 2026 increased by 6 per-  
24                  cent; or



1                   “(II) the base beneficiary pre-  
2                   mium computed under paragraph (2)  
3                   for a month in 2027 that would have  
4                   applied if this paragraph had not been  
5                   enacted.

6                   “(v) 2028.—The base beneficiary pre-  
7                   mium for a month in 2028 shall be equal  
8                   to the lesser of—

9                   “(I) the base beneficiary pre-  
10                  mium computed under clause (iv) for  
11                  a month in 2027 increased by 6 per-  
12                  cent; or

13                  “(II) the base beneficiary pre-  
14                  mium computed under paragraph (2)  
15                  for a month in 2028 that would have  
16                  applied if this paragraph had not been  
17                  enacted.

18                  “(vi) 2029.—The base beneficiary  
19                  premium for a month in 2029 shall be  
20                  equal to the lesser of—

21                  “(I) the base beneficiary pre-  
22                  mium computed under clause (v) for a  
23                  month in 2028 increased by 6 per-  
24                  cent; or

1                   “(II) the base beneficiary pre-  
2                   mium computed under paragraph (2)  
3                   for a month in 2029 that would have  
4                   applied if this paragraph had not been  
5                   enacted.

6                   “(B) CLARIFICATION REGARDING 2030 AND  
7                   SUBSEQUENT YEARS.—The base beneficiary  
8                   premium for a month in 2030 or a subsequent  
9                   year shall be computed under paragraph (2)  
10                  without regard to this paragraph.”; and

11                  (B) in subsection (b)(3)(A)(ii), by striking  
12                  “subsection (a)(2)” and inserting “paragraph  
13                  (2) or (8) of subsection (a) (as applicable)”.

14                  (2) ADJUSTMENT TO BENEFICIARY PREMIUM  
15                  PERCENTAGE FOR 2030 AND SUBSEQUENT YEARS.—  
16                  Section 1860D–13(a) of the Social Security Act (42  
17                  U.S.C. 1395w–113(a)), as amended by paragraph  
18                  (1), is amended—

19                  (A) in paragraph (3)(A), by inserting “(or,  
20                  for 2030 and each subsequent year, the percent  
21                  specified under paragraph (9))” after “25.5  
22                  percent”; and

23                  (B) by adding at the end the following new  
24                  paragraph:

25                  “(9) PERCENT SPECIFIED.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), for purposes of paragraph (3)(A),  
3 the percent specified under this paragraph for  
4 2030 and each subsequent year is the percent  
5 that the Secretary determines is necessary to  
6 ensure that the base beneficiary premium com-  
7 puted under paragraph (2) for a month in 2030  
8 is equal to the lesser of—

9           “(i) the base beneficiary premium  
10 computed under paragraph (8)(A)(vi) for a  
11 month in 2029 increased by 6 percent; or

12           “(ii) the base beneficiary premium  
13 computed under paragraph (2) for a  
14 month in 2030 that would have applied if  
15 this paragraph had not been enacted.

16           “(B) FLOOR.—The percent specified under  
17 subparagraph (A) may not be less than 20 per-  
18 cent.”.

19 (3) CONFORMING AMENDMENTS.—

20           (A) Section 1854(b)(2)(B) of the Social  
21 Security Act 42 U.S.C. 1395w-24(b)(2)(B)) is  
22 amended by striking “section 1860D-13(a)(2)”  
23 and inserting “paragraph (2) or (8) (as applica-  
24 ble) of section 1860D-13(a)”.

1 (B) Section 1860D–11(g)(6) of the Social  
2 Security Act (42 U.S.C. 1395w–111(g)(6)) is  
3 amended by inserting “(or, for 2030 and each  
4 subsequent year, the percent specified under  
5 section 1860D–13(a)(9))” after “25.5 percent”.

6 (C) Section 1860D–13(a)(7)(B)(i) of the  
7 Social Security Act (42 U.S.C. 1395w–  
8 113(a)(7)(B)(i)) is amended—

9 (i) in subclause (I), by inserting “(or,  
10 for 2030 and each subsequent year, the  
11 percent specified under paragraph (9))”  
12 after “25.5 percent”; and

13 (ii) in subclause (II), by inserting  
14 “(or, for 2030 and each subsequent year,  
15 the percent specified under paragraph  
16 (9))” after “25.5 percent”.

17 (D) Section 1860D–15(a) of the Social Se-  
18 curity Act (42 U.S.C. 1395w–115(a)) is amend-  
19 ed—

20 (i) in the matter preceding paragraph  
21 (1), by inserting “(or, for each of 2024  
22 through 2029, the percent applicable as a  
23 result of the application of section 1860D–  
24 13(a)(8), or, for 2030 and each subsequent  
25 year, 100 percent minus the percent speci-

1                   fied under section 1860D–13(a)(9))” after  
2                   “74.5 percent”; and

3                   (ii) in paragraph (1)(B), by striking  
4                   “paragraph (2) of section 1860D–13(a)”  
5                   and inserting “paragraph (2) or (8) of sec-  
6                   tion 1860D–13(a) (as applicable)”.

7                   (e) CONFORMING AMENDMENTS.—

8                   (1) Section 1860D–2 of the Social Security Act  
9                   (42 U.S.C. 1395w–102) is amended—

10                   (A) in subsection (a)(2)(A)(i)(I), by strik-  
11                   ing “, or an increase in the initial” and insert-  
12                   ing “or, for a year preceding 2025, an increase  
13                   in the initial”;

14                   (B) in subsection (c)(1)(C)—

15                   (i) in the subparagraph heading, by  
16                   striking “AT INITIAL COVERAGE LIMIT”;  
17                   and

18                   (ii) by inserting “for a year preceding  
19                   2025 or the annual out-of-pocket threshold  
20                   specified in subsection (b)(4)(B) for the  
21                   year for 2025 and each subsequent year”  
22                   after “subsection (b)(3) for the year” each  
23                   place it appears; and

1 (C) in subsection (d)(1)(A), by striking “or  
2 an initial” and inserting “or, for a year pre-  
3 ceding 2025, an initial”.

4 (2) Section 1860D–4(a)(4)(B)(i) of the Social  
5 Security Act (42 U.S.C. 1395w–104(a)(4)(B)(i)) is  
6 amended by striking “the initial” and inserting “for  
7 a year preceding 2025, the initial”.

8 (3) Section 1860D–14(a) of the Social Security  
9 Act (42 U.S.C. 1395w–114(a)) is amended—

10 (A) in paragraph (1)—

11 (i) in subparagraph (C), by striking  
12 “The continuation” and inserting “For a  
13 year preceding 2025, the continuation”;

14 (ii) in subparagraph (D)(iii), by strik-  
15 ing “1860D–2(b)(4)(A)(i)(I)” and insert-  
16 ing “1860D–2(b)(4)(A)(i)(I)(aa)”;

17 (iii) in subparagraph (E), by striking  
18 “The elimination” and inserting “For a  
19 year preceding 2024, the elimination”;

20 (B) in paragraph (2)(E), by striking  
21 “1860D–2(b)(4)(A)(i)(I)” and inserting  
22 “1860D–2(b)(4)(A)(i)(I)(aa)”.

23 (4) Section 1860D–21(d)(7) of the Social Secu-  
24 rity Act (42 U.S.C. 1395w–131(d)(7)) is amended

1 by striking “section 1860D–2(b)(4)(B)(i)” and in-  
2 sserting “section 1860D–2(b)(4)(C)(i)”.

3 (5) Section 1860D–22(a)(2)(A) of the Social  
4 Security Act (42 U.S.C. 1395w–132(a)(2)(A)) is  
5 amended—

6 (A) by striking “the value of any discount”  
7 and inserting the following: “the value of—

8 “(i) for years prior to 2025, any dis-  
9 count”;

10 (B) in clause (i), as inserted by subpara-  
11 graph (A) of this paragraph, by striking the pe-  
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following new  
14 clause:

15 “(ii) for 2025 and each subsequent  
16 year, any discount provided pursuant to  
17 section 1860D–14C.”.

18 (6) Section 1860D–41(a)(6) of the Social Secu-  
19 rity Act (42 U.S.C. 1395w–151(a)(6)) is amended—

20 (A) by inserting “for a year before 2025”  
21 after “1860D–2(b)(3)”; and

22 (B) by inserting “for such year” before the  
23 period.

24 (7) Section 1860D–43 of the Social Security  
25 Act (42 U.S.C. 1395w–153) is amended—

1 (A) in subsection (a)—

2 (i) by striking paragraph (1) and in-  
3 serting the following:

4 “(1) participate in—

5 “(A) for 2011 through 2024, the Medicare  
6 coverage gap discount program under section  
7 1860D–14A; and

8 “(B) for 2025 and each subsequent year,  
9 the manufacturer discount program under sec-  
10 tion 1860D–14C;”;

11 (ii) by striking paragraph (2) and in-  
12 serting the following:

13 “(2) have entered into and have in effect—

14 “(A) for 2011 through 2024, an agreement  
15 described in subsection (b) of section 1860D–  
16 14A with the Secretary; and

17 “(B) for 2025 and each subsequent year,  
18 an agreement described in subsection (b) of sec-  
19 tion 1860D–14C with the Secretary; and”;

20 (iii) in paragraph (3), by striking  
21 “such section” and inserting “section  
22 1860D–14A”; and

23 (B) by striking subsection (b) and insert-  
24 ing the following:



1       “(b) EFFECTIVE DATE.—Paragraphs (1)(A), (2)(A),  
2 and (3) of subsection (a) shall apply to covered part D  
3 drugs dispensed under this part on or after January 1,  
4 2011, and before January 1, 2025, and paragraphs (1)(B)  
5 and (2)(B) of such subsection shall apply to covered part  
6 D drugs dispensed under this part on or after January  
7 1, 2025.”.

8           (8) Section 1927 of the Social Security Act (42  
9 U.S.C. 1396r–8) is amended—

10           (A) in subsection (c)(1)(C)(i)(VI), by in-  
11 serting before the period at the end the fol-  
12 lowing: “or under the manufacturer discount  
13 program under section 1860D–14C”; and

14           (B) in subsection (k)(1)(B)(i)(V), by in-  
15 serting before the period at the end the fol-  
16 lowing: “or under section 1860D–14C”.

17       (f) IMPLEMENTATION FOR 2024 THROUGH 2026.—  
18 The Secretary shall implement this section, including the  
19 amendments made by this section, for 2024, 2025, and  
20 2026 by program instruction or other forms of program  
21 guidance.

22       (g) FUNDING.—In addition to amounts otherwise  
23 available, there are appropriated to the Centers for Medi-  
24 care & Medicaid Services, out of any money in the Treas-  
25 ury not otherwise appropriated, \$341,000,000 for fiscal

1 year 2022, including \$20,000,000 and \$65,000,000 to  
2 carry out the provisions of, including the amendments  
3 made by, this section in fiscal years 2022 and 2023, re-  
4 spectively, and \$32,000,000 to carry out the provisions of,  
5 including the amendments made by, this section in each  
6 of fiscal years 2024 through 2031, to remain available  
7 until expended.

8 **SEC. 11202. MAXIMUM MONTHLY CAP ON COST-SHARING**  
9 **PAYMENTS UNDER PRESCRIPTION DRUG**  
10 **PLANS AND MA-PD PLANS.**

11 (a) IN GENERAL.—Section 1860D–2(b) of the Social  
12 Security Act (42 U.S.C. 1395w–102(b)) is amended—

13 (1) in paragraph (2)—

14 (A) in subparagraph (A), by striking “and  
15 (D)” and inserting “, (D), and (E)”; and

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

18 “(E) MAXIMUM MONTHLY CAP ON COST-  
19 SHARING PAYMENTS.—

20 “(i) IN GENERAL.—For plan years be-  
21 ginning on or after January 1, 2025, each  
22 PDP sponsor offering a prescription drug  
23 plan and each MA organization offering an  
24 MA–PD plan shall provide to any enrollee  
25 of such plan, including an enrollee who is

1 a subsidy eligible individual (as defined in  
2 paragraph (3) of section 1860D–14(a)),  
3 the option to elect with respect to a plan  
4 year to pay cost-sharing under the plan in  
5 monthly amounts that are capped in ac-  
6 cordance with this subparagraph.

7 “(ii) DETERMINATION OF MAXIMUM  
8 MONTHLY CAP.—For each month in the  
9 plan year for which an enrollee in a pre-  
10 scription drug plan or an MA–PD plan has  
11 made an election pursuant to clause (i),  
12 the PDP sponsor or MA organization shall  
13 determine a maximum monthly cap (as de-  
14 fined in clause (iv)) for such enrollee.

15 “(iii) BENEFICIARY MONTHLY PAY-  
16 MENTS.—With respect to an enrollee who  
17 has made an election pursuant to clause  
18 (i), for each month described in clause (ii),  
19 the PDP sponsor or MA organization shall  
20 bill such enrollee an amount (not to exceed  
21 the maximum monthly cap) for the out-of-  
22 pocket costs of such enrollee in such  
23 month.

24 “(iv) MAXIMUM MONTHLY CAP DE-  
25 FINED.—In this subparagraph, the term



1 “(v) ADDITIONAL REQUIREMENTS.—

2 The following requirements shall apply  
3 with respect to the option to make an elec-  
4 tion pursuant to clause (i) under this sub-  
5 paragraph:

6 “(I) SECRETARIAL RESPONSIBIL-  
7 ITIES.—The Secretary shall provide  
8 information to part D eligible individ-  
9 uals on the option to make such elec-  
10 tion through educational materials, in-  
11 cluding through the notices provided  
12 under section 1804(a).

13 “(II) TIMING OF ELECTION.—An  
14 enrollee in a prescription drug plan or  
15 an MA–PD plan may make such an  
16 election—

17 “(aa) prior to the beginning  
18 of the plan year; or

19 “(bb) in any month during  
20 the plan year.

21 “(III) PDP SPONSOR AND MA OR-  
22 GANIZATION RESPONSIBILITIES.—  
23 Each PDP sponsor offering a pre-  
24 scription drug plan or MA organiza-  
25 tion offering an MA–PD plan—

1           “(aa) may not limit the op-  
2           tion for an enrollee to make such  
3           an election to certain covered  
4           part D drugs;

5           “(bb) shall, prior to the plan  
6           year, notify prospective enrollees  
7           of the option to make such an  
8           election in promotional materials;

9           “(cc) shall include informa-  
10          tion on such option in enrollee  
11          educational materials;

12          “(dd) shall have in place a  
13          mechanism to notify a pharmacy  
14          during the plan year when an en-  
15          rollee incurs out-of-pocket costs  
16          with respect to covered part D  
17          drugs that make it likely the en-  
18          rollee may benefit from making  
19          such an election;

20          “(ee) shall provide that a  
21          pharmacy, after receiving a noti-  
22          fication described in item (dd)  
23          with respect to an enrollee, in-  
24          forms the enrollee of such notifi-  
25          cation;

1                   “(ff) shall ensure that such  
2                   an election by an enrollee has no  
3                   effect on the amount paid to  
4                   pharmacies (or the timing of  
5                   such payments) with respect to  
6                   covered part D drugs dispensed  
7                   to the enrollee; and

8                   “(gg) shall have in place a  
9                   financial reconciliation process to  
10                  correct inaccuracies in payments  
11                  made by an enrollee under this  
12                  subparagraph with respect to  
13                  covered part D drugs during the  
14                  plan year.

15                  “(IV) FAILURE TO PAY AMOUNT  
16                  BILLED.—If an enrollee fails to pay  
17                  the amount billed for a month as re-  
18                  quired under this subparagraph—

19                  “(aa) the election of the en-  
20                  rollee pursuant to clause (i) shall  
21                  be terminated and the enrollee  
22                  shall pay the cost-sharing other-  
23                  wise applicable for any covered  
24                  part D drugs subsequently dis-  
25                  pensed to the enrollee up to the

1 annual out-of-pocket threshold  
2 specified in paragraph (4)(B);  
3 and

4 “(bb) the PDP sponsor or  
5 MA organization may preclude  
6 the enrollee from making an elec-  
7 tion pursuant to clause (i) in a  
8 subsequent plan year.

9 “(V) CLARIFICATION REGARDING  
10 PAST DUE AMOUNTS.—Nothing in this  
11 subparagraph shall be construed as  
12 prohibiting a PDP sponsor or an MA  
13 organization from billing an enrollee  
14 for an amount owed under this sub-  
15 paragraph.

16 “(VI) TREATMENT OF UNSET-  
17 TLED BALANCES.—Any unsettled bal-  
18 ances with respect to amounts owed  
19 under this subparagraph shall be  
20 treated as plan losses and the Sec-  
21 retary shall not be liable for any such  
22 balances outside of those assumed as  
23 losses estimated in plan bids.”; and

24 (2) in paragraph (4)—



1 (A) in subparagraph (C), by striking “sub-  
2 paragraph (E)” and inserting “subparagraph  
3 (E) or subparagraph (F)”; and

4 (B) by adding at the end the following new  
5 subparagraph:

6 “(F) INCLUSION OF COSTS PAID UNDER  
7 MAXIMUM MONTHLY CAP OPTION.—In applying  
8 subparagraph (A), with respect to an enrollee  
9 who has made an election pursuant to clause (i)  
10 of paragraph (2)(E), costs shall be treated as  
11 incurred if such costs are paid by a PDP spon-  
12 sor or an MA organization under the option  
13 provided under such paragraph.”.

14 (b) APPLICATION TO ALTERNATIVE PRESCRIPTION  
15 DRUG COVERAGE.—Section 1860D–2(c) of the Social Se-  
16 curity Act (42 U.S.C. 1395w–102(c)) is amended by add-  
17 ing at the end the following new paragraph:

18 “(4) SAME MAXIMUM MONTHLY CAP ON COST-  
19 SHARING.—The maximum monthly cap on cost-shar-  
20 ing payments shall apply to coverage with respect to  
21 an enrollee who has made an election pursuant to  
22 clause (i) of subsection (b)(2)(E) under the option  
23 provided under such subsection.”.

24 (c) IMPLEMENTATION FOR 2025.—The Secretary  
25 shall implement this section, including the amendments

1 made by this section, for 2025 by program instruction or  
2 other forms of program guidance.

3 (d) FUNDING.—In addition to amounts otherwise  
4 available, there are appropriated to the Centers for Medi-  
5 care & Medicaid Services, out of any money in the Treas-  
6 ury not otherwise appropriated, \$10,000,000 for fiscal  
7 year 2023, to remain available until expended, to carry  
8 out the provisions of, including the amendments made by,  
9 this section.

10 **PART 4—CONTINUED DELAY OF IMPLEMENTA-**  
11 **TION OF PRESCRIPTION DRUG REBATE**  
12 **RULE**

13 **SEC. 11301. EXTENSION OF MORATORIUM ON IMPLEMENTA-**  
14 **TION OF RULE RELATING TO ELIMINATING**  
15 **THE ANTI-KICKBACK STATUTE SAFE HARBOR**  
16 **PROTECTION FOR PRESCRIPTION DRUG RE-**  
17 **BATES.**

18 The Secretary of Health and Human Services shall  
19 not, prior to January 1, 2032, implement, administer, or  
20 enforce the provisions of the final rule published by the  
21 Office of the Inspector General of the Department of  
22 Health and Human Services on November 30, 2020, and  
23 titled “Fraud and Abuse; Removal of Safe Harbor Protec-  
24 tion for Rebates Involving Prescription Pharmaceuticals  
25 and Creation of New Safe Harbor Protection for Certain

1 Point-of-Sale Reductions in Price on Prescription Phar-  
2 maceuticals and Certain Pharmacy Benefit Manager Serv-  
3 ice Fees” (85 Fed. Reg. 76666).

4 **PART 5—MISCELLANEOUS**

5 **SEC. 11401. COVERAGE OF ADULT VACCINES REC-**  
6 **COMMENDED BY THE ADVISORY COMMITTEE**  
7 **ON IMMUNIZATION PRACTICES UNDER MEDI-**  
8 **CARE PART D.**

9 (a) ENSURING TREATMENT OF COST-SHARING AND  
10 DEDUCTIBLE IS CONSISTENT WITH TREATMENT OF VAC-  
11 CINES UNDER MEDICARE PART B.—Section 1860D–2 of  
12 the Social Security Act (42 U.S.C. 1395w–102), as  
13 amended by sections 11201 and 11202, is amended—

14 (1) in subsection (b)—

15 (A) in paragraph (1)(A), by striking “The  
16 coverage” and inserting “Subject to paragraph  
17 (8), the coverage”;

18 (B) in paragraph (2)—

19 (i) in subparagraph (A), by inserting  
20 “and paragraph (8)” after “and (E)”;

21 (ii) in subparagraph (C)(i), in the  
22 matter preceding subclause (I), by striking  
23 “paragraph (4)” and inserting “para-  
24 graphs (4) and (8)”; and

1 (iii) in subparagraph (D)(i), in the  
2 matter preceding subclause (I), by striking  
3 “paragraph (4)” and inserting “para-  
4 graphs (4) and (8)”;

5 (C) in paragraph (3)(A), in the matter  
6 preceding clause (i), by striking “and (4)” and  
7 inserting “(4), and (8)”;

8 (D) in paragraph (4)(A)(i), by striking  
9 “The coverage” and inserting “Subject to para-  
10 graph (8), the coverage”; and

11 (E) by adding at the end the following new  
12 paragraph:

13 “(8) TREATMENT OF COST-SHARING FOR  
14 ADULT VACCINES RECOMMENDED BY THE ADVISORY  
15 COMMITTEE ON IMMUNIZATION PRACTICES CON-  
16 SISTENT WITH TREATMENT OF VACCINES UNDER  
17 PART B.—

18 “(A) IN GENERAL.—For plan years begin-  
19 ning on or after January 1, 2023, with respect  
20 to an adult vaccine recommended by the Advi-  
21 sory Committee on Immunization Practices (as  
22 defined in subparagraph (B))—

23 “(i) the deductible under paragraph  
24 (1) shall not apply; and

1                   “(ii) there shall be no coinsurance or  
2                   other cost-sharing under this part with re-  
3                   spect to such vaccine.

4                   “(B) ADULT VACCINES RECOMMENDED BY  
5                   THE ADVISORY COMMITTEE ON IMMUNIZATION  
6                   PRACTICES.—For purposes of this paragraph,  
7                   the term ‘adult vaccine recommended by the  
8                   Advisory Committee on Immunization Prac-  
9                   tices’ means a covered part D drug that is a  
10                  vaccine licensed under section 351 of the Public  
11                  Health Service Act for use by adult populations  
12                  and administered in accordance with rec-  
13                  ommendations of the Advisory Committee on  
14                  Immunization Practices of the Centers for Dis-  
15                  ease Control and Prevention.”; and

16                  (2) in subsection (c), by adding at the end the  
17                  following new paragraph:

18                  “(5) TREATMENT OF COST-SHARING FOR  
19                  ADULT VACCINES RECOMMENDED BY THE ADVISORY  
20                  COMMITTEE ON IMMUNIZATION PRACTICES.—The  
21                  coverage is in accordance with subsection (b)(8).”.

22                  (b) CONFORMING AMENDMENTS TO COST-SHARING  
23                  FOR LOW-INCOME INDIVIDUALS.—Section 1860D–14(a)  
24                  of the Social Security Act (42 U.S.C. 1395w–114(a)), as  
25                  amended by section 11201, is amended—

1           (1) in paragraph (1)(D), in each of clauses (ii)  
2           and (iii), by striking “In the case” and inserting  
3           “Subject to paragraph (6), in the case”;

4           (2) in paragraph (2)—

5                 (A) in subparagraph (B), by striking “A  
6                 reduction” and inserting “Subject to section  
7                 1860D–2(b)(8), a reduction”;

8                 (B) in subparagraph (D), by striking “The  
9                 substitution” and inserting “Subject to para-  
10                graph (6), the substitution”; and

11                (C) in subparagraph (E), by striking “sub-  
12                section (c)” and inserting “paragraph (6) of  
13                this subsection and subsection (c)”; and

14           (3) by adding at the end the following new  
15           paragraph:

16                “(6) NO APPLICATION OF COST-SHARING OR  
17                DEDUCTIBLE FOR ADULT VACCINES RECOMMENDED  
18                BY THE ADVISORY COMMITTEE ON IMMUNIZATION  
19                PRACTICES.—For plan years beginning on or after  
20                January 1, 2023, with respect to an adult vaccine  
21                recommended by the Advisory Committee on Immu-  
22                nization Practices (as defined in section 1860D–  
23                2(b)(8)(B))—

24                         “(A) the deductible under section 1860D–  
25                         2(b)(1) shall not apply; and

1                   “(B) there shall be no cost-sharing under  
2                   this section with respect to such vaccine.”.

3           (c) TEMPORARY RETROSPECTIVE SUBSIDY.—

4           (1) IN GENERAL.—Section 1860D–15 of the  
5           Social Security Act (42 U.S.C. 1395w–115) is  
6           amended by adding at the end the following new  
7           subsection:

8           “(h) TEMPORARY RETROSPECTIVE SUBSIDY FOR RE-  
9           DUCTION IN COST-SHARING AND DEDUCTIBLE FOR  
10           ADULT VACCINES RECOMMENDED BY THE ADVISORY  
11           COMMITTEE ON IMMUNIZATION PRACTICES DURING  
12           2023.—

13           “(1) IN GENERAL.—In addition to amounts  
14           otherwise payable under this section to a PDP spon-  
15           sor of a prescription drug plan or an MA organiza-  
16           tion offering an MA–PD plan, for plan year 2023,  
17           the Secretary shall provide the PDP sponsor or MA  
18           organization offering the plan subsidies in an  
19           amount equal to the aggregate reduction in cost-  
20           sharing and deductible by reason of the application  
21           of section 1860D–2(b)(8) for individuals under the  
22           plan during the year.

23           “(2) TIMING.—The Secretary shall provide a  
24           subsidy under paragraph (1), as applicable, not later

1 than 18 months following the end of the applicable  
2 plan year.”.

3 (2) TREATMENT AS INCURRED COSTS.—Section  
4 1860D–2(b)(4)(C)(iii)(I) of the Social Security Act  
5 (42 U.S.C. 1395w–102(b)(4)(C)(iii)(I)), as amended  
6 by section 11201(a)(3)(C), is amended—

7 (A) in item (cc), by striking “or” at the  
8 end; and

9 (B) by adding at the end the following new  
10 item:

11 “(dd) under section 1860D–  
12 15(h); or”.

13 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion shall be construed as limiting coverage under part D  
15 of title XVIII of the Social Security Act for vaccines that  
16 are not recommended by the Advisory Committee on Im-  
17 munization Practices.

18 (e) IMPLEMENTATION FOR 2023 THROUGH 2025.—  
19 The Secretary shall implement this section, including the  
20 amendments made by this section, for 2023, 2024, and  
21 2025, by program instruction or other forms of program  
22 guidance.



1 **SEC. 11402. PAYMENT FOR BIOSIMILAR BIOLOGICAL PROD-**  
2 **UCTS DURING INITIAL PERIOD.**

3 Section 1847A(c)(4) of the Social Security Act (42  
4 U.S.C. 1395w-3a(c)(4)) is amended—

5 (1) in each of subparagraphs (A) and (B), by  
6 redesignating clauses (i) and (ii) as subclauses (I)  
7 and (II), respectively, and moving such subclauses 2  
8 ems to the right;

9 (2) by redesignating subparagraphs (A) and  
10 (B) as clauses (i) and (ii) and moving such clauses  
11 2 ems to the right;

12 (3) by striking “UNAVAILABLE.—In the case”  
13 and inserting “UNAVAILABLE.—

14 “(A) IN GENERAL.—Subject to subpara-  
15 graph (B), in the case”; and

16 (4) by adding at the end the following new sub-  
17 paragraph:

18 “(B) LIMITATION ON PAYMENT AMOUNT  
19 FOR BIOSIMILAR BIOLOGICAL PRODUCTS DUR-  
20 ING INITIAL PERIOD.—In the case of a bio-  
21 similar biological product furnished on or after  
22 July 1, 2024, during the initial period described  
23 in subparagraph (A) with respect to the bio-  
24 similar biological product, the amount payable  
25 under this section for the biosimilar biological  
26 product is the lesser of the following:

1                   “(i) The amount determined under  
2                   clause (ii) of such subparagraph for the  
3                   biosimilar biological product.

4                   “(ii) The amount determined under  
5                   subsection (b)(1)(B) for the reference bio-  
6                   logical product.”.

7 **SEC. 11403. TEMPORARY INCREASE IN MEDICARE PART B**  
8 **PAYMENT FOR CERTAIN BIOSIMILAR BIO-**  
9 **LOGICAL PRODUCTS.**

10           Section 1847A(b)(8) of the Social Security Act (42  
11 U.S.C. 1395w-3a(b)(8)) is amended—

12                   (1) by redesignating subparagraphs (A) and  
13                   (B) as clauses (i) and (ii), respectively, and moving  
14                   the margin of each such redesignated clause 2 ems  
15                   to the right;

16                   (2) by striking “PRODUCT.—The amount” and  
17                   inserting the following: “PRODUCT.—

18                   “(A) IN GENERAL.—Subject to subpara-  
19                   graph (B), the amount”; and

20                   (3) by adding at the end the following new sub-  
21                   paragraph:

22                   “(B) TEMPORARY PAYMENT INCREASE.—

23                   “(i) IN GENERAL.—In the case of a  
24                   qualifying biosimilar biological product  
25                   that is furnished during the applicable 5-

1 year period for such product, the amount  
2 specified in this paragraph for such prod-  
3 uct with respect to such period is the sum  
4 determined under subparagraph (A), ex-  
5 cept that clause (ii) of such subparagraph  
6 shall be applied by substituting ‘8 percent’  
7 for ‘6 percent’.

8 “(ii) APPLICABLE 5-YEAR PERIOD.—  
9 For purposes of clause (i), the applicable  
10 5-year period for a qualifying biosimilar bi-  
11 ological product is—

12 “(I) in the case of such a product  
13 for which payment was made under  
14 this paragraph as of September 30,  
15 2022, the 5-year period beginning on  
16 October 1, 2022; and

17 “(II) in the case of such a prod-  
18 uct for which payment is first made  
19 under this paragraph during a cal-  
20 endar quarter during the period be-  
21 ginning October 1, 2022, and ending  
22 December 31, 2027, the 5-year period  
23 beginning on the first day of such cal-  
24 endar quarter during which such pay-  
25 ment is first made.

1                   “(iii) QUALIFYING BIOSIMILAR BIO-  
2                   LOGICAL PRODUCT DEFINED.—For pur-  
3                   poses of this subparagraph, the term  
4                   ‘qualifying biosimilar biological product’  
5                   means a biosimilar biological product de-  
6                   scribed in paragraph (1)(C) with respect to  
7                   which—

8                   “(I) in the case of a product de-  
9                   scribed in clause (ii)(I), the average  
10                  sales price under paragraph (8)(A)(i)  
11                  for a calendar quarter during the 5-  
12                  year period described in such clause is  
13                  not more than the average sales price  
14                  under paragraph (4)(A) for such  
15                  quarter for the reference biological  
16                  product; and

17                  “(II) in the case of a product de-  
18                  scribed in clause (ii)(II), the average  
19                  sales price under paragraph (8)(A)(i)  
20                  for a calendar quarter during the 5-  
21                  year period described in such clause is  
22                  not more than the average sales price  
23                  under paragraph (4)(A) for such  
24                  quarter for the reference biological  
25                  product.”.

1 **SEC. 11404. EXPANDING ELIGIBILITY FOR LOW-INCOME**  
2 **SUBSIDIES UNDER PART D OF THE MEDI-**  
3 **CARE PROGRAM.**

4 Section 1860D–14(a) of the Social Security Act (42  
5 U.S.C. 1395w–114(a)), as amended by sections 11201  
6 and 11401, is amended—

7 (1) in the subsection heading, by striking “IN-  
8 DIVIDUALS” and all that follows through “LINE”  
9 and inserting “CERTAIN INDIVIDUALS”;

10 (2) in paragraph (1)—

11 (A) by striking the paragraph heading and  
12 inserting “INDIVIDUALS WITH CERTAIN LOW IN-  
13 COMES”; and

14 (B) in the matter preceding subparagraph  
15 (A)—

16 (i) by inserting “(or, with respect to a  
17 plan year beginning on or after January 1,  
18 2024, 150 percent)” after “135 percent”;  
19 and

20 (ii) by inserting “(or, with respect to  
21 a plan year beginning on or after January  
22 1, 2024, paragraph (3)(E))” after “the re-  
23 sources requirement described in para-  
24 graph (3)(D)”;

25 (3) in paragraph (2)—

1 (A) by striking the paragraph heading and  
2 inserting “OTHER LOW-INCOME INDIVIDUALS”;  
3 and

4 (B) in the matter preceding subparagraph  
5 (A), by striking “In the case of a subsidy” and  
6 inserting “With respect to a plan year begin-  
7 ning before January 1, 2024, in the case of a  
8 subsidy”.

9 **SEC. 11405. IMPROVING ACCESS TO ADULT VACCINES**  
10 **UNDER MEDICAID AND CHIP.**

11 (a) MEDICAID.—

12 (1) REQUIRING COVERAGE OF ADULT VACCINA-  
13 TIONS.—

14 (A) IN GENERAL.—Section 1902(a)(10)(A)  
15 of the Social Security Act (42 U.S.C.  
16 1396a(a)(10)(A)) is amended in the matter pre-  
17 ceding clause (i) by inserting “(13)(B),” after  
18 “(5),”.

19 (B) MEDICALLY NEEDY.—Section  
20 1902(a)(10)(C)(iv) of such Act (42 U.S.C.  
21 1396a(a)(10)(C)(iv)) is amended by inserting “,  
22 (13)(B),” after “(5)”.

23 (2) NO COST SHARING FOR VACCINATIONS.—

1                   (A) GENERAL COST-SHARING LIMITA-  
2                   TIONS.—Section 1916 of the Social Security  
3                   Act (42 U.S.C. 1396o) is amended—

4                   (i) in subsection (a)(2)—

5                   (I) in subparagraph (G), by in-  
6                   serting a comma after “State plan”;

7                   (II) in subparagraph (H), by  
8                   striking “; or” and inserting a  
9                   comma;

10                  (III) in subparagraph (I), by  
11                  striking “; and” and inserting “, or”;  
12                  and

13                  (IV) by adding at the end the fol-  
14                  lowing new subparagraph:

15                  “(J) vaccines described in section  
16                  1905(a)(13)(B) and the administration of such  
17                  vaccines; and”;

18                  (ii) in subsection (b)(2)—

19                  (I) in subparagraph (G), by in-  
20                  serting a comma after “State plan”;

21                  (II) in subparagraph (H), by  
22                  striking “; or” and inserting a  
23                  comma;

1 (III) in subparagraph (I), by  
2 striking “; and” and inserting “, or”;  
3 and

4 (IV) by adding at the end the fol-  
5 lowing new subparagraph:

6 “(J) vaccines described in section  
7 1905(a)(13)(B) and the administration of such  
8 vaccines; and”.

9 (B) APPLICATION TO ALTERNATIVE COST  
10 SHARING.—Section 1916A(b)(3)(B) of the So-  
11 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))  
12 is amended by adding at the end the following  
13 new clause:

14 “(xiv) Vaccines described in section  
15 1905(a)(13)(B) and the administration of  
16 such vaccines.”.

17 (3) INCREASED FMAP FOR ADULT VACCINES  
18 AND THEIR ADMINISTRATION.—Section 1905(b) of  
19 the Social Security Act (42 U.S.C. 1396d(b)) is  
20 amended—

21 (A) by striking “and (5)” and inserting  
22 “(5)”;

23 (B) by striking “services and vaccines de-  
24 scribed in subparagraphs (A) and (B) of sub-  
25 section (a)(13), and prohibits cost-sharing for



1 such services and vaccines” and inserting “serv-  
2 ices described in subsection (a)(13)(A), and  
3 prohibits cost-sharing for such services”;

4 (C) by striking “medical assistance for  
5 such services and vaccines” and inserting “med-  
6 ical assistance for such services”; and

7 (D) by inserting “, and (6) during the first  
8 8 fiscal quarters beginning on or after the effec-  
9 tive date of this clause, in the case of a State  
10 which, as of the date of enactment of the Act  
11 titled ‘An Act to provide for reconciliation pur-  
12 suant to title II of S. Con. Res. 14’, provides  
13 medical assistance for vaccines described in  
14 subsection (a)(13)(B) and their administration  
15 and prohibits cost-sharing for such vaccines, the  
16 Federal medical assistance percentage, as deter-  
17 mined under this subsection and subsection (y),  
18 shall be increased by 1 percentage point with  
19 respect to medical assistance for such vaccines  
20 and their administration” before the first pe-  
21 riod.

22 (b) CHIP.—

23 (1) REQUIRING COVERAGE OF ADULT VACCINA-  
24 TIONS.—Section 2103(c) of the Social Security Act

1 (42 U.S.C. 1397cc(c)) is amended by adding at the  
2 end the following paragraph:

3 “(12) REQUIRED COVERAGE OF APPROVED,  
4 RECOMMENDED ADULT VACCINES AND THEIR AD-  
5 MINISTRATION.—Regardless of the type of coverage  
6 elected by a State under subsection (a), if the State  
7 child health plan or a waiver of such plan provides  
8 child health assistance or pregnancy-related assist-  
9 ance (as defined in section 2112) to an individual  
10 who is 19 years of age or older, such assistance shall  
11 include coverage of vaccines described in section  
12 1905(a)(13)(B) and their administration.”.

13 (2) NO COST-SHARING FOR VACCINATIONS.—  
14 Section 2103(e)(2) of such Act (42 U.S.C.  
15 1397cc(e)(2)) is amended by inserting “vaccines de-  
16 scribed in subsection (c)(12) (and the administration  
17 of such vaccines),” after “in vitro diagnostic prod-  
18 ucts described in subsection (c)(10) (and administra-  
19 tion of such products),”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section take effect on the 1st day of the 1st fiscal  
22 quarter that begins on or after the date that is 1 year  
23 after the date of enactment of this Act and shall apply  
24 to expenditures made under a State plan or waiver of such  
25 plan under title XIX of the Social Security Act (42 U.S.C.

1 1396 through 1396w–6) or under a State child health plan  
2 or waiver of such plan under title XXI of such Act (42  
3 U.S.C. 1397aa through 1397mm) on or after such effec-  
4 tive date.

5 **SEC. 11406. APPROPRIATE COST-SHARING FOR COVERED**  
6 **INSULIN PRODUCTS UNDER MEDICARE PART**  
7 **D.**

8 (a) IN GENERAL.—Section 1860D–2 of the Social  
9 Security Act (42 U.S.C. 1395w–102), as amended by sec-  
10 tions 11201, 11202, and 11401, is amended—

11 (1) in subsection (b)—

12 (A) in paragraph (1)(A), by striking  
13 “paragraph (8)” and inserting “paragraphs (8)  
14 and (9)”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (A), by striking  
17 “paragraph (8)” and inserting “para-  
18 graphs (8) and (9)”;

19 (ii) in subparagraph (C)(i), in the  
20 matter preceding subclause (I), by striking  
21 “and (8)” and inserting “, (8), and (9)”;  
22 and

23 (iii) in subparagraph (D)(i), in the  
24 matter preceding subclause (I), by striking  
25 “and (8)” and inserting “, (8), and (9)”;

1 (C) in paragraph (3)(A), in the matter  
2 preceding clause (i), by striking “and (8)” and  
3 inserting “(8), and (9)”;

4 (D) in paragraph (4)(A)(i), by striking  
5 “paragraph (8)” and inserting “paragraphs (8)  
6 and (9)”;

7 (E) by adding at the end the following new  
8 paragraph:

9 “(9) TREATMENT OF COST-SHARING FOR COV-  
10 ERED INSULIN PRODUCTS.—

11 “(A) NO APPLICATION OF DEDUCTIBLE.—  
12 For plan year 2023 and subsequent plan years,  
13 the deductible under paragraph (1) shall not  
14 apply with respect to any covered insulin prod-  
15 uct.

16 “(B) APPLICATION OF COST-SHARING.—

17 “(i) PLAN YEARS 2023 AND 2024.—For  
18 plan years 2023 and 2024, the coverage  
19 provides benefits for any covered insulin  
20 product, regardless of whether an indi-  
21 vidual has reached the initial coverage  
22 limit under paragraph (3) or the out-of-  
23 pocket threshold under paragraph (4), with  
24 cost-sharing for a month’s supply that does

1 not exceed the applicable copayment  
2 amount.

3 “(ii) PLAN YEAR 2025 AND SUBSE-  
4 QUENT PLAN YEARS.—For a plan year be-  
5 ginning on or after January 1, 2025, the  
6 coverage provides benefits for any covered  
7 insulin product, prior to an individual  
8 reaching the out-of-pocket threshold under  
9 paragraph (4), with cost-sharing for a  
10 month’s supply that does not exceed the  
11 applicable copayment amount.

12 “(C) COVERED INSULIN PRODUCT.—In  
13 this paragraph, the term ‘covered insulin prod-  
14 uct’ means an insulin product that is a covered  
15 part D drug covered under the prescription  
16 drug plan or MA–PD plan that is approved  
17 under section 505 of the Federal Food, Drug,  
18 and Cosmetic Act or licensed under section 351  
19 of the Public Health Service Act and marketed  
20 pursuant to such approval or licensure, includ-  
21 ing any covered insulin product that has been  
22 deemed to be licensed under section 351 of the  
23 Public Health Service Act pursuant to section  
24 7002(e)(4) of the Biologics Price Competition

1 and Innovation Act of 2009 and marketed pur-  
2 suant to such section.

3 “(D) APPLICABLE COPAYMENT AMOUNT.—

4 In this paragraph, the term ‘applicable copay-  
5 ment amount’ means, with respect to a covered  
6 insulin product under a prescription drug plan  
7 or an MA–PD plan dispensed—

8 “(i) during plan years 2023, 2024,  
9 and 2025, \$35; and

10 “(ii) during plan year 2026 and each  
11 subsequent plan year, the lesser of—

12 “(I) \$35;

13 “(II) an amount equal to 25 per-  
14 cent of the maximum fair price estab-  
15 lished for the covered insulin product  
16 in accordance with part E of title XI;  
17 or

18 “(III) an amount equal to 25  
19 percent of the negotiated price of the  
20 covered insulin product under the pre-  
21 scription drug plan or MA–PD plan.

22 “(E) SPECIAL RULE FOR FIRST 3 MONTHS  
23 OF 2023.—With respect to a month’s supply of  
24 a covered insulin product dispensed during the  
25 period beginning on January 1, 2023, and end-

1           ing on March 31, 2023, a PDP sponsor offering  
2           a prescription drug plan or an MA organization  
3           offering an MA–PD plan shall reimburse an en-  
4           rollee within 30 days for any cost-sharing paid  
5           by such enrollee that exceeds the cost-sharing  
6           applied by the prescription drug plan or MA–  
7           PD plan under subparagraph (B)(i) at the  
8           point-of-sale for such month’s supply.”; and

9           (2) in subsection (c), by adding at the end the  
10          following new paragraph:

11           “(6) TREATMENT OF COST-SHARING FOR COV-  
12          ERED INSULIN PRODUCTS.—The coverage is pro-  
13          vided in accordance with subsection (b)(9).”.

14          (b) CONFORMING AMENDMENTS TO COST-SHARING  
15          FOR LOW-INCOME INDIVIDUALS.—Section 1860D–14(a)  
16          of the Social Security Act (42 U.S.C. 1395w–114(a)), as  
17          amended by sections 11201, 11401, and 11404, is amend-  
18          ed—

19           (1) in paragraph (1)—

20           (A) in subparagraph (D)(iii), by adding at  
21           the end the following new sentence: “For plan  
22           year 2023 and subsequent plan years, the co-  
23           payment amount applicable under the preceding  
24           sentence to a month’s supply of a covered insu-  
25           lin product (as defined in section 1860D–

1           2(b)(9)(C)) dispensed to the individual may not  
2           exceed the applicable copayment amount for the  
3           product under the prescription drug plan or  
4           MA–PD plan in which the individual is en-  
5           rolled.”; and

6           (B) in subparagraph (E), by inserting the  
7           following before the period at the end: “or  
8           under section 1860D–2(b)(9) in the case of a  
9           covered insulin product (as defined in subpara-  
10          graph (C) of such section)”;

11          (2) in paragraph (2)—

12           (A) in subparagraph (B), by striking “sec-  
13          tion 1860D–2(b)(8)” and inserting “paragraphs  
14          (8) and (9) of section 1860D–2(b)”;

15           (B) in subparagraph (D), by adding at the  
16          end the following new sentence: “For plan year  
17          2023, the amount of the coinsurance applicable  
18          under the preceding sentence to a month’s sup-  
19          ply of a covered insulin product (as defined in  
20          section 1860D–2(b)(9)(C)) dispensed to the in-  
21          dividual may not exceed the applicable copay-  
22          ment amount for the product under the pre-  
23          scription drug plan or MA–PD plan in which  
24          the individual is enrolled.”; and



1 (C) in subparagraph (E), by adding at the  
2 end the following new sentence: “For plan year  
3 2023, the amount of the copayment or coinsur-  
4 ance applicable under the preceding sentence to  
5 a month’s supply of a covered insulin product  
6 (as defined in section 1860D–2(b)(9)(C)) dis-  
7 pensed to the individual may not exceed the ap-  
8 plicable copayment amount for the product  
9 under the prescription drug plan or MA–PD  
10 plan in which the individual is enrolled.”.

11 (c) TEMPORARY RETROSPECTIVE SUBSIDY.—Section  
12 1860D–15(h) of the Social Security Act (42 U.S.C.  
13 1395w–115(h)), as added by section 11401(c), is amend-  
14 ed—

15 (1) in the subsection heading, by inserting  
16 “AND INSULIN” after “PRACTICES”; and

17 (2) in paragraph (1), by striking “section  
18 1860D–2(b)(8)” and inserting “paragraph (8) or (9)  
19 of section 1860D–2(b)”.

20 (d) IMPLEMENTATION FOR 2023 THROUGH 2025.—  
21 The Secretary shall implement this section for plan years  
22 2023, 2024, and 2025 by program instruction or other  
23 forms of program guidance.

24 (e) FUNDING.—In addition to amounts otherwise  
25 available, there is appropriated to the Centers for Medi-

1 care & Medicaid Services, out of any money in the Treas-  
2 ury not otherwise appropriated, \$1,500,000 for fiscal year  
3 2022, to remain available until expended, to carry out the  
4 provisions of, including the amendments made by, this sec-  
5 tion.

6 **SEC. 11407. LIMITATION ON MONTHLY COINSURANCE AND**  
7 **ADJUSTMENTS TO SUPPLIER PAYMENT**  
8 **UNDER MEDICARE PART B FOR INSULIN FUR-**  
9 **NISHED THROUGH DURABLE MEDICAL**  
10 **EQUIPMENT.**

11 (a) **WAIVER OF DEDUCTIBLE.**—The first sentence of  
12 section 1833(b) of the Social Security Act (42 U.S.C.  
13 1395l(b)) is amended—

14 (1) by striking “and (12)” and inserting  
15 “(12)”; and

16 (2) by inserting before the period the following:  
17 “, and (13) such deductible shall not apply with re-  
18 spect to insulin furnished on or after July 1, 2023,  
19 through an item of durable medical equipment cov-  
20 ered under section 1861(n).”.

21 (b) **COINSURANCE.**—

22 (1) **IN GENERAL.**—Section 1833(a)(1)(S) of the  
23 Social Security Act (42 U.S.C. 1395l(a)(1)(S)) is  
24 amended—

1 (A) by inserting “(i) except as provided in  
2 clause (ii),” after “(S)”;

3 (B) by inserting after “or 1847B),” the  
4 following: “and (ii) with respect to insulin fur-  
5 nished on or after July 1, 2023, through an  
6 item of durable medical equipment covered  
7 under section 1861(n), the amounts paid shall  
8 be, subject to the fourth sentence of this sub-  
9 section, 80 percent of the payment amount es-  
10 tablished under section 1847A (or section  
11 1847B, if applicable) for such insulin.”.

12 (2) ADJUSTMENT TO SUPPLIER PAYMENTS;  
13 LIMITATION ON MONTHLY COINSURANCE.—Section  
14 1833(a) of the Social Security Act (42 U.S.C.  
15 1395l(a)) is amended, in the flush matter at the  
16 end, by adding at the end the following new sen-  
17 tence: “The Secretary shall make such adjustments  
18 as may be necessary to the amounts paid as speci-  
19 fied under paragraph (1)(S)(ii) for insulin furnished  
20 on or after July 1, 2023, through an item of durable  
21 medical equipment covered under section 1861(n),  
22 such that the amount of coinsurance payable by an  
23 individual enrolled under this part for a month’s  
24 supply of such insulin does not exceed \$35.”.

1 (c) IMPLEMENTATION.—The Secretary of Health and  
2 Human Services shall implement this section for 2023 by  
3 program instruction or other forms of program guidance.

4 **SEC. 11408. SAFE HARBOR FOR ABSENCE OF DEDUCTIBLE**  
5 **FOR INSULIN.**

6 (a) IN GENERAL.—Paragraph (2) of section 223(c)  
7 of the Internal Revenue Code of 1986 is amended by add-  
8 ing at the end the following new subparagraph:

9 “(G) SAFE HARBOR FOR ABSENCE OF DE-  
10 DUCTIBLE FOR CERTAIN INSULIN PRODUCTS.—

11 “(i) IN GENERAL.—A plan shall not  
12 fail to be treated as a high deductible  
13 health plan by reason of failing to have a  
14 deductible for selected insulin products.

15 “(ii) SELECTED INSULIN PROD-  
16 UCTS.—For purposes of this subpara-  
17 graph—

18 “(I) IN GENERAL.—The term ‘se-  
19 lected insulin products’ means any  
20 dosage form (such as vial, pump, or  
21 inhaler dosage forms) of any different  
22 type (such as rapid-acting, short-act-  
23 ing, intermediate-acting, long-acting,  
24 ultra long-acting, and premixed) of in-  
25 sulin.

1                   “(II) INSULIN.—The term ‘insu-  
2                   lin’ means insulin that is licensed  
3                   under subsection (a) or (k) of section  
4                   351 of the Public Health Service Act  
5                   (42 U.S.C. 262) and continues to be  
6                   marketed under such section, includ-  
7                   ing any insulin product that has been  
8                   deemed to be licensed under section  
9                   351(a) of such Act pursuant to sec-  
10                  tion 7002(e)(4) of the Biologics Price  
11                  Competition and Innovation Act of  
12                  2009 (Public Law 111–148) and con-  
13                  tinues to be marketed pursuant to  
14                  such licensure.”.

15           (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to plan years beginning after De-  
17 cember 31, 2022.

18           **Subtitle C—Affordable Care Act**  
19                           **Subsidies**

20           **SEC. 12001. IMPROVE AFFORDABILITY AND REDUCE PRE-**  
21                           **MIUM COSTS OF HEALTH INSURANCE FOR**  
22                           **CONSUMERS.**

23           (a) IN GENERAL.—Clause (iii) of section  
24 36B(b)(3)(A) of the Internal Revenue Code of 1986 is  
25 amended—

1 (1) by striking “in 2021 or 2022” and inserting  
2 “after December 31, 2020, and before January 1,  
3 2026”, and

4 (2) by striking “2021 AND 2022” in the heading  
5 and inserting “2021 THROUGH 2025”.

6 (b) EXTENSION THROUGH 2025 OF RULE TO ALLOW  
7 CREDIT TO TAXPAYERS WHOSE HOUSEHOLD INCOME  
8 EXCEEDS 400 PERCENT OF THE POVERTY LINE.—Sec-  
9 tion 36B(c)(1)(E) of the Internal Revenue Code of 1986  
10 is amended—

11 (1) by striking “in 2021 or 2022” and inserting  
12 “after December 31, 2020, and before January 1,  
13 2026”, and

14 (2) by striking “2021 AND 2022” in the heading  
15 and inserting “2021 THROUGH 2025”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to taxable years beginning after  
18 December 31, 2022.

## 19 **Subtitle D—Energy Security**

### 20 **SEC. 13001. AMENDMENT OF 1986 CODE.**

21 Except as otherwise expressly provided, whenever in  
22 this subtitle an amendment or repeal is expressed in terms  
23 of an amendment to, or repeal of, a section or other provi-  
24 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code  
2 of 1986.

3 **PART 1—CLEAN ELECTRICITY AND REDUCING**  
4 **CARBON EMISSIONS**

5 **SEC. 13101. EXTENSION AND MODIFICATION OF CREDIT**  
6 **FOR ELECTRICITY PRODUCED FROM CER-**  
7 **TAIN RENEWABLE RESOURCES.**

8 (a) IN GENERAL.—The following provisions of sec-  
9 tion 45(d) are each amended by striking “January 1,  
10 2022” each place it appears and inserting “January 1,  
11 2025”:

12 (1) Paragraph (2)(A).

13 (2) Paragraph (3)(A).

14 (3) Paragraph (6).

15 (4) Paragraph (7).

16 (5) Paragraph (9).

17 (6) Paragraph (11)(B).

18 (b) BASE CREDIT AMOUNT.—Section 45 is amend-  
19 ed—

20 (1) in subsection (a)(1), by striking “1.5 cents”  
21 and inserting “0.3 cents”, and

22 (2) in subsection (b)(2), by striking “1.5 cent”  
23 and inserting “0.3 cent”.

24 (c) APPLICATION OF EXTENSION TO GEOTHERMAL  
25 AND SOLAR.—Section 45(d)(4) is amended by striking

1 “and which” and all that follows through “January 1,  
2 2022” and inserting “and the construction of which begins  
3 before January 1, 2025”.

4 (d) EXTENSION OF ELECTION TO TREAT QUALIFIED  
5 FACILITIES AS ENERGY PROPERTY.—Section  
6 48(a)(5)(C)(ii) is amended by striking “January 1, 2022”  
7 and inserting “January 1, 2025”.

8 (e) APPLICATION OF EXTENSION TO WIND FACILI-  
9 TIES.—

10 (1) IN GENERAL.—Section 45(d)(1) is amended  
11 by striking “January 1, 2022” and inserting “Janu-  
12 ary 1, 2025”.

13 (2) APPLICATION OF PHASEOUT PERCENT-  
14 AGE.—

15 (A) RENEWABLE ELECTRICITY PRODUC-  
16 TION CREDIT.—Section 45(b)(5) is amended by  
17 inserting “which is placed in service before Janu-  
18 ary 1, 2022” after “using wind to produce  
19 electricity”.

20 (B) ENERGY CREDIT.—Section  
21 48(a)(5)(E) is amended by inserting “placed in  
22 service before January 1, 2022, and” before  
23 “treated as energy property”.

24 (3) QUALIFIED OFFSHORE WIND FACILITIES  
25 UNDER ENERGY CREDIT.—Section 48(a)(5)(F)(i) is



1 amended by striking “offshore wind facility” and all  
2 that follows and inserting the following: “offshore  
3 wind facility, subparagraph (E) shall not apply.”.

4 (f) WAGE AND APPRENTICESHIP REQUIREMENTS.—  
5 Section 45(b) is amended by adding at the end the fol-  
6 lowing new paragraphs:

7 “(6) INCREASED CREDIT AMOUNT FOR QUALI-  
8 FIED FACILITIES.—

9 “(A) IN GENERAL.—In the case of any  
10 qualified facility which satisfies the require-  
11 ments of subparagraph (B), the amount of the  
12 credit determined under subsection (a) (deter-  
13 mined after the application of paragraphs (1)  
14 through (5) and without regard to this para-  
15 graph) shall be equal to such amount multiplied  
16 by 5.

17 “(B) QUALIFIED FACILITY REQUIRE-  
18 MENTS.—A qualified facility meets the require-  
19 ments of this subparagraph if it is one of the  
20 following:

21 “(i) A facility with a maximum net  
22 output of less than 1 megawatt (as meas-  
23 ured in alternating current).

24 “(ii) A facility the construction of  
25 which begins prior to the date that is 60

1 days after the Secretary publishes guid-  
2 ance with respect to the requirements of  
3 paragraphs (7)(A) and (8).

4 “(iii) A facility which satisfies the re-  
5 quirements of paragraphs (7)(A) and (8).

6 “(7) PREVAILING WAGE REQUIREMENTS.—

7 “(A) IN GENERAL.—The requirements de-  
8 scribed in this subparagraph with respect to  
9 any qualified facility are that the taxpayer shall  
10 ensure that any laborers and mechanics em-  
11 ployed by the taxpayer or any contractor or  
12 subcontractor in—

13 “(i) the construction of such facility,  
14 and

15 “(ii) with respect to any taxable year,  
16 for any portion of such taxable year which  
17 is within the period described in subsection  
18 (a)(2)(A)(ii), the alteration or repair of  
19 such facility,

20 shall be paid wages at rates not less than the  
21 prevailing rates for construction, alteration, or  
22 repair of a similar character in the locality in  
23 which such facility is located as most recently  
24 determined by the Secretary of Labor, in ac-  
25 cordance with subchapter IV of chapter 31 of

1 title 40, United States Code. For purposes of  
2 determining an increased credit amount under  
3 paragraph (6)(A) for a taxable year, the re-  
4 quirement under clause (ii) is applied to such  
5 taxable year in which the alteration or repair of  
6 the qualified facility occurs.”

7 “(B) CORRECTION AND PENALTY RELATED  
8 TO FAILURE TO SATISFY WAGE REQUIRE-  
9 MENTS.—

10 “(i) IN GENERAL.—In the case of any  
11 taxpayer which fails to satisfy the require-  
12 ment under subparagraph (A) with respect  
13 to the construction of any qualified facility  
14 or with respect to the alteration or repair  
15 of a facility in any year during the period  
16 described in subparagraph (A)(ii), such  
17 taxpayer shall be deemed to have satisfied  
18 such requirement under such subparagraph  
19 with respect to such facility for any year if,  
20 with respect to any laborer or mechanic  
21 who was paid wages at a rate below the  
22 rate described in such subparagraph for  
23 any period during such year, such tax-  
24 payer—



1                   “(II) makes payment to the Sec-  
2                   retary of a penalty in an amount  
3                   equal to the product of—

4                               “(aa) \$5,000, multiplied by  
5                               “(bb) the total number of la-  
6                   borers and mechanics who were  
7                   paid wages at a rate below the  
8                   rate described in subparagraph  
9                   (A) for any period during such  
10                  year.

11                  “(ii) DEFICIENCY PROCEDURES NOT  
12                  TO APPLY.—Subchapter B of chapter 63  
13                  (relating to deficiency procedures for in-  
14                  come, estate, gift, and certain excise taxes)  
15                  shall not apply with respect to the assess-  
16                  ment or collection of any penalty imposed  
17                  by this paragraph.

18                  “(iii) INTENTIONAL DISREGARD.—If  
19                  the Secretary determines that any failure  
20                  described in clause (i) is due to intentional  
21                  disregard of the requirements under sub-  
22                  paragraph (A), such clause shall be ap-  
23                  plied—



1 respect to the construction of any qualified  
2 facility, not less than the applicable per-  
3 centage of the total labor hours of the con-  
4 struction, alteration, or repair work (in-  
5 cluding such work performed by any con-  
6 tractor or subcontractor) with respect to  
7 such facility shall, subject to subparagraph  
8 (B), be performed by qualified apprentices.

9 “(ii) APPLICABLE PERCENTAGE.—For  
10 purposes of clause (i), the applicable per-  
11 centage shall be—

12 “(I) in the case of a qualified fa-  
13 cility the construction of which begins  
14 before January 1, 2023, 10 percent,

15 “(II) in the case of a qualified fa-  
16 cility the construction of which begins  
17 after December 31, 2022, and before  
18 January 1, 2024, 12.5 percent, and

19 “(III) in the case of a qualified  
20 facility the construction of which be-  
21 gins after December 31, 2023, 15 per-  
22 cent.

23 “(B) APPRENTICE TO JOURNEYWORKER  
24 RATIO.—The requirement under subparagraph  
25 (A)(i) shall be subject to any applicable require-

1           ments for apprentice-to-journeyworker ratios of  
2           the Department of Labor or the applicable  
3           State apprenticeship agency.

4           “(C) PARTICIPATION.—Each taxpayer,  
5           contractor, or subcontractor who employs 4 or  
6           more individuals to perform construction, alter-  
7           ation, or repair work with respect to the con-  
8           struction of a qualified facility shall employ 1 or  
9           more qualified apprentices to perform such  
10          work.

11          “(D) EXCEPTION.—

12           “(i) IN GENERAL.—A taxpayer shall  
13           not be treated as failing to satisfy the re-  
14           quirements of this paragraph if such tax-  
15           payer—

16           “(I) satisfies the requirements  
17           described in clause (ii), or

18           “(II) subject to clause (iii), in the  
19           case of any failure by the taxpayer to  
20           satisfy the requirement under sub-  
21           paragraphs (A) and (C) with respect  
22           to the construction, alteration, or re-  
23           pair work on any qualified facility to  
24           which subclause (I) does not apply,  
25           makes payment to the Secretary of a



1 penalty in an amount equal to the  
2 product of—

3 “(aa) \$50, multiplied by

4 “(bb) the total labor hours  
5 for which the requirement de-  
6 scribed in such subparagraph was  
7 not satisfied with respect to the  
8 construction, alteration, or repair  
9 work on such qualified facility.

10 “(ii) GOOD FAITH EFFORT.—For pur-  
11 poses of clause (i), a taxpayer shall be  
12 deemed to have satisfied the requirements  
13 under this paragraph with respect to a  
14 qualified facility if such taxpayer has re-  
15 quested qualified apprentices from a reg-  
16 istered apprenticeship program, as defined  
17 in section 3131(e)(3)(B), and—

18 “(I) such request has been de-  
19 nied, provided that such denial is not  
20 the result of a refusal by the taxpayer  
21 or any contractors or subcontractors  
22 engaged in the performance of con-  
23 struction, alteration, or repair work  
24 with respect to such qualified facility  
25 to comply with the established stand-

1                   ards and requirements of the reg-  
2                   istered apprenticeship program, or

3                   “**(II)** the registered apprentice-  
4                   ship program fails to respond to such  
5                   request within 5 business days after  
6                   the date on which such registered ap-  
7                   prenticeship program received such  
8                   request.

9                   “**(iii)** **INTENTIONAL DISREGARD.**—If  
10                  the Secretary determines that any failure  
11                  described in subclause **(i)(II)** is due to in-  
12                  tentional disregard of the requirements  
13                  under subparagraphs **(A)** and **(C)**, sub-  
14                  clause **(i)(II)** shall be applied by sub-  
15                  stituting ‘\$500’ for ‘\$50’ in item **(aa)**  
16                  thereof.

17                  “**(E)** **DEFINITIONS.**—For purposes of this  
18                  paragraph—

19                  “**(i)** **LABOR HOURS.**—The term ‘labor  
20                  hours’—

21                  “**(I)** means the total number of  
22                  hours devoted to the performance of  
23                  construction, alteration, or repair  
24                  work by any individual employed by

1 the taxpayer or by any contractor or  
2 subcontractor, and

3 “(II) excludes any hours worked  
4 by—

5 “(aa) foremen,

6 “(bb) superintendents,

7 “(cc) owners, or

8 “(dd) persons employed in a  
9 bona fide executive, administra-  
10 tive, or professional capacity  
11 (within the meaning of those  
12 terms in part 541 of title 29,  
13 Code of Federal Regulations).

14 “(ii) QUALIFIED APPRENTICE.—The  
15 term ‘qualified apprentice’ means an indi-  
16 vidual who is employed by the taxpayer or  
17 by any contractor or subcontractor and  
18 who is participating in a registered appren-  
19 ticeship program, as defined in section  
20 3131(e)(3)(B).

21 “(9) REGULATIONS AND GUIDANCE.—The Sec-  
22 retary shall issue such regulations or other guidance  
23 as the Secretary determines necessary to carry out  
24 the purposes of this subsection, including regulations  
25 or other guidance which provides for requirements

1 for recordkeeping or information reporting for pur-  
2 poses of administering the requirements of this sub-  
3 section.”.

4 (g) DOMESTIC CONTENT, PHASEOUT, AND ENERGY  
5 COMMUNITIES.—Section 45(b), as amended by subsection  
6 (f), is amended—

7 (1) by redesignating paragraph (9) as para-  
8 graph (12), and

9 (2) by inserting after paragraph (8) the fol-  
10 lowing:

11 “(9) DOMESTIC CONTENT BONUS CREDIT  
12 AMOUNT.—

13 “(A) IN GENERAL.—In the case of any  
14 qualified facility which satisfies the requirement  
15 under subparagraph (B)(i), the amount of the  
16 credit determined under subsection (a) (deter-  
17 mined after the application of paragraphs (1)  
18 through (8)) shall be increased by an amount  
19 equal to 10 percent of the amount so deter-  
20 mined.

21 “(B) REQUIREMENT.—

22 “(i) IN GENERAL.—The requirement  
23 described in this clause is satisfied with re-  
24 spect to any qualified facility if the tax-  
25 payer certifies to the Secretary (at such

1 time, and in such form and manner, as the  
2 Secretary may prescribe) that any steel,  
3 iron, or manufactured product which is a  
4 component of such facility (upon comple-  
5 tion of construction) was produced in the  
6 United States (as determined under sec-  
7 tion 661 of title 49, Code of Federal Regu-  
8 lations).

9 “(ii) STEEL AND IRON.—In the case  
10 of steel or iron, clause (i) shall be applied  
11 in a manner consistent with section 661.5  
12 of title 49, Code of Federal Regulations.

13 “(iii) MANUFACTURED PRODUCT.—  
14 For purposes of clause (i), the manufac-  
15 tured products which are components of a  
16 qualified facility upon completion of con-  
17 struction shall be deemed to have been pro-  
18 duced in the United States if not less than  
19 the adjusted percentage (as determined  
20 under subparagraph (C)) of the total costs  
21 of all such manufactured products of such  
22 facility are attributable to manufactured  
23 products (including components) which are  
24 mined, produced, or manufactured in the  
25 United States.

1 “(C) ADJUSTED PERCENTAGE.—

2 “(i) IN GENERAL.—Subject to sub-  
3 clause (ii), for purposes of subparagraph  
4 (B)(iii), the adjusted percentage shall be  
5 40 percent.

6 “(ii) OFFSHORE WIND FACILITY.—  
7 For purposes of subparagraph (B)(iii), in  
8 the case of a qualified facility which is an  
9 offshore wind facility, the adjusted per-  
10 centage shall be 20 percent.

11 “(10) PHASEOUT FOR ELECTIVE PAYMENT.—

12 “(A) IN GENERAL.—In the case of a tax-  
13 payer making an election under section 6417  
14 with respect to a credit under this section, the  
15 amount of such credit shall be replaced with—

16 “(i) the value of such credit (deter-  
17 mined without regard to this paragraph),  
18 multiplied by

19 “(ii) the applicable percentage.

20 “(B) 100 PERCENT APPLICABLE PERCENT-  
21 AGE FOR CERTAIN QUALIFIED FACILITIES.—In  
22 the case of any qualified facility—

23 “(i) which satisfies the requirements  
24 under paragraph (9)(B), or

1                   “(ii) with a maximum net output of  
2                   less than 1 megawatt (as measured in al-  
3                   ternating current),

4                   the applicable percentage shall be 100 percent.

5                   “(C) PHASED DOMESTIC CONTENT RE-  
6                   QUIREMENT.—Subject to subparagraph (D), in  
7                   the case of any qualified facility which is not  
8                   described in subparagraph (B), the applicable  
9                   percentage shall be—

10                   “(i) if construction of such facility  
11                   began before January 1, 2024, 100 per-  
12                   cent, and

13                   “(ii) if construction of such facility  
14                   began in calendar year 2024, 90 percent.

15                   “(D) EXCEPTION.—

16                   “(i) IN GENERAL.—For purposes of  
17                   this paragraph, the Secretary shall provide  
18                   exceptions to the requirements under this  
19                   paragraph if—

20                   “(I) the inclusion of steel, iron,  
21                   or manufactured products which are  
22                   produced in the United States in-  
23                   creases the overall costs of construc-  
24                   tion of qualified facilities by more  
25                   than 25 percent, or





1                    vironmental Response, Compensation, and  
2                    Liability Act of 1980 (42 U.S.C.  
3                    9601(39))),

4                    “(ii) a metropolitan statistical area or  
5                    non-metropolitan statistical area which—

6                                       “(I) has (or, at any time during  
7                                       the period beginning after December  
8                                       31, 2009, had) 0.17 percent or great-  
9                                       er direct employment or 25 percent or  
10                                       greater local tax revenues related to  
11                                       the extraction, processing, transport,  
12                                       or storage of coal, oil, or natural gas  
13                                       (as determined by the Secretary), and

14                                       “(II) has an unemployment rate  
15                                       at or above the national average un-  
16                                       employment rate for the previous year  
17                                       (as determined by the Secretary), or

18                                       “(iii) a census tract—

19                                       “(I) in which—

20                                                          “(aa) after December 31,  
21                                                          1999, a coal mine has closed, or

22                                                          “(bb) after December 31,  
23                                                          2009, a coal-fired electric gener-  
24                                                          ating unit has been retired, or



1       The amounts under the preceding sentence for any  
2       taxable year shall be determined as of the close of  
3       the taxable year.”.

4       (i) ROUNDING ADJUSTMENT.—

5           (1) IN GENERAL.—Section 45(b)(2) is amended  
6       by striking the second sentence and inserting the fol-  
7       lowing: “If the 0.3 cent amount as increased under  
8       the preceding sentence is not a multiple of 0.05 cent,  
9       such amount shall be rounded to the nearest mul-  
10      tiple of 0.05 cent. In any other case, if an amount  
11      as increased under this paragraph is not a multiple  
12      of 0.1 cent, such amount shall be rounded to the  
13      nearest multiple of 0.1 cent.”.

14      (2) CONFORMING AMENDMENT.—Section  
15      45(b)(4)(A) is amended by striking “last sentence”  
16      and inserting “last two sentences”.

17      (j) HYDROPOWER.—

18           (1) ELIMINATION OF CREDIT RATE REDUCTION  
19      FOR QUALIFIED HYDROELECTRIC PRODUCTION AND  
20      MARINE AND HYDROKINETIC RENEWABLE EN-  
21      ERGY.—Section 45(b)(4)(A), as amended by the pre-  
22      ceding provisions of this section, is amended by  
23      striking “(7), (9), or (11)” and inserting “or (7)”.

24           (2) MARINE AND HYDROKINETIC RENEWABLE  
25      ENERGY.—Section 45 is amended—

1 (A) in subsection (c)(10)(A)—  
2 (i) in clause (iii), by striking “or”,  
3 (ii) in clause (iv), by striking the pe-  
4 riod at the end and inserting “, or” and  
5 (iii) by adding at the end the fol-  
6 lowing:  
7 “(v) pressurized water used in a pipe-  
8 line (or similar man-made water convey-  
9 ance) which is operated—  
10 “(I) for the distribution of water  
11 for agricultural, municipal, or indus-  
12 trial consumption, and  
13 “(II) not primarily for the gen-  
14 eration of electricity.”, and  
15 (B) in subsection (d)(11)(A), by striking  
16 “150” and inserting “25”.

17 (k) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-  
19 graphs (2) and (3), the amendments made by this  
20 section shall apply to facilities placed in service after  
21 December 31, 2021.

22 (2) CREDIT REDUCED FOR TAX-EXEMPT  
23 BONDS.—The amendment made by subsection (h)  
24 shall apply to facilities the construction of which be-  
25 gins after the date of enactment of this Act.

1           (3) DOMESTIC CONTENT, PHASEOUT, ENERGY  
2           COMMUNITIES, AND HYDROPOWER.—The amend-  
3           ments made by subsections (g) and (j) shall apply to  
4           facilities placed in service after December 31, 2022.

5 **SEC. 13102. EXTENSION AND MODIFICATION OF ENERGY**  
6           **CREDIT.**

7           (a) EXTENSION OF CREDIT.—The following provi-  
8           sions of section 48 are each amended by striking “January  
9           1, 2024” each place it appears and inserting “January  
10          1, 2025”:

11           (1) Subsection (a)(2)(A)(i)(II).

12           (2) Subsection (a)(3)(A)(ii).

13           (3) Subsection (c)(1)(D).

14           (4) Subsection (c)(2)(D).

15           (5) Subsection (c)(3)(A)(iv).

16           (6) Subsection (c)(4)(C).

17           (7) Subsection (c)(5)(D).

18           (b) FURTHER EXTENSION FOR CERTAIN ENERGY  
19           PROPERTY.—Section 48(a)(3)(A)(vii) is amended by  
20           striking “January 1, 2024” and inserting “January 1,  
21           2035”.

22           (c) PHASEOUT OF CREDIT.—Section 48(a) is amend-  
23           ed by striking paragraphs (6) and (7) and inserting the  
24           following new paragraph:

1           “(6) PHASEOUT FOR CERTAIN ENERGY PROP-  
2           ERTY.—In the case of any qualified fuel cell prop-  
3           erty, qualified small wind property, or energy prop-  
4           erty described in clause (i) or clause (ii) of para-  
5           graph (3)(A) the construction of which begins after  
6           December 31, 2019, and which is placed in service  
7           before January 1, 2022, the energy percentage de-  
8           termined under paragraph (2) shall be equal to 26  
9           percent.”.

10          (d) BASE ENERGY PERCENTAGE AMOUNT; PHASE-  
11          OUT OF CERTAIN ENERGY PROPERTY.—

12           (1) BASE ENERGY PERCENTAGE AMOUNT.—

13          Section 48(a) is amended—

14           (A) in paragraph (2)(A)—

15           (i) in clause (i), by striking “30 per-  
16           cent” and inserting “6 percent”, and

17           (ii) in clause (ii), by striking “10 per-  
18           cent” and inserting “2 percent”, and

19           (B) in paragraph (5)(A)(ii), by striking  
20           “30 percent” and inserting “6 percent”.

21           (2) PHASEOUT OF CERTAIN ENERGY PROP-  
22           ERTY.—Section 48(a), as amended by the preceding  
23           provisions of this Act, is amended by adding at the  
24           end the following new paragraph:

1           “(7) PHASEOUT FOR CERTAIN ENERGY PROP-  
2           ERTY.—In the case of any energy property described  
3           in clause (vii) of paragraph (3)(A), the energy per-  
4           centage determined under paragraph (2) shall be  
5           equal to—

6                   “(A) in the case of any property the con-  
7                   struction of which begins before January 1,  
8                   2033, and which is placed in service after De-  
9                   cember 31, 2021, 6 percent,

10                   “(B) in the case of any property the con-  
11                   struction of which begins after December 31,  
12                   2032, and before January 1, 2034, 5.2 percent,  
13                   and

14                   “(C) in the case of any property the con-  
15                   struction of which begins after December 31,  
16                   2033, and before January 1, 2035, 4.4 per-  
17                   cent.”.

18           (e) 6 PERCENT CREDIT FOR GEOTHERMAL.—Section  
19           48(a)(2)(A)(i)(II) is amended by striking “paragraph  
20           (3)(A)(i)” and inserting “clause (i) or (iii) of paragraph  
21           (3)(A)”.

22           (f) ENERGY STORAGE TECHNOLOGIES; QUALIFIED  
23           BIOGAS PROPERTY; MICROGRID CONTROLLERS; EXTEN-  
24           SION OF OTHER PROPERTY.—

1           (1) IN GENERAL.—Section 48(a)(3)(A) is  
2 amended by striking “or” at the end of clause (vii),  
3 and by adding at the end the following new clauses:

4                   “(ix) energy storage technology,

5                   “(x) qualified biogas property, or

6                   “(xi) microgrid controllers,”.

7           (2) APPLICATION OF 6 PERCENT CREDIT.—Sec-  
8 tion 48(a)(2)(A)(i) is amended by striking “and” at  
9 the end of subclauses (IV) and (V) and adding at  
10 the end the following new subclauses:

11                   “(VI) energy storage technology,

12                   “(VII) qualified biogas property,

13                   “(VIII) microgrid controllers,

14                   and

15                   “(IX) energy property described

16                   in clauses (v) and (vii) of paragraph

17                   (3)(A), and”.

18           (3) DEFINITIONS.—Section 48(c) is amended  
19 by adding at the end the following new paragraphs:

20                   “(6) ENERGY STORAGE TECHNOLOGY.—

21                   “(A) IN GENERAL.—The term ‘energy  
22 storage technology’ means—

23                   “(i) property (other than property pri-  
24 marily used in the transportation of goods  
25 or individuals and not for the production



1 of electricity) which receives, stores, and  
2 delivers energy for conversion to electricity  
3 (or, in the case of hydrogen, which stores  
4 energy), and has a nameplate capacity of  
5 not less than 5 kilowatt hours, and

6 “(ii) thermal energy storage property.

7 “(B) MODIFICATIONS OF CERTAIN PROP-  
8 ERTY.—In the case of any property which ei-  
9 ther—

10 “(i) was placed in service before the  
11 date of enactment of this section and  
12 would be described in subparagraph (A)(i),  
13 except that such property has a capacity of  
14 less than 5 kilowatt hours and is modified  
15 in a manner that such property (after such  
16 modification) has a nameplate capacity of  
17 not less than 5 kilowatt hours, or

18 “(ii) is described in subparagraph  
19 (A)(i) and is modified in a manner that  
20 such property (after such modification) has  
21 an increase in nameplate capacity of not  
22 less than 5 kilowatt hours,

23 such property shall be treated as described in  
24 subparagraph (A)(i) except that the basis of  
25 any existing property prior to such modification

1 shall not be taken into account for purposes of  
2 this section. In the case of any property to  
3 which this subparagraph applies, subparagraph  
4 (D) shall be applied by substituting ‘modifica-  
5 tion’ for ‘construction’.

6 “(C) THERMAL ENERGY STORAGE PROP-  
7 ERTY.—

8 “(i) IN GENERAL.—Subject to clause  
9 (ii), for purposes of this paragraph, the  
10 term ‘thermal energy storage property’  
11 means property comprising a system  
12 which—

13 “(I) is directly connected to a  
14 heating, ventilation, or air condi-  
15 tioning system,

16 “(II) removes heat from, or adds  
17 heat to, a storage medium for subse-  
18 quent use, and

19 “(III) provides energy for the  
20 heating or cooling of the interior of a  
21 residential or commercial building.

22 “(ii) EXCLUSION.—The term ‘thermal  
23 energy storage property’ shall not in-  
24 clude—

25 “(I) a swimming pool,

1                   “(II) combined heat and power  
2                   system property, or

3                   “(III) a building or its structural  
4                   components.

5                   “(D) TERMINATION.—The term ‘energy  
6                   storage technology’ shall not include any prop-  
7                   erty the construction of which begins after De-  
8                   cember 31, 2024.

9                   “(7) QUALIFIED BIOGAS PROPERTY.—

10                  “(A) IN GENERAL.—The term ‘qualified  
11                  biogas property’ means property comprising a  
12                  system which—

13                         “(i) converts biomass (as defined in  
14                         section 45K(c)(3), as in effect on the date  
15                         of enactment of this paragraph) into a gas  
16                         which—

17                                 “(I) consists of not less than 52  
18                                 percent methane by volume, or

19                                 “(II) is concentrated by such sys-  
20                                 tem into a gas which consists of not  
21                                 less than 52 percent methane, and

22                                 “(ii) captures such gas for sale or pro-  
23                                 ductive use, and not for disposal via com-  
24                                 bustion.

1           “(B) INCLUSION OF CLEANING AND CON-  
2           DITIONING PROPERTY.—The term ‘qualified  
3           biogas property’ includes any property which is  
4           part of such system which cleans or conditions  
5           such gas.

6           “(C) TERMINATION.—The term ‘qualified  
7           biogas property’ shall not include any property  
8           the construction of which begins after Decem-  
9           ber 31, 2024.

10          “(8) MICROGRID CONTROLLER.—

11           “(A) IN GENERAL.—The term ‘microgrid  
12           controller’ means equipment which is—

13                   “(i) part of a qualified microgrid, and

14                   “(ii) designed and used to monitor  
15                   and control the energy resources and loads  
16                   on such microgrid.

17           “(B) QUALIFIED MICROGRID.—The term  
18           ‘qualified microgrid’ means an electrical system  
19           which—

20                   “(i) includes equipment which is capa-  
21                   ble of generating not less than 4 kilowatts  
22                   and not greater than 20 megawatts of elec-  
23                   tricity,

24                   “(ii) is capable of operating—

1                   “(I) in connection with the elec-  
2                   trical grid and as a single controllable  
3                   entity with respect to such grid, and

4                   “(II) independently (and discon-  
5                   nected) from such grid, and

6                   “(iii) is not part of a bulk-power sys-  
7                   tem (as defined in section 215 of the Fed-  
8                   eral Power Act (16 U.S.C. 824o)).

9                   “(C) TERMINATION.—The term ‘microgrid  
10                  controller’ shall not include any property the  
11                  construction of which begins after December  
12                  31, 2024.”.

13                  (4) DENIAL OF DOUBLE BENEFIT FOR QUALI-  
14                  FIED BIOGAS PROPERTY.—Section 45(e) is amended  
15                  by adding at the end the following new paragraph:

16                  “(12) COORDINATION WITH ENERGY CREDIT  
17                  FOR QUALIFIED BIOGAS PROPERTY.—The term  
18                  ‘qualified facility’ shall not include any facility which  
19                  produces electricity from gas produced by qualified  
20                  biogas property (as defined in section 48(c)(7)) if a  
21                  credit is allowed under section 48 with respect to  
22                  such property for the taxable year or any prior tax-  
23                  able year.”.

24                  (5) PUBLIC UTILITY PROPERTY.—Paragraph  
25                  (2) of section 50(d) is amended—

1 (A) by adding after the first sentence the  
2 following new sentence: “At the election of a  
3 taxpayer, this paragraph shall not apply to any  
4 energy storage technology (as defined in section  
5 48(c)(6)), provided—”, and

6 (B) by adding the following new subpara-  
7 graphs:

8 “(A) no election under this paragraph shall  
9 be permitted if the making of such election is  
10 prohibited by a State or political subdivision  
11 thereof, by any agency or instrumentality of the  
12 United States, or by a public service or public  
13 utility commission or other similar body of any  
14 State or political subdivision that regulates pub-  
15 lic utilities as described in section  
16 7701(a)(33)(A),

17 “(B) an election under this paragraph  
18 shall be made separately with respect to each  
19 energy storage technology by the due date (in-  
20 cluding extensions) of the Federal tax return  
21 for the taxable year in which the energy storage  
22 technology is placed in service by the taxpayer,  
23 and once made, may be revoked only with the  
24 consent of the Secretary, and

1           “(C) an election shall not apply with re-  
2           spect to any energy storage technology if such  
3           energy storage technology has a maximum ca-  
4           pacity equal to or less than 500 kilowatt  
5           hours.”.

6           (g) FUEL CELLS USING ELECTROMECHANICAL  
7 PROCESSES.—

8           (1) IN GENERAL.—Section 48(e)(1) is amend-  
9           ed—

10           (A) in subparagraph (A)(i)—

11           (i) by inserting “or electromechanical”  
12           after “electrochemical”, and

13           (ii) by inserting “(1 kilowatt in the  
14           case of a fuel cell power plant with a linear  
15           generator assembly)” after “0.5 kilowatt”,  
16           and

17           (B) in subparagraph (C)—

18           (i) by inserting “, or linear generator  
19           assembly,” after “a fuel cell stack assem-  
20           bly”, and

21           (ii) by inserting “or  
22           electromechanical” after “electrochemical”.

23           (2) LINEAR GENERATOR ASSEMBLY LIMITA-  
24           TION.—Section 48(e)(1) is amended by redesignig-  
25           nating subparagraph (D) as subparagraph (E) and

1 by inserting after subparagraph (C) the following  
2 new subparagraph:

3 “(D) LINEAR GENERATOR ASSEMBLY.—

4 The term ‘linear generator assembly’ does not  
5 include any assembly which contains rotating  
6 parts.”.

7 (h) DYNAMIC GLASS.—Section 48(a)(3)(A)(ii) is  
8 amended by inserting “, or electrochromic glass which  
9 uses electricity to change its light transmittance properties  
10 in order to heat or cool a structure,” after “sunlight”.

11 (i) COORDINATION WITH LOW INCOME HOUSING  
12 TAX CREDIT.—Paragraph (3) of section 50(c) is amend-  
13 ed—

14 (1) by striking “and” at the end of subpara-  
15 graph (A),

16 (2) by striking the period at the end of sub-  
17 paragraph (B) and inserting “, and”, and

18 (3) by adding at the end the following new sub-  
19 paragraph:

20 “(C) paragraph (1) shall not apply for pur-  
21 poses of determining eligible basis under section  
22 42.”.

23 (j) INTERCONNECTION PROPERTY.—Section 48(a),  
24 as amended by the preceding provisions of this Act, is



1 amended by adding at the end the following new para-  
2 graph:

3 “(8) INTERCONNECTION PROPERTY.—

4 “(A) IN GENERAL.—For purposes of deter-  
5 mining the credit under subsection (a), energy  
6 property shall include amounts paid or incurred  
7 by the taxpayer for qualified interconnection  
8 property in connection with the installation of  
9 energy property (as defined in paragraph (3))  
10 which has a maximum net output of not greater  
11 than 5 megawatts (as measured in alternating  
12 current), to provide for the transmission or dis-  
13 tribution of the electricity produced or stored by  
14 such property, and which are properly charge-  
15 able to the capital account of the taxpayer.

16 “(B) QUALIFIED INTERCONNECTION PROP-  
17 erty.—The term ‘qualified interconnection  
18 property’ means, with respect to an energy  
19 project which is not a microgrid controller, any  
20 tangible property—

21 “(i) which is part of an addition,  
22 modification, or upgrade to a transmission  
23 or distribution system which is required at  
24 or beyond the point at which the energy  
25 project interconnects to such transmission

1 or distribution system in order to accom-  
2 modate such interconnection,

3 “(ii) either—

4 “(I) which is constructed, recon-  
5 structed, or erected by the taxpayer,  
6 or

7 “(II) for which the cost with re-  
8 spect to the construction, reconstruc-  
9 tion, or erection of such property is  
10 paid or incurred by such taxpayer,  
11 and

12 “(iii) the original use of which, pursu-  
13 ant to an interconnection agreement, com-  
14 mences with a utility.

15 “(C) INTERCONNECTION AGREEMENT.—

16 The term ‘interconnection agreement’ means an  
17 agreement with a utility for the purposes of  
18 interconnecting the energy property owned by  
19 such taxpayer to the transmission or distribu-  
20 tion system of such utility.

21 “(D) UTILITY.—For purposes of this para-  
22 graph, the term ‘utility’ means the owner or op-  
23 erator of an electrical transmission or distribu-  
24 tion system which is subject to the regulatory  
25 authority of a State or political subdivision

1           thereof, any agency or instrumentality of the  
2           United States, a public service or public utility  
3           commission or other similar body of any State  
4           or political subdivision thereof, or the governing  
5           or ratemaking body of an electric cooperative.

6                   “(E) SPECIAL RULE FOR INTERCONNEC-  
7           TION PROPERTY.—In the case of expenses paid  
8           or incurred for interconnection property,  
9           amounts otherwise chargeable to capital ac-  
10          count with respect to such expenses shall be re-  
11          duced under rules similar to the rules of section  
12          50(e).”.

13          (k) ENERGY PROJECTS, WAGE REQUIREMENTS, AND  
14          APPRENTICESHIP REQUIREMENTS.—Section 48(a), as  
15          amended by the preceding provisions of this Act, is amend-  
16          ed by adding at the end the following new paragraphs:

17                   “(9) INCREASED CREDIT AMOUNT FOR ENERGY  
18          PROJECTS.—

19                   “(A) IN GENERAL.—

20                   “(i) RULE.—In the case of any energy  
21                  project which satisfies the requirements of  
22                  subparagraph (B), the amount of the cred-  
23                  it determined under this subsection (deter-  
24                  mined after the application of paragraphs  
25                  (1) through (8) and without regard to this

1 clause) shall be equal to such amount mul-  
2 tiplied by 5.

3 “(ii) ENERGY PROJECT DEFINED.—  
4 For purposes of this subsection, the term  
5 ‘energy project’ means a project consisting  
6 of one or more energy properties that are  
7 part of a single project.

8 “(B) PROJECT REQUIREMENTS.—A project  
9 meets the requirements of this subparagraph if  
10 it is one of the following:

11 “(i) A project with a maximum net  
12 output of less than 1 megawatt of elec-  
13 trical (as measured in alternating current)  
14 or thermal energy.

15 “(ii) A project the construction of  
16 which begins before the date that is 60  
17 days after the Secretary publishes guid-  
18 ance with respect to the requirements of  
19 paragraphs (10)(A) and (11).

20 “(iii) A project which satisfies the re-  
21 quirements of paragraphs (10)(A) and  
22 (11).

23 “(10) PREVAILING WAGE REQUIREMENTS.—

24 “(A) IN GENERAL.—The requirements de-  
25 scribed in this subparagraph with respect to

1 any energy project are that the taxpayer shall  
2 ensure that any laborers and mechanics em-  
3 ployed by the taxpayer or any contractor or  
4 subcontractor in—

5 “(i) the construction of such energy  
6 project, and

7 “(ii) for the 5-year period beginning  
8 on the date such project is originally  
9 placed in service, the alteration or repair of  
10 such project,

11 shall be paid wages at rates not less than the  
12 prevailing rates for construction, alteration, or  
13 repair of a similar character in the locality in  
14 which such project is located as most recently  
15 determined by the Secretary of Labor, in ac-  
16 cordance with subchapter IV of chapter 31 of  
17 title 40, United States Code. Subject to sub-  
18 paragraph (C), for purposes of any determina-  
19 tion under paragraph (9)(A)(i) for the taxable  
20 year in which the energy project is placed in  
21 service, the taxpayer shall be deemed to satisfy  
22 the requirement under clause (ii) at the time  
23 such project is placed in service.

24 “(B) CORRECTION AND PENALTY RELATED  
25 TO FAILURE TO SATISFY WAGE REQUIRE-

1           MENTS.—Rules similar to the rules of section  
2           45(b)(7)(B) shall apply.

3           “(C) RECAPTURE.—The Secretary shall,  
4           by regulations or other guidance, provide for re-  
5           capturing the benefit of any increase in the  
6           credit allowed under this subsection by reason  
7           of this paragraph with respect to any project  
8           which does not satisfy the requirements under  
9           subparagraph (A) (after application of subpara-  
10          graph (B)) for the period described in clause  
11          (ii) of subparagraph (A) (but which does not  
12          cease to be investment credit property within  
13          the meaning of section 50(a)). The period and  
14          percentage of such recapture shall be deter-  
15          mined under rules similar to the rules of section  
16          50(a).

17          “(11) APPRENTICESHIP REQUIREMENTS.—  
18          Rules similar to the rules of section 45(b)(8) shall  
19          apply.”.

20          (l) DOMESTIC CONTENT; PHASEOUT FOR ELECTIVE  
21          PAYMENT.—Section 48(a), as amended by the preceding  
22          provisions of this Act, is amended by adding at the end  
23          the following new paragraphs:

24          “(12) DOMESTIC CONTENT BONUS CREDIT  
25          AMOUNT.—

1           “(A) IN GENERAL.—In the case of any en-  
2           ergy project which satisfies the requirement  
3           under subparagraph (B), for purposes of apply-  
4           ing paragraph (2) with respect to such prop-  
5           erty, the energy percentage shall be increased  
6           by the applicable credit rate increase.

7           “(B) REQUIREMENT.—Rules similar to the  
8           rules of section 45(b)(9)(B) shall apply.

9           “(C) APPLICABLE CREDIT RATE IN-  
10          CREASE.—For purposes of subparagraph (A),  
11          the applicable credit rate increase shall be—

12                   “(i) in the case of an energy project  
13                   which does not satisfy the requirements of  
14                   paragraph (9)(B), 2 percentage points, and

15                   “(ii) in the case of an energy project  
16                   which satisfies the requirements of para-  
17                   graph (9)(B), 10 percentage points.

18          “(13) PHASEOUT FOR ELECTIVE PAYMENT.—In  
19          the case of a taxpayer making an election under sec-  
20          tion 6417 with respect to a credit under this section,  
21          rules similar to the rules of section 45(b)(10) shall  
22          apply.”.

23          (m) SPECIAL RULE FOR PROPERTY FINANCED BY  
24          TAX-EXEMPT BONDS.—Section 48(a)(4) is amended to  
25          read as follows:

1           “(4) SPECIAL RULE FOR PROPERTY FINANCED  
2 BY TAX-EXEMPT BONDS.—Rules similar to the rule  
3 under section 45(b)(3) shall apply for purposes of  
4 this section.”.

5           (n) TREATMENT OF CERTAIN CONTRACTS INVOLV-  
6 ING ENERGY STORAGE.—Section 7701(e) is amended—

7           (1) in paragraph (3)—

8           (A) in subparagraph (A)(i), by striking  
9 “or” at the end of subclause (II), by striking  
10 “and” at the end of subclause (III) and insert-  
11 ing “or”, and by adding at the end the fol-  
12 lowing new subclause:

13                           “(IV) the operation of a storage  
14 facility, and”, and

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

17                           “(F) STORAGE FACILITY.—For purposes  
18 of subparagraph (A), the term ‘storage facility’  
19 means a facility which uses energy storage tech-  
20 nology within the meaning of section 48(c)(6).”,  
21 and

22           (2) in paragraph (4), by striking “or water  
23 treatment works facility” and inserting “water treat-  
24 ment works facility, or storage facility”.



1           (o) INCREASE IN CREDIT RATE FOR ENERGY COM-  
2 MUNITIES.—Section 48(a), as amended by the preceding  
3 provisions of this Act, is amended by adding at the end  
4 the following new paragraph:

5           “(14) INCREASE IN CREDIT RATE FOR ENERGY  
6 COMMUNITIES.—

7           “(A) IN GENERAL.—In the case of any en-  
8 ergy project that is placed in service within an  
9 energy community (as defined in section  
10 45(b)(11)(B), as applied by substituting ‘energy  
11 project’ for ‘qualified facility’ each place it ap-  
12 pears), for purposes of applying paragraph (2)  
13 with respect to energy property which is part of  
14 such project, the energy percentage shall be in-  
15 creased by the applicable credit rate increase.

16           “(B) APPLICABLE CREDIT RATE IN-  
17 CREASE.—For purposes of subparagraph (A),  
18 the applicable credit rate increase shall be equal  
19 to—

20           “(i) in the case of any energy project  
21 which does not satisfy the requirements of  
22 paragraph (9)(B), 2 percentage points, and

23           “(ii) in the case of any energy project  
24 which satisfies the requirements of para-  
25 graph (9)(B), 10 percentage points.”.

1 (p) REGULATIONS.—Section 48(a), as amended by  
2 the preceding provisions of this Act, is amended by adding  
3 at the end the following new paragraph:

4 “(15) REGULATIONS AND GUIDANCE.—The  
5 Secretary shall issue such regulations or other guid-  
6 ance as the Secretary determines necessary to carry  
7 out the purposes of this subsection, including regula-  
8 tions or other guidance which provides for require-  
9 ments for recordkeeping or information reporting for  
10 purposes of administering the requirements of this  
11 subsection.”.

12 (q) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graphs (2) and (3), the amendments made by this  
15 section shall apply to property placed in service after  
16 December 31, 2021.

17 (2) OTHER PROPERTY.—The amendments  
18 made by subsections (f), (g), (h), (i), (j), (l), (n),  
19 and (o) shall apply to property placed in service  
20 after December 31, 2022.

21 (3) SPECIAL RULE FOR PROPERTY FINANCED  
22 BY TAX-EXEMPT BONDS.—The amendments made by  
23 subsection (m) shall apply to property the construc-  
24 tion of which begins after the date of enactment of  
25 this Act.

1 **SEC. 13103. INCREASE IN ENERGY CREDIT FOR SOLAR AND**  
2 **WIND FACILITIES PLACED IN SERVICE IN**  
3 **CONNECTION WITH LOW-INCOME COMMU-**  
4 **NITIES.**

5 (a) IN GENERAL.—Section 48 is amended by adding  
6 at the end the following new subsection:

7 “(e) SPECIAL RULES FOR CERTAIN SOLAR AND  
8 WIND FACILITIES PLACED IN SERVICE IN CONNECTION  
9 WITH LOW-INCOME COMMUNITIES.—

10 “(1) IN GENERAL.—In the case of any qualified  
11 solar and wind facility with respect to which the Sec-  
12 retary makes an allocation of environmental justice  
13 solar and wind capacity limitation under paragraph  
14 (4)—

15 “(A) the energy percentage otherwise de-  
16 termined under paragraph (2) or (5) of sub-  
17 section (a) with respect to any eligible property  
18 which is part of such facility shall be increased  
19 by—

20 “(i) in the case of a facility described  
21 in subclause (I) of paragraph (2)(A)(iii)  
22 and not described in subclause (II) of such  
23 paragraph, 10 percentage points, and

24 “(ii) in the case of a facility described  
25 in subclause (II) of paragraph (2)(A)(iii),  
26 20 percentage points, and

1           “(B) the increase in the credit determined  
2           under subsection (a) by reason of this sub-  
3           section for any taxable year with respect to all  
4           property which is part of such facility shall not  
5           exceed the amount which bears the same ratio  
6           to the amount of such increase (determined  
7           without regard to this subparagraph) as—

8                   “(i) the environmental justice solar  
9                   and wind capacity limitation allocated to  
10                  such facility, bears to

11                   “(ii) the total megawatt nameplate ca-  
12                   pacity of such facility, as measured in di-  
13                   rect current.

14           “(2) QUALIFIED SOLAR AND WIND FACILITY.—  
15           For purposes of this subsection—

16                   “(A) IN GENERAL.—The term ‘qualified  
17                   solar and wind facility’ means any facility—

18                           “(i) which generates electricity solely  
19                           from property described in section 45(d)(1)  
20                           or in clause (i) or (vi) of subsection  
21                           (a)(3)(A),

22                           “(ii) which has a maximum net output  
23                           of less than 5 megawatts (as measured in  
24                           alternating current), and

25                           “(iii) which—

1                   “(I) is located in a low-income  
2                   community (as defined in section  
3                   45D(e)) or on Indian land (as defined  
4                   in section 2601(2) of the Energy Pol-  
5                   icy Act of 1992 (25 U.S.C. 3501(2))),  
6                   or

7                   “(II) is part of a qualified low-in-  
8                   come residential building project or a  
9                   qualified low-income economic benefit  
10                  project.

11                  “(B) QUALIFIED LOW-INCOME RESIDEN-  
12                  TIAL BUILDING PROJECT.—A facility shall be  
13                  treated as part of a qualified low-income resi-  
14                  dential building project if—

15                  “(i) such facility is installed on a resi-  
16                  dential rental building which participates  
17                  in a covered housing program (as defined  
18                  in section 41411(a) of the Violence Against  
19                  Women Act of 1994 (34 U.S.C.  
20                  12491(a)(3)), a housing assistance pro-  
21                  gram administered by the Department of  
22                  Agriculture under title V of the Housing  
23                  Act of 1949, a housing program adminis-  
24                  tered by a tribally designated housing enti-  
25                  ty (as defined in section 4(22) of the Na-

1           tive American Housing Assistance and  
2           Self-Determination Act of 1996 (25 U.S.C.  
3           4103(22))) or such other affordable hous-  
4           ing programs as the Secretary may pro-  
5           vide, and

6                   “(ii) the financial benefits of the elec-  
7                   tricity produced by such facility are allo-  
8                   cated equitably among the occupants of the  
9                   dwelling units of such building.

10                   “(C) QUALIFIED LOW-INCOME ECONOMIC  
11           BENEFIT PROJECT.—A facility shall be treated  
12           as part of a qualified low-income economic ben-  
13           efit project if at least 50 percent of the finan-  
14           cial benefits of the electricity produced by such  
15           facility are provided to households with income  
16           of—

17                   “(i) less than 200 percent of the pov-  
18                   erty line (as defined in section  
19                   36B(d)(3)(A)) applicable to a family of the  
20                   size involved, or

21                   “(ii) less than 80 percent of area me-  
22                   dian gross income (as determined under  
23                   section 142(d)(2)(B)).

24                   “(D) FINANCIAL BENEFIT.—For purposes  
25           of subparagraphs (B) and (C), electricity ac-

1           required at a below-market rate shall not fail to  
2           be taken into account as a financial benefit.

3           “(3) ELIGIBLE PROPERTY.—For purposes of  
4           this section, the term ‘eligible property’ means en-  
5           ergy property which—

6                       “(A) is part of a facility described in sec-  
7                       tion 45(d)(1) for which an election was made  
8                       under subsection (a)(5), or

9                       “(B) is described in clause (i) or (vi) of  
10                      subsection (a)(3)(A),

11           including energy storage technology (as described in  
12           subsection (a)(3)(A)(ix)) installed in connection with  
13           such energy property.

14           “(4) ALLOCATIONS.—

15                       “(A) IN GENERAL.—Not later than 180  
16                       days after the date of enactment of this sub-  
17                       section, the Secretary shall establish a program  
18                       to allocate amounts of environmental justice  
19                       solar and wind capacity limitation to qualified  
20                       solar and wind facilities. In establishing such  
21                       program and to carry out the purposes of this  
22                       subsection, the Secretary shall provide proce-  
23                       dures to allow for an efficient allocation proc-  
24                       ess, including, when determined appropriate,  
25                       consideration of multiple projects in a single ap-

1           plication if such projects will be placed in serv-  
2           ice by a single taxpayer.

3           “(B) LIMITATION.—The amount of envi-  
4           ronmental justice solar and wind capacity limi-  
5           tation allocated by the Secretary under sub-  
6           paragraph (A) during any calendar year shall  
7           not exceed the annual capacity limitation with  
8           respect to such year.

9           “(C) ANNUAL CAPACITY LIMITATION.—For  
10          purposes of this paragraph, the term ‘annual  
11          capacity limitation’ means 1.8 gigawatts of di-  
12          rect current capacity for each of calendar years  
13          2023 and 2024, and zero thereafter.

14          “(D) CARRYOVER OF UNUSED LIMITA-  
15          TION.—If the annual capacity limitation for any  
16          calendar year exceeds the aggregate amount al-  
17          located for such year under this paragraph,  
18          such limitation for the succeeding calendar year  
19          shall be increased by the amount of such excess.  
20          No amount may be carried under the preceding  
21          sentence to any calendar year after 2024 except  
22          as provided in section 48E(h)(4)(D)(ii).

23          “(E) PLACED IN SERVICE DEADLINE.—

24                 “(i) IN GENERAL.—Paragraph (1)  
25                 shall not apply with respect to any prop-



1           erty which is placed in service after the  
2           date that is 4 years after the date of the  
3           allocation with respect to the facility of  
4           which such property is a part.

5           “(ii) APPLICATION OF CARRYOVER.—  
6           Any amount of environmental justice solar  
7           and wind capacity limitation which expires  
8           under clause (i) during any calendar year  
9           shall be taken into account as an excess  
10          described in subparagraph (D) (or as an  
11          increase in such excess) for such calendar  
12          year, subject to the limitation imposed by  
13          the last sentence of such subparagraph.

14          “(5) RECAPTURE.—The Secretary shall, by reg-  
15          ulations or other guidance, provide for recapturing  
16          the benefit of any increase in the credit allowed  
17          under subsection (a) by reason of this subsection  
18          with respect to any property which ceases to be  
19          property eligible for such increase (but which does  
20          not cease to be investment credit property within the  
21          meaning of section 50(a)). The period and percent-  
22          age of such recapture shall be determined under  
23          rules similar to the rules of section 50(a). To the ex-  
24          tent provided by the Secretary, such recapture may  
25          not apply with respect to any property if, within 12

1 months after the date the taxpayer becomes aware  
2 (or reasonably should have become aware) of such  
3 property ceasing to be property eligible for such in-  
4 crease, the eligibility of such property for such in-  
5 crease is restored. The preceding sentence shall not  
6 apply more than once with respect to any facility.”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on January 1, 2023.

9 **SEC. 13104. EXTENSION AND MODIFICATION OF CREDIT**  
10 **FOR CARBON OXIDE SEQUESTRATION.**

11 (a) MODIFICATION OF CARBON OXIDE CAPTURE RE-  
12 QUIREMENTS.—

13 (1) IN GENERAL.—Section 45Q(d) is amended  
14 to read as follows:

15 “(d) QUALIFIED FACILITY.—For purposes of this  
16 section, the term ‘qualified facility’ means any industrial  
17 facility or direct air capture facility—

18 “(1) the construction of which begins before  
19 January 1, 2033, and either—

20 “(A) construction of carbon capture equip-  
21 ment begins before such date, or

22 “(B) the original planning and design for  
23 such facility includes installation of carbon cap-  
24 ture equipment, and

25 “(2) which—

1           “(A) in the case of a direct air capture fa-  
2           cility, captures not less than 1,000 metric tons  
3           of qualified carbon oxide during the taxable  
4           year,

5           “(B) in the case of an electricity gener-  
6           ating facility—

7                   “(i) captures not less than 18,750  
8                   metric tons of qualified carbon oxide dur-  
9                   ing the taxable year, and

10                   “(ii) with respect to any carbon cap-  
11                   ture equipment for the applicable electric  
12                   generating unit at such facility, has a cap-  
13                   ture design capacity of not less than 75  
14                   percent of the baseline carbon oxide pro-  
15                   duction of such unit, or

16           “(C) in the case of any other facility, cap-  
17           tures not less than 12,500 metric tons of quali-  
18           fied carbon oxide during the taxable year.”.

19           (2) DEFINITIONS.—

20                   (A) IN GENERAL.—Section 45Q(e) is  
21                   amended—

22                           (i) by redesignating paragraphs (1)  
23                           through (3) as paragraphs (3) through (5),  
24                           respectively, and

1 (ii) by inserting after “For purposes  
2 of this section—” the following new para-  
3 graphs:

4 “(1) APPLICABLE ELECTRIC GENERATING  
5 UNIT.—The term ‘applicable electric generating unit’  
6 means the principal electric generating unit for  
7 which the carbon capture equipment is originally  
8 planned and designed.

9 “(2) BASELINE CARBON OXIDE PRODUCTION.—  
10 “(A) IN GENERAL.—The term ‘baseline  
11 carbon oxide production’ means either of the  
12 following:

13 “(i) In the case of an applicable elec-  
14 tric generating unit which was originally  
15 placed in service more than 1 year prior to  
16 the date on which construction of the car-  
17 bon capture equipment begins, the average  
18 annual carbon oxide production, by mass,  
19 from such unit during—

20 “(I) in the case of an applicable  
21 electric generating unit which was  
22 originally placed in service more than  
23 1 year prior to the date on which con-  
24 struction of the carbon capture equip-  
25 ment begins and on or after the date

1 which is 3 years prior to the date on  
2 which construction of such equipment  
3 begins, the period beginning on the  
4 date such unit was placed in service  
5 and ending on the date on which con-  
6 struction of such equipment began,  
7 and

8 “(II) in the case of an applicable  
9 electric generating unit which was  
10 originally placed in service more than  
11 3 years prior to the date on which  
12 construction of the carbon capture  
13 equipment begins, the 3 years with  
14 the highest annual carbon oxide pro-  
15 duction during the 12-year period pre-  
16 ceding the date on which construction  
17 of such equipment began.

18 “(ii) In the case of an applicable elec-  
19 tric generating unit which—

20 “(I) as of the date on which con-  
21 struction of the carbon capture equip-  
22 ment begins, is not yet placed in serv-  
23 ice, or

24 “(II) was placed in service during  
25 the 1-year period prior to the date on

1                   which construction of the carbon cap-  
2                   ture equipment begins,  
3                   the designed annual carbon oxide produc-  
4                   tion, by mass, as determined based on an  
5                   assumed capacity factor of 60 percent.

6                   “(B) CAPACITY FACTOR.—The term ‘ca-  
7                   pacity factor’ means the ratio (expressed as a  
8                   percentage) of the actual electric output from  
9                   the applicable electric generating unit to the po-  
10                  tential electric output from such unit.”.

11                  (B) CONFORMING AMENDMENT.—Section  
12                  142(o)(1)(B) is amended by striking “section  
13                  45Q(e)(1)” and inserting “section 45Q(e)(3)”.

14                  (b) MODIFIED APPLICABLE DOLLAR AMOUNT.—Sec-  
15                  tion 45Q(b)(1)(A) is amended—

16                  (1) in clause (i)—

17                          (A) in subclause (I), by striking “the dollar  
18                          amount” and all that follows through “such pe-  
19                          riod” and inserting “\$17”, and

20                          (B) in subclause (II), by striking “the dol-  
21                          lar amount” and all that follows through “such  
22                          period” and inserting “\$12”, and

23                  (2) in clause (ii)—

24                          (A) in subclause (I), by striking “\$50” and  
25                          inserting “\$17”, and

1 (B) in subclause (II), by striking “\$35”  
2 and inserting “\$12”.

3 (c) DETERMINATION OF APPLICABLE DOLLAR  
4 AMOUNT.—

5 (1) IN GENERAL.—Section 45Q(b)(1), as  
6 amended by the preceding provisions of this Act, is  
7 amended—

8 (A) by redesignating subparagraph (B) as  
9 subparagraph (D), and

10 (B) by inserting after subparagraph (A)  
11 the following new subparagraphs:

12 “(B) SPECIAL RULE FOR DIRECT AIR CAP-  
13 TURE FACILITIES.—In the case of any qualified  
14 facility described in subsection (d)(2)(A) which  
15 is placed in service after December 31, 2022,  
16 the applicable dollar amount shall be an amount  
17 equal to the applicable dollar amount otherwise  
18 determined with respect to such qualified facil-  
19 ity under subparagraph (A), except that such  
20 subparagraph shall be applied—

21 “(i) by substituting ‘\$36’ for ‘\$17’  
22 each place it appears, and

23 “(ii) by substituting ‘\$26’ for ‘\$12’  
24 each place it appears.

1           “(C) APPLICABLE DOLLAR AMOUNT FOR  
2           ADDITIONAL CARBON CAPTURE EQUIPMENT.—  
3           In the case of any qualified facility which is  
4           placed in service before January 1, 2023, if any  
5           additional carbon capture equipment is installed  
6           at such facility and such equipment is placed in  
7           service after December 31, 2022, the applicable  
8           dollar amount shall be an amount equal to the  
9           applicable dollar amount otherwise determined  
10          under this paragraph, except that subparagraph  
11          (B) shall be applied—

12                   “(i) by substituting ‘before January 1,  
13                   2023’ for ‘after December 31, 2022’, and

14                   “(ii) by substituting ‘the additional  
15                   carbon capture equipment installed at such  
16                   qualified facility’ for ‘such qualified facil-  
17                   ity.’”.

18          (2) CONFORMING AMENDMENTS.—

19                   (A) Section 45Q(b)(1)(A) is amended by  
20                   striking “The applicable dollar amount” and in-  
21                   serting “Except as provided in subparagraph  
22                   (B) or (C), the applicable dollar amount”.

23                   (B) Section 45Q(b)(1)(D), as redesignated  
24                   by paragraph (1)(A), is amended by striking



1 “subparagraph (A)” and inserting “subpara-  
2 graph (A), (B), or (C)”.

3 (d) WAGE AND APPRENTICESHIP REQUIREMENTS.—

4 Section 45Q is amended by redesignating subsection (h)  
5 as subsection (i) and inserting after subsection (g) fol-  
6 lowing new subsection:

7 “(h) INCREASED CREDIT AMOUNT FOR QUALIFIED  
8 FACILITIES AND CARBON CAPTURE EQUIPMENT.—

9 “(1) IN GENERAL.—In the case of any qualified  
10 facility or any carbon capture equipment which sat-  
11 isfy the requirements of paragraph (2), the amount  
12 of the credit determined under subsection (a) shall  
13 be equal to such amount (determined without regard  
14 to this sentence) multiplied by 5.

15 “(2) REQUIREMENTS.—The requirements de-  
16 scribed in this paragraph are that—

17 “(A) with respect to any qualified facility  
18 the construction of which begins on or after the  
19 date that is 60 days after the Secretary pub-  
20 lishes guidance with respect to the requirements  
21 of paragraphs (3)(A) and (4), as well as any  
22 carbon capture equipment placed in service at  
23 such facility—

24 “(i) subject to subparagraph (B) of  
25 paragraph (3), the taxpayer satisfies the

1 requirements under subparagraph (A) of  
2 such paragraph with respect to such facil-  
3 ity and equipment, and

4 “(ii) the taxpayer satisfies the re-  
5 quirements under paragraph (4) with re-  
6 spect to the construction of such facility  
7 and equipment,

8 “(B) with respect to any carbon capture  
9 equipment the construction of which begins on  
10 or after the date that is 60 days after the Sec-  
11 retary publishes guidance with respect to the  
12 requirements of paragraphs (3)(A) and (4), and  
13 which is installed at a qualified facility the con-  
14 struction of which began prior to such date—

15 “(i) subject to subparagraph (B) of  
16 paragraph (3), the taxpayer satisfies the  
17 requirements under subparagraph (A) of  
18 such paragraph with respect to such equip-  
19 ment, and

20 “(ii) the taxpayer satisfies the re-  
21 quirements under paragraph (4) with re-  
22 spect to the construction of such equip-  
23 ment, or

24 “(C) the construction of carbon capture  
25 equipment begins prior to the date that is 60

1 days after the Secretary publishes guidance  
2 with respect to the requirements of paragraphs  
3 (3)(A) and (4), and such equipment is installed  
4 at a qualified facility the construction of which  
5 begins prior to such date.

6 “(3) PREVAILING WAGE REQUIREMENTS.—

7 “(A) IN GENERAL.—The requirements de-  
8 scribed in this subparagraph with respect to  
9 any qualified facility and any carbon capture  
10 equipment placed in service at such facility are  
11 that the taxpayer shall ensure that any laborers  
12 and mechanics employed by the taxpayer or any  
13 contractor or subcontractor in—

14 “(i) the construction of such facility  
15 or equipment, and

16 “(ii) with respect to any taxable year,  
17 for any portion of such taxable year which  
18 is within the period described in paragraph  
19 (3)(A) or (4)(A) of subsection (a), the al-  
20 teration or repair of such facility or such  
21 equipment,

22 shall be paid wages at rates not less than the  
23 prevailing rates for construction, alteration, or  
24 repair of a similar character in the locality in  
25 which such facility and equipment are located

1 as most recently determined by the Secretary of  
2 Labor, in accordance with subchapter IV of  
3 chapter 31 of title 40, United States Code. For  
4 purposes of determining an increased credit  
5 amount under paragraph (1) for a taxable year,  
6 the requirement under clause (ii) of this sub-  
7 paragraph is applied to such taxable year in  
8 which the alteration or repair of qualified facil-  
9 ity occurs.

10 “(B) CORRECTION AND PENALTY RELATED  
11 TO FAILURE TO SATISFY WAGE REQUIRE-  
12 MENTS.—Rules similar to the rules of section  
13 45(b)(7)(B) shall apply.

14 “(4) APPRENTICESHIP REQUIREMENTS.—Rules  
15 similar to the rules of section 45(b)(8) shall apply.

16 “(5) REGULATIONS AND GUIDANCE.—The Sec-  
17 retary shall issue such regulations or other guidance  
18 as the Secretary determines necessary to carry out  
19 the purposes of this subsection, including regulations  
20 or other guidance which provides for requirements  
21 for recordkeeping or information reporting for pur-  
22 poses of administering the requirements of this sub-  
23 section.”.

24 (e) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—

25 Section 45Q(f) is amended—

1           (1) by striking the second paragraph (3), as  
2           added at the end of such section by section 80402(e)  
3           of the Infrastructure Investment and Jobs Act (Pub-  
4           lic Law 117-58), and

5           (2) by adding at the end the following new  
6           paragraph:

7           “(8) CREDIT REDUCED FOR TAX-EXEMPT  
8           BONDS.—Rules similar to the rule under section  
9           45(b)(3) shall apply for purposes of this section.”.

10          (f) APPLICATION OF SECTION FOR CERTAIN CARBON  
11          CAPTURE EQUIPMENT.—Section 45Q(g) is amended by  
12          inserting “the earlier of January 1, 2023, and” before  
13          “the end of the calendar year”.

14          (g) ELECTION.—Section 45Q(f), as amended by sub-  
15          section (e), is amended by adding at the end the following  
16          new paragraph:

17                 “(9) ELECTION.—For purposes of paragraphs  
18                 (3) and (4) of subsection (a), a person described in  
19                 paragraph (3)(A)(ii) may elect, at such time and in  
20                 such manner as the Secretary may prescribe, to have  
21                 the 12-year period begin on the first day of the first  
22                 taxable year in which a credit under this section is  
23                 claimed with respect to carbon capture equipment  
24                 which is originally placed in service at a qualified fa-  
25                 cility on or after the date of the enactment of the

1 Bipartisan Budget Act of 2018 (after application of  
2 paragraph (6), where applicable) if—

3 “(A) no taxpayer claimed a credit under  
4 this section with respect to such carbon capture  
5 equipment for any prior taxable year,

6 “(B) the qualified facility at which such  
7 carbon capture equipment is placed in service is  
8 located in an area affected by a federally-de-  
9 clared disaster (as defined by section  
10 165(i)(5)(A)) after the carbon capture equip-  
11 ment is originally placed in service, and

12 “(C) such federally-declared disaster re-  
13 sults in a cessation of the operation of the  
14 qualified facility or the carbon capture equip-  
15 ment after such equipment is originally placed  
16 in service.”.

17 (h) REGULATIONS FOR BASELINE CARBON OXIDE  
18 PRODUCTION.—Subsection (i) of section 45Q, as redesignig-  
19 nated by subsection (d), is amended—

20 (1) in paragraph (1), by striking “and”,

21 (2) in paragraph (2), by striking the period at  
22 the end and inserting “, and”, and

23 (3) by adding at the end the following new  
24 paragraph:

1           “(3) for purposes of subsection (d)(2)(B)(ii),  
2           adjust the baseline carbon oxide production with re-  
3           spect to any applicable electric generating unit at  
4           any electricity generating facility if, after the date  
5           on which the carbon capture equipment is placed in  
6           service, modifications which are chargeable to capital  
7           account are made to such unit which result in a sig-  
8           nificant increase or decrease in carbon oxide produc-  
9           tion.”.

10           (i) EFFECTIVE DATES.—

11           (1) IN GENERAL.—Except as provided in para-  
12           graphs (2), (3), and (4), the amendments made by  
13           this section shall apply to facilities or equipment  
14           placed in service after December 31, 2022.

15           (2) MODIFICATION OF CARBON OXIDE CAPTURE  
16           REQUIREMENTS.—The amendments made by sub-  
17           section (a) shall apply to facilities or equipment the  
18           construction of which begins after the date of enact-  
19           ment of this Act.

20           (3) APPLICATION OF SECTION FOR CERTAIN  
21           CARBON CAPTURE EQUIPMENT.—The amendments  
22           made by subsection (f) shall take effect on the date  
23           of enactment of this Act.

1           (4) ELECTION.—The amendments made by  
2           subsection (g) shall apply to carbon oxide captured  
3           and disposed of after December 31, 2021.

4 **SEC. 13105. ZERO-EMISSION NUCLEAR POWER PRODUC-**  
5 **TION CREDIT.**

6           (a) IN GENERAL.—Subpart D of part IV of sub-  
7 chapter A of chapter 1 is amended by adding at the end  
8 the following new section:

9 **“SEC. 45U. ZERO-EMISSION NUCLEAR POWER PRODUCTION**  
10 **CREDIT.**

11           “(a) AMOUNT OF CREDIT.—For purposes of section  
12 38, the zero-emission nuclear power production credit for  
13 any taxable year is an amount equal to the amount by  
14 which—

15           “(1) the product of—

16           “(A) 0.3 cents, multiplied by

17           “(B) the kilowatt hours of electricity—

18           “(i) produced by the taxpayer at a  
19 qualified nuclear power facility, and

20           “(ii) sold by the taxpayer to an unre-  
21 lated person during the taxable year, ex-  
22 ceeds

23           “(2) the reduction amount for such taxable  
24 year.

25           “(b) DEFINITIONS.—





1 provided in conjunction with the elec-  
2 tricity produced by such facility) and  
3 sold to an unrelated person during  
4 such taxable year, over

5 “(II) the amount equal to the  
6 product of—

7 “(aa) 2.5 cents, multiplied  
8 by

9 “(bb) the amount deter-  
10 mined under subsection  
11 (a)(1)(B).

12 “(B) TREATMENT OF CERTAIN RE-  
13 CEIPTS.—

14 “(i) IN GENERAL.—Subject to clause  
15 (iii), the amount determined under sub-  
16 paragraph (A)(ii)(I) shall include any  
17 amount received by the taxpayer during  
18 the taxable year with respect to the quali-  
19 fied nuclear power facility from a zero-  
20 emission credit program. For purposes of  
21 determining the amount received during  
22 such taxable year, the taxpayer shall take  
23 into account any reductions required under  
24 such program.

1                   “(ii) ZERO-EMISSION CREDIT PRO-  
2                   GRAM.—For purposes of this subpara-  
3                   graph, the term ‘zero-emission credit pro-  
4                   gram’ means any payments with respect to  
5                   a qualified nuclear power facility as a re-  
6                   sult of any Federal, State or local govern-  
7                   ment program for, in whole or in part, the  
8                   zero-emission, zero-carbon, or air quality  
9                   attributes of any portion of the electricity  
10                  produced by such facility.

11                  “(iii) EXCLUSION.—For purposes of  
12                  clause (i), any amount received by the tax-  
13                  payer from a zero-emission credit program  
14                  shall be excluded from the amount deter-  
15                  mined under subparagraph (A)(ii)(I) if the  
16                  full amount of the credit calculated pursu-  
17                  ant to subsection (a) (determined without  
18                  regard to this subparagraph) is used to re-  
19                  duce payments from such zero-emission  
20                  credit program.

21                  “(3) ELECTRICITY.—For purposes of this sec-  
22                  tion, the term ‘electricity’ means the energy pro-  
23                  duced by a qualified nuclear power facility from the  
24                  conversion of nuclear fuel into electric power.

25                  “(c) OTHER RULES.—

1           “(1) INFLATION ADJUSTMENT.—The 0.3 cent  
2           amount in subsection (a)(1)(A) and the 2.5 cent  
3           amount in subsection (b)(2)(A)(ii)(II)(aa) shall each  
4           be adjusted by multiplying such amount by the infla-  
5           tion adjustment factor (as determined under section  
6           45(e)(2), as applied by substituting ‘calendar year  
7           2023’ for ‘calendar year 1992’ in subparagraph (B)  
8           thereof) for the calendar year in which the sale oc-  
9           curs. If the 0.3 cent amount as increased under this  
10          paragraph is not a multiple of 0.05 cent, such  
11          amount shall be rounded to the nearest multiple of  
12          0.05 cent. If the 2.5 cent amount as increased under  
13          this paragraph is not a multiple of 0.1 cent, such  
14          amount shall be rounded to the nearest multiple of  
15          0.1 cent.

16          “(2) SPECIAL RULES.—Rules similar to the  
17          rules of paragraphs (1), (3), (4), and (5) of section  
18          45(e) shall apply for purposes of this section.

19          “(d) WAGE REQUIREMENTS.—

20          “(1) INCREASED CREDIT AMOUNT FOR QUALI-  
21          FIED NUCLEAR POWER FACILITIES.—In the case of  
22          any qualified nuclear power facility which satisfies  
23          the requirements of paragraph (2)(A), the amount of  
24          the credit determined under subsection (a) shall be

1 equal to such amount (as determined without regard  
2 to this sentence) multiplied by 5.

3 “(2) PREVAILING WAGE REQUIREMENTS.—

4 “(A) IN GENERAL.—The requirements de-  
5 scribed in this subparagraph with respect to  
6 any qualified nuclear power facility are that the  
7 taxpayer shall ensure that any laborers and me-  
8 chanics employed by the taxpayer or any con-  
9 tractor or subcontractor in the alteration or re-  
10 pair of such facility shall be paid wages at rates  
11 not less than the prevailing rates for alteration  
12 or repair of a similar character in the locality  
13 in which such facility is located as most re-  
14 cently determined by the Secretary of Labor, in  
15 accordance with subchapter IV of chapter 31 of  
16 title 40, United States Code.

17 “(B) CORRECTION AND PENALTY RELATED  
18 TO FAILURE TO SATISFY WAGE REQUIRE-  
19 MENTS.—Rules similar to the rules of section  
20 45(b)(7)(B) shall apply.

21 “(3) REGULATIONS AND GUIDANCE.—The Sec-  
22 retary shall issue such regulations or other guidance  
23 as the Secretary determines necessary to carry out  
24 the purposes of this subsection, including regulations  
25 or other guidance which provides for requirements

1 for recordkeeping or information reporting for pur-  
2 poses of administering the requirements of this sub-  
3 section.

4 “(e) TERMINATION.—This section shall not apply to  
5 taxable years beginning after December 31, 2032.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 38(b) is amended—

8 (A) in paragraph (32), by striking “plus”  
9 at the end,

10 (B) in paragraph (33), by striking the pe-  
11 riod at the end and inserting “, plus”, and

12 (C) by adding at the end the following new  
13 paragraph:

14 “(34) the zero-emission nuclear power produc-  
15 tion credit determined under section 45U(a).”.

16 (2) The table of sections for subpart D of part  
17 IV of subchapter A of chapter 1 is amended by add-  
18 ing at the end the following new item:

“Sec. 45U. Zero-emission nuclear power production credit.”.

19 (c) EFFECTIVE DATE.—This section shall apply to  
20 electricity produced and sold after December 31, 2023, in  
21 taxable years beginning after such date.

1                                   **PART 2—CLEAN FUELS**  
2 **SEC. 13201. EXTENSION OF INCENTIVES FOR BIODIESEL,**  
3                                   **RENEWABLE DIESEL AND ALTERNATIVE**  
4                                   **FUELS.**

5           (a) BIODIESEL AND RENEWABLE DIESEL CREDIT.—  
6 Section 40A(g) is amended by striking “December 31,  
7 2022” and inserting “December 31, 2024”.

8           (b) BIODIESEL MIXTURE CREDIT.—

9                 (1) IN GENERAL.—Section 6426(c)(6) is  
10 amended by striking “December 31, 2022” and in-  
11 serting “December 31, 2024”.

12                 (2) FUELS NOT USED FOR TAXABLE PUR-  
13 POSES.—Section 6427(e)(6)(B) is amended by strik-  
14 ing “December 31, 2022” and inserting “December  
15 31, 2024”.

16           (c) ALTERNATIVE FUEL CREDIT.—Section  
17 6426(d)(5) is amended by striking “December 31, 2021”  
18 and inserting “December 31, 2024”.

19           (d) ALTERNATIVE FUEL MIXTURE CREDIT.—Section  
20 6426(e)(3) is amended by striking “December 31, 2021”  
21 and inserting “December 31, 2024”.

22           (e) PAYMENTS FOR ALTERNATIVE FUELS.—Section  
23 6427(e)(6)(C) is amended by striking “December 31,  
24 2021” and inserting “December 31, 2024”.

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to fuel sold or used after December  
3 31, 2021.

4 (g) SPECIAL RULE.—In the case of any alternative  
5 fuel credit properly determined under section 6426(d) of  
6 the Internal Revenue Code of 1986 for the period begin-  
7 ning on January 1, 2022, and ending with the close of  
8 the last calendar quarter beginning before the date of the  
9 enactment of this Act, such credit shall be allowed, and  
10 any refund or payment attributable to such credit (includ-  
11 ing any payment under section 6427(e) of such Code)  
12 shall be made, only in such manner as the Secretary of  
13 the Treasury (or the Secretary’s delegate) shall provide.  
14 Such Secretary shall issue guidance within 30 days after  
15 the date of the enactment of this Act providing for a one-  
16 time submission of claims covering periods described in  
17 the preceding sentence. Such guidance shall provide for  
18 a 180-day period for the submission of such claims (in  
19 such manner as prescribed by such Secretary) to begin  
20 not later than 30 days after such guidance is issued. Such  
21 claims shall be paid by such Secretary not later than 60  
22 days after receipt. If such Secretary has not paid pursuant  
23 to a claim filed under this subsection within 60 days after  
24 the date of the filing of such claim, the claim shall be paid  
25 with interest from such date determined by using the over-



1 payment rate and method under section 6621 of such  
2 Code.

3 **SEC. 13202. EXTENSION OF SECOND GENERATION BIOFUEL**  
4 **INCENTIVES.**

5 (a) IN GENERAL.—Section 40(b)(6)(J)(i) is amended  
6 by striking “2022” and inserting “2025”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to qualified second generation  
9 biofuel production after December 31, 2021.

10 **SEC. 13203. SUSTAINABLE AVIATION FUEL CREDIT.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-  
12 chapter A of chapter 1 is amended by inserting after sec-  
13 tion 40A the following new section:

14 **“SEC. 40B. SUSTAINABLE AVIATION FUEL CREDIT.**

15 “(a) IN GENERAL.—For purposes of section 38, the  
16 sustainable aviation fuel credit determined under this sec-  
17 tion for the taxable year is, with respect to any sale or  
18 use of a qualified mixture which occurs during such tax-  
19 able year, an amount equal to the product of—

20 “(1) the number of gallons of sustainable avia-  
21 tion fuel in such mixture, multiplied by

22 “(2) the sum of—

23 “(A) \$1.25, plus

24 “(B) the applicable supplementary amount  
25 with respect to such sustainable aviation fuel.

1       “(b) APPLICABLE SUPPLEMENTARY AMOUNT.—For  
2 purposes of this section, the term ‘applicable supple-  
3 mentary amount’ means, with respect to any sustainable  
4 aviation fuel, an amount equal to \$0.01 for each percent-  
5 age point by which the lifecycle greenhouse gas emissions  
6 reduction percentage with respect to such fuel exceeds 50  
7 percent. In no event shall the applicable supplementary  
8 amount determined under this subsection exceed \$0.50.

9       “(c) QUALIFIED MIXTURE.—For purposes of this  
10 section, the term ‘qualified mixture’ means a mixture of  
11 sustainable aviation fuel and kerosene if—

12           “(1) such mixture is produced by the taxpayer  
13 in the United States,

14           “(2) such mixture is used by the taxpayer (or  
15 sold by the taxpayer for use) in an aircraft,

16           “(3) such sale or use is in the ordinary course  
17 of a trade or business of the taxpayer, and

18           “(4) the transfer of such mixture to the fuel  
19 tank of such aircraft occurs in the United States.

20       “(d) SUSTAINABLE AVIATION FUEL.—

21           “(1) IN GENERAL.—For purposes of this sec-  
22 tion, the term ‘sustainable aviation fuel’ means liq-  
23 uid fuel, the portion of which is not kerosene,  
24 which—

25           “(A) meets the requirements of—

1 “(i) ASTM International Standard  
2 D7566, or

3 “(ii) the Fischer Tropsch provisions of  
4 ASTM International Standard D1655,  
5 Annex A1,

6 “(B) is not derived from coprocessing an  
7 applicable material (or materials derived from  
8 an applicable material) with a feedstock which  
9 is not biomass,

10 “(C) is not derived from palm fatty acid  
11 distillates or petroleum, and

12 “(D) has been certified in accordance with  
13 subsection (e) as having a lifecycle greenhouse  
14 gas emissions reduction percentage of at least  
15 50 percent.

16 “(2) DEFINITIONS.—In this subsection—

17 “(A) APPLICABLE MATERIAL.—The term  
18 ‘applicable material’ means—

19 “(i) monoglycerides, diglycerides, and  
20 triglycerides,

21 “(ii) free fatty acids, and

22 “(iii) fatty acid esters.

23 “(B) BIOMASS.—The term ‘biomass’ has  
24 the same meaning given such term in section  
25 45K(e)(3).

1           “(e) LIFECYCLE GREENHOUSE GAS EMISSIONS RE-  
2   DUCTION PERCENTAGE.—For purposes of this section, the  
3   term ‘lifecycle greenhouse gas emissions reduction per-  
4   centage’ means, with respect to any sustainable aviation  
5   fuel, the percentage reduction in lifecycle greenhouse gas  
6   emissions achieved by such fuel as compared with petro-  
7   leum-based jet fuel, as defined in accordance with—

8           “(1) the most recent Carbon Offsetting and Re-  
9   duction Scheme for International Aviation which has  
10   been adopted by the International Civil Aviation Or-  
11   ganization with the agreement of the United States,  
12   or

13           “(2) any similar methodology which satisfies  
14   the criteria under section 211(o)(1)(H) of the Clean  
15   Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on  
16   the date of enactment of this section.

17           “(f) REGISTRATION OF SUSTAINABLE AVIATION  
18   FUEL PRODUCERS.—No credit shall be allowed under this  
19   section with respect to any sustainable aviation fuel unless  
20   the producer or importer of such fuel—

21           “(1) is registered with the Secretary under sec-  
22   tion 4101, and

23           “(2) provides—

24           “(A) certification (in such form and man-  
25   ner as the Secretary shall prescribe) from an

1 unrelated party demonstrating compliance  
2 with—

3 “(i) any general requirements, supply  
4 chain traceability requirements, and infor-  
5 mation transmission requirements estab-  
6 lished under the Carbon Offsetting and  
7 Reduction Scheme for International Avia-  
8 tion described in paragraph (1) of sub-  
9 section (e), or

10 “(ii) in the case of any methodology  
11 established under paragraph (2) of such  
12 subsection, requirements similar to the re-  
13 quirements described in clause (i), and

14 “(B) such other information with respect  
15 to such fuel as the Secretary may require for  
16 purposes of carrying out this section.

17 “(g) COORDINATION WITH CREDIT AGAINST EXCISE  
18 TAX.—The amount of the credit determined under this  
19 section with respect to any sustainable aviation fuel shall,  
20 under rules prescribed by the Secretary, be properly re-  
21 duced to take into account any benefit provided with re-  
22 spect to such sustainable aviation fuel solely by reason of  
23 the application of section 6426 or 6427(e).

24 “(h) TERMINATION.—This section shall not apply to  
25 any sale or use after December 31, 2024.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS  
2 CREDIT.— Section 38(b), as amended by the preceding  
3 provisions of this Act, is amended by striking “plus” at  
4 the end of paragraph (33), by striking the period at the  
5 end of paragraph (34) and inserting “, plus”, and by in-  
6 serting after paragraph (34) the following new paragraph:

7 “(35) the sustainable aviation fuel credit deter-  
8 mined under section 40B.”.

9 (c) COORDINATION WITH BIODIESEL INCENTIVES.—

10 (1) IN GENERAL.—Section 40A(d)(1) is amend-  
11 ed by inserting “or 40B” after “determined under  
12 section 40”.

13 (2) CONFORMING AMENDMENT.—Section  
14 40A(f) is amended by striking paragraph (4).

15 (d) SUSTAINABLE AVIATION FUEL ADDED TO CRED-  
16 IT FOR ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE  
17 FUEL MIXTURES.—

18 (1) IN GENERAL.—Section 6426 is amended by  
19 adding at the end the following new subsection:

20 “(k) SUSTAINABLE AVIATION FUEL CREDIT.—

21 “(1) IN GENERAL.—For purposes of this sec-  
22 tion, the sustainable aviation fuel credit for the tax-  
23 able year is, with respect to any sale or use of a  
24 qualified mixture, an amount equal to the product  
25 of—



1                   TERNATIVE FUEL, OR SUSTAINABLE AVIA-  
2                   TION FUEL”,

3                   (ii) in paragraph (1), by inserting “or  
4                   the sustainable aviation fuel mixture cred-  
5                   it” after “alternative fuel mixture credit”,  
6                   and

7                   (iii) in paragraph (6)—

8                   (I) in subparagraph (C), by strik-  
9                   ing “and” at the end,

10                  (II) in subparagraph (D), by  
11                  striking the period at the end and in-  
12                  serting “, and”, and

13                  (III) by adding at the end the  
14                  following new subparagraph:

15                  “(E) any qualified mixture of sustainable  
16                  aviation fuel (as defined in section 6426(k)(3))  
17                  sold or used after December 31, 2024.”.

18                  (C) Section 4101(a)(1) is amended by in-  
19                  serting “every person producing or importing  
20                  sustainable aviation fuel (as defined in section  
21                  40B),” before “and every person producing sec-  
22                  ond generation biofuel”.

23                  (D) The table of sections for subpart D of  
24                  subchapter A of chapter 1 is amended by in-



1           serting after the item relating to section 40A  
2           the following new item:

“Sec. 40B. Sustainable aviation fuel credit.”.

3           (e) **AMOUNT OF CREDIT INCLUDED IN GROSS IN-**  
4 **COME.**—Section 87 is amended by striking “and” in para-  
5 graph (1), by striking the period at the end of paragraph  
6 (2) and inserting “, and”, and by adding at the end the  
7 following new paragraph:

8           “(3) the sustainable aviation fuel credit deter-  
9 mined with respect to the taxpayer for the taxable  
10 year under section 40B(a).”.

11          (f) **EFFECTIVE DATE.**—The amendments made by  
12 this section shall apply to fuel sold or used after December  
13 31, 2022.

14 **SEC. 13204. CLEAN HYDROGEN.**

15          (a) **CREDIT FOR PRODUCTION OF CLEAN HYDRO-**  
16 **GEN.**—

17           (1) **IN GENERAL.**—Subpart D of part IV of  
18 subchapter A of chapter 1, as amended by the pre-  
19 ceding provisions of this Act, is amended by adding  
20 at the end the following new section:

21 **“SEC. 45V. CREDIT FOR PRODUCTION OF CLEAN HYDRO-**  
22 **GEN.**

23           “(a) **AMOUNT OF CREDIT.**—For purposes of section  
24 38, the clean hydrogen production credit for any taxable  
25 year is an amount equal to the product of—

1           “(1) the kilograms of qualified clean hydrogen  
2           produced by the taxpayer during such taxable year  
3           at a qualified clean hydrogen production facility dur-  
4           ing the 10-year period beginning on the date such  
5           facility was originally placed in service, multiplied by

6           “(2) the applicable amount (as determined  
7           under subsection (b)) with respect to such hydrogen.

8           “(b) APPLICABLE AMOUNT.—

9           “(1) IN GENERAL.—For purposes of subsection  
10          (a)(2), the applicable amount shall be an amount  
11          equal to the applicable percentage of \$0.60. If any  
12          amount as determined under the preceding sentence  
13          is not a multiple of 0.1 cent, such amount shall be  
14          rounded to the nearest multiple of 0.1 cent.

15          “(2) APPLICABLE PERCENTAGE.—For purposes  
16          of paragraph (1), the applicable percentage shall be  
17          determined as follows:

18                 “(A) In the case of any qualified clean hy-  
19                 drogen which is produced through a process  
20                 that results in a lifecycle greenhouse gas emis-  
21                 sions rate of—

22                         “(i) not greater than 4 kilograms of  
23                         CO<sub>2</sub>e per kilogram of hydrogen, and

24                         “(ii) not less than 2.5 kilograms of  
25                         CO<sub>2</sub>e per kilogram of hydrogen,

1 the applicable percentage shall be 20 percent.

2 “(B) In the case of any qualified clean hy-  
3 drogen which is produced through a process  
4 that results in a lifecycle greenhouse gas emis-  
5 sions rate of—

6 “(i) less than 2.5 kilograms of CO<sub>2</sub>e  
7 per kilogram of hydrogen, and

8 “(ii) not less than 1.5 kilograms of  
9 CO<sub>2</sub>e per kilogram of hydrogen,

10 the applicable percentage shall be 25 percent.

11 “(C) In the case of any qualified clean hy-  
12 drogen which is produced through a process  
13 that results in a lifecycle greenhouse gas emis-  
14 sions rate of—

15 “(i) less than 1.5 kilograms of CO<sub>2</sub>e  
16 per kilogram of hydrogen, and

17 “(ii) not less than 0.45 kilograms of  
18 CO<sub>2</sub>e per kilogram of hydrogen,

19 the applicable percentage shall be 33.4 percent.

20 “(D) In the case of any qualified clean hy-  
21 drogen which is produced through a process  
22 that results in a lifecycle greenhouse gas emis-  
23 sions rate of less than 0.45 kilograms of CO<sub>2</sub>e  
24 per kilogram of hydrogen, the applicable per-  
25 centage shall be 100 percent.

1           “(3) INFLATION ADJUSTMENT.—The \$0.60  
2 amount in paragraph (1) shall be adjusted by multi-  
3 plying such amount by the inflation adjustment fac-  
4 tor (as determined under section 45(e)(2), deter-  
5 mined by substituting ‘2022’ for ‘1992’ in subpara-  
6 graph (B) thereof) for the calendar year in which  
7 the qualified clean hydrogen is produced. If any  
8 amount as increased under the preceding sentence is  
9 not a multiple of 0.1 cent, such amount shall be  
10 rounded to the nearest multiple of 0.1 cent.

11           “(c) DEFINITIONS.—For purposes of this section—

12           “(1) LIFECYCLE GREENHOUSE GAS EMIS-  
13 SIONS.—

14           “(A) IN GENERAL.—Subject to subpara-  
15 graph (B), the term ‘lifecycle greenhouse gas  
16 emissions’ has the same meaning given such  
17 term under subparagraph (H) of section  
18 211(o)(1) of the Clean Air Act (42 U.S.C.  
19 7545(o)(1)), as in effect on the date of enact-  
20 ment of this section.

21           “(B) GREET MODEL.—The term ‘lifecycle  
22 greenhouse gas emissions’ shall only include  
23 emissions through the point of production (well-  
24 to-gate), as determined under the most recent  
25 Greenhouse gases, Regulated Emissions, and

1 Energy use in Transportation model (commonly  
2 referred to as the ‘GREET model’) developed  
3 by Argonne National Laboratory, or a successor  
4 model (as determined by the Secretary).

5 “(2) QUALIFIED CLEAN HYDROGEN.—

6 “(A) IN GENERAL.—The term ‘qualified  
7 clean hydrogen’ means hydrogen which is pro-  
8 duced through a process that results in a  
9 lifecycle greenhouse gas emissions rate of not  
10 greater than 4 kilograms of CO<sub>2</sub>e per kilogram  
11 of hydrogen.

12 “(B) ADDITIONAL REQUIREMENTS.—Such  
13 term shall not include any hydrogen unless—

14 “(i) such hydrogen is produced—

15 “(I) in the United States (as de-  
16 fined in section 638(1)) or a posses-  
17 sion of the United States (as defined  
18 in section 638(2)),

19 “(II) in the ordinary course of a  
20 trade or business of the taxpayer, and

21 “(III) for sale or use, and

22 “(ii) the production and sale or use of  
23 such hydrogen is verified by an unrelated  
24 party.

1           “(C) PROVISIONAL EMISSIONS RATE.—In  
2           the case of any hydrogen for which a lifecycle  
3           greenhouse gas emissions rate has not been de-  
4           termined for purposes of this section, a tax-  
5           payer producing such hydrogen may file a peti-  
6           tion with the Secretary for determination of the  
7           lifecycle greenhouse gas emissions rate with re-  
8           spect to such hydrogen.

9           “(3) QUALIFIED CLEAN HYDROGEN PRODUC-  
10          TION FACILITY.—The term ‘qualified clean hydrogen  
11          production facility’ means a facility—

12                   “(A) owned by the taxpayer,

13                   “(B) which produces qualified clean hydro-  
14                   gen, and

15                   “(C) the construction of which begins be-  
16                   fore January 1, 2033.

17          “(d) SPECIAL RULES.—

18                   “(1) TREATMENT OF FACILITIES OWNED BY  
19                   MORE THAN 1 TAXPAYER.—Rules similar to the  
20                   rules section 45(e)(3) shall apply for purposes of  
21                   this section.

22                   “(2) COORDINATION WITH CREDIT FOR CARBON  
23                   OXIDE SEQUESTRATION.—No credit shall be allowed  
24                   under this section with respect to any qualified clean  
25                   hydrogen produced at a facility which includes car-

1 bon capture equipment for which a credit is allowed  
2 to any taxpayer under section 45Q for the taxable  
3 year or any prior taxable year.

4 “(e) INCREASED CREDIT AMOUNT FOR QUALIFIED  
5 CLEAN HYDROGEN PRODUCTION FACILITIES.—

6 “(1) IN GENERAL.—In the case of any qualified  
7 clean hydrogen production facility which satisfies the  
8 requirements of paragraph (2), the amount of the  
9 credit determined under subsection (a) with respect  
10 to qualified clean hydrogen described in subsection  
11 (b)(2) shall be equal to such amount (determined  
12 without regard to this sentence) multiplied by 5.

13 “(2) REQUIREMENTS.—A facility meets the re-  
14 quirements of this paragraph if it is one of the fol-  
15 lowing:

16 “(A) A facility—

17 “(i) the construction of which begins  
18 prior to the date that is 60 days after the  
19 Secretary publishes guidance with respect  
20 to the requirements of paragraphs (3)(A)  
21 and (4), and

22 “(ii) which meets the requirements of  
23 paragraph (3)(A) with respect to alteration  
24 or repair of such facility which occurs after  
25 such date.

1           “(B) A facility which satisfies the require-  
2           ments of paragraphs (3)(A) and (4).

3           “(3) PREVAILING WAGE REQUIREMENTS.—

4           “(A) IN GENERAL.—The requirements de-  
5           scribed in this subparagraph with respect to  
6           any qualified clean hydrogen production facility  
7           are that the taxpayer shall ensure that any la-  
8           borers and mechanics employed by the taxpayer  
9           or any contractor or subcontractor in—

10                   “(i) the construction of such facility,

11                   and

12                   “(ii) with respect to any taxable year,  
13                   for any portion of such taxable year which  
14                   is within the period described in subsection  
15                   (a)(2), the alteration or repair of such fa-  
16                   cility,

17           shall be paid wages at rates not less than the  
18           prevailing rates for construction, alteration, or  
19           repair of a similar character in the locality in  
20           which such facility is located as most recently  
21           determined by the Secretary of Labor, in ac-  
22           cordance with subchapter IV of chapter 31 of  
23           title 40, United States Code. For purposes of  
24           determining an increased credit amount under  
25           paragraph (1) for a taxable year, the require-



1           ment under clause (ii) of this subparagraph is  
2           applied to such taxable year in which the alter-  
3           ation or repair of qualified facility occurs.

4           “(B) CORRECTION AND PENALTY RELATED  
5           TO FAILURE TO SATISFY WAGE REQUIRE-  
6           MENTS.—Rules similar to the rules of section  
7           45(b)(7)(B) shall apply.

8           “(4) APPRENTICESHIP REQUIREMENTS.—Rules  
9           similar to the rules of section 45(b)(8) shall apply.

10           “(5) REGULATIONS AND GUIDANCE.—The Sec-  
11           retary shall issue such regulations or other guidance  
12           as the Secretary determines necessary to carry out  
13           the purposes of this subsection, including regulations  
14           or other guidance which provides for requirements  
15           for recordkeeping or information reporting for pur-  
16           poses of administering the requirements of this sub-  
17           section.

18           “(f) REGULATIONS.—Not later than 1 year after the  
19           date of enactment of this section, the Secretary shall issue  
20           regulations or other guidance to carry out the purposes  
21           of this section, including regulations or other guidance for  
22           determining lifecycle greenhouse gas emissions.”.

23           (2) CREDIT REDUCED FOR TAX-EXEMPT  
24           BONDS.—Section 45V(d), as added by this section,

1 is amended by adding at the end the following new  
2 paragraph:

3 “(3) CREDIT REDUCED FOR TAX-EXEMPT  
4 BONDS.—Rules similar to the rule under section  
5 45(b)(3) shall apply for purposes of this section.”.

6 (3) MODIFICATION OF EXISTING FACILITIES.—  
7 Section 45V(d), as added and amended by the pre-  
8 ceding provisions of this section, is amended by add-  
9 ing at the end the following new paragraph:

10 “(4) MODIFICATION OF EXISTING FACILI-  
11 TIES.—For purposes of subsection (a)(1), in the  
12 case of any facility which—

13 “(A) was originally placed in service before  
14 January 1, 2023, and, prior to the modification  
15 described in subparagraph (B), did not produce  
16 qualified clean hydrogen, and

17 “(B) after the date such facility was origi-  
18 nally placed in service—

19 “(i) is modified to produce qualified  
20 clean hydrogen, and

21 “(ii) amounts paid or incurred with  
22 respect to such modification are properly  
23 chargeable to capital account of the tax-  
24 payer,

1 such facility shall be deemed to have been originally  
2 placed in service as of the date that the property re-  
3 quired to complete the modification described in sub-  
4 paragraph (B) is placed in service.”.

5 (4) CONFORMING AMENDMENTS.—

6 (A) Section 38(b), as amended by the pre-  
7 ceding provisions of this Act, is amended—

8 (i) in paragraph (34), by striking  
9 “plus” at the end,

10 (ii) in paragraph (35), by striking the  
11 period at the end and inserting “, plus”,  
12 and

13 (iii) by adding at the end the fol-  
14 lowing new paragraph:

15 “(36) the clean hydrogen production credit de-  
16 termined under section 45V(a).”.

17 (B) The table of sections for subpart D of  
18 part IV of subchapter A of chapter 1, as  
19 amended by the preceding provisions of this  
20 Act, is amended by adding at the end the fol-  
21 lowing new item:

“Sec. 45V. Credit for production of clean hydrogen.”.

22 (5) EFFECTIVE DATES.—

23 (A) IN GENERAL.—The amendments made  
24 by paragraphs (1) and (4) of this subsection

1 shall apply to hydrogen produced after Decem-  
2 ber 31, 2022.

3 (B) CREDIT REDUCED FOR TAX-EXEMPT  
4 BONDS.—The amendment made by paragraph  
5 (2) shall apply to facilities the construction of  
6 which begins after the date of enactment of this  
7 Act.

8 (C) MODIFICATION OF EXISTING FACILI-  
9 TIES.—The amendment made by paragraph (3)  
10 shall apply to modifications made after Decem-  
11 ber 31, 2022.

12 (b) CREDIT FOR ELECTRICITY PRODUCED FROM RE-  
13 NEWABLE RESOURCES ALLOWED IF ELECTRICITY IS  
14 USED TO PRODUCE CLEAN HYDROGEN.—

15 (1) IN GENERAL.—Section 45(e), as amended  
16 by the preceding provisions of this Act, is amended  
17 by adding at the end the following new paragraph:

18 “(13) SPECIAL RULE FOR ELECTRICITY USED  
19 AT A QUALIFIED CLEAN HYDROGEN PRODUCTION  
20 FACILITY.—Electricity produced by the taxpayer  
21 shall be treated as sold by such taxpayer to an unre-  
22 lated person during the taxable year if—

23 “(A) such electricity is used during such  
24 taxable year by the taxpayer or a person related  
25 to the taxpayer at a qualified clean hydrogen

1 production facility (as defined in section  
2 45V(c)(3)) to produce qualified clean hydrogen  
3 (as defined in section 45V(c)(2)), and

4 “(B) such use and production is verified  
5 (in such form or manner as the Secretary may  
6 prescribe) by an unrelated third party.”.

7 (2) SIMILAR RULE FOR ZERO-EMISSION NU-  
8 CLEAR POWER PRODUCTION CREDIT.—Subsection  
9 (c)(2) of section 45U, as added by section 13105 of  
10 this Act, is amended by striking “and (5)” and in-  
11 serting “(5), and (13)”.

12 (3) EFFECTIVE DATE.—The amendments made  
13 by this subsection shall apply to electricity produced  
14 after December 31, 2022.

15 (c) ELECTION TO TREAT CLEAN HYDROGEN PRO-  
16 Duction FACILITIES AS ENERGY PROPERTY.—

17 (1) IN GENERAL.—Section 48(a), as amended  
18 by the preceding provisions of this Act, is amend-  
19 ed—

20 (A) by redesignating paragraph (15) as  
21 paragraph (16), and

22 (B) by inserting after paragraph (14) the  
23 following new paragraph:

24 “(15) ELECTION TO TREAT CLEAN HYDROGEN  
25 PRODUCTION FACILITIES AS ENERGY PROPERTY.—

1           “(A) IN GENERAL.—In the case of any  
2 qualified property (as defined in paragraph  
3 (5)(D)) which is part of a specified clean hydro-  
4 gen production facility—

5           “(i) such property shall be treated as  
6 energy property for purposes of this sec-  
7 tion, and

8           “(ii) the energy percentage with re-  
9 spect to such property is—

10           “(I) in the case of a facility  
11 which is designed and reasonably ex-  
12 pected to produce qualified clean hy-  
13 drogen which is described in a sub-  
14 paragraph (A) of section 45V(b)(2),  
15 1.2 percent,

16           “(II) in the case of a facility  
17 which is designed and reasonably ex-  
18 pected to produce qualified clean hy-  
19 drogen which is described in a sub-  
20 paragraph (B) of such section, 1.5  
21 percent,

22           “(III) in the case of a facility  
23 which is designed and reasonably ex-  
24 pected to produce qualified clean hy-  
25 drogen which is described in a sub-

1 paragraph (C) of such section, 2 per-  
2 cent, and

3 “(IV) in the case of a facility  
4 which is designed and reasonably ex-  
5 pected to produce qualified clean hy-  
6 drogen which is described in subpara-  
7 graph (D) of such section, 6 percent.

8 “(B) DENIAL OF PRODUCTION CREDIT.—  
9 No credit shall be allowed under section 45V or  
10 section 45Q for any taxable year with respect to  
11 any specified clean hydrogen production facility  
12 or any carbon capture equipment included at  
13 such facility.

14 “(C) SPECIFIED CLEAN HYDROGEN PRO-  
15 Duction FACILITY.—For purposes of this para-  
16 graph, the term ‘specified clean hydrogen pro-  
17 duction facility’ means any qualified clean hy-  
18 drogen production facility (as defined in section  
19 45V(c)(3))—

20 “(i) which is placed in service after  
21 December 31, 2022,

22 “(ii) with respect to which—

23 “(I) no credit has been allowed  
24 under section 45V or 45Q, and

1                   “(II) the taxpayer makes an ir-  
2                   revocable election to have this para-  
3                   graph apply, and

4                   “(iii) for which an unrelated third  
5                   party has verified (in such form or manner  
6                   as the Secretary may prescribe) that such  
7                   facility produces hydrogen through a proc-  
8                   ess which results in lifecycle greenhouse  
9                   gas emissions which are consistent with the  
10                  hydrogen that such facility was designed  
11                  and expected to produce under subpara-  
12                  graph (A)(ii).

13                  “(D) QUALIFIED CLEAN HYDROGEN.—For  
14                  purposes of this paragraph, the term ‘qualified  
15                  clean hydrogen’ has the meaning given such  
16                  term by section 45V(c)(2).

17                  “(E) REGULATIONS.—The Secretary shall  
18                  issue such regulations or other guidance as the  
19                  Secretary determines necessary to carry out the  
20                  purposes of this section, including regulations  
21                  or other guidance which recaptures so much of  
22                  any credit allowed under this section as exceeds  
23                  the amount of the credit which would have been  
24                  allowed if the expected production were con-  
25                  sistent with the actual verified production (or



1 all of the credit so allowed in the absence of  
2 such verification).”.

3 (2) CONFORMING AMENDMENT.—Paragraph  
4 (9)(A)(i) of section 48(a), as added by section  
5 13102, is amended by inserting “and paragraph  
6 (15)” after “paragraphs (1) through (8)”.

7 (3) EFFECTIVE DATE.—The amendments made  
8 by this subsection shall apply to property placed in  
9 service after December 31, 2022, and, for any prop-  
10 erty the construction of which begins prior to Janu-  
11 ary 1, 2023, only to the extent of the basis thereof  
12 attributable to the construction, reconstruction, or  
13 erection after December 31, 2022.

14 (d) TERMINATION OF EXCISE TAX CREDIT FOR HY-  
15 DROGEN.—

16 (1) IN GENERAL.—Section 6426(d)(2) is  
17 amended by striking subparagraph (D) and by re-  
18 designating subparagraphs (E), (F), and (G) as sub-  
19 paragraphs (D), (E), and (F), respectively.

20 (2) CONFORMING AMENDMENT.—Section  
21 6426(e)(2) is amended by striking “(F)” and insert-  
22 ing “(E)”.

23 (3) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to fuel sold or used  
25 after December 31, 2022.

1           **PART 3—CLEAN ENERGY AND EFFICIENCY**  
2                           **INCENTIVES FOR INDIVIDUALS**  
3   **SEC. 13301. EXTENSION, INCREASE, AND MODIFICATIONS**  
4                           **OF NONBUSINESS ENERGY PROPERTY CRED-**  
5                           **IT.**

6           (a) **EXTENSION OF CREDIT.**—Section 25C(g)(2) is  
7 amended by striking “December 31, 2021” and inserting  
8 “December 31, 2032”.

9           (b) **ALLOWANCE OF CREDIT.**—Section 25C(a) is  
10 amended to read as follows:

11           “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-  
12 dividual, there shall be allowed as a credit against the tax  
13 imposed by this chapter for the taxable year an amount  
14 equal to 30 percent of the sum of—

15                       “(1) the amount paid or incurred by the tax-  
16 payer for qualified energy efficiency improvements  
17 installed during such taxable year, and

18                       “(2) the amount of the residential energy prop-  
19 erty expenditures paid or incurred by the taxpayer  
20 during such taxable year.”.

21           (c) **APPLICATION OF ANNUAL LIMITATION IN LIEU**  
22 **OF LIFETIME LIMITATION.**—Section 25C(b) is amended  
23 to read as follows:

24           “(b) **LIMITATIONS.**—

1           “(1) IN GENERAL.—The credit allowed under  
2 this section with respect to any taxpayer for any tax-  
3 able year shall not exceed \$1,200.

4           “(2) ENERGY PROPERTY.—The credit allowed  
5 under this section by reason of subsection (a)(2)  
6 with respect to any taxpayer for any taxable year  
7 shall not exceed, with respect to any item of quali-  
8 fied energy property, \$600.

9           “(3) WINDOWS.—The credit allowed under this  
10 section by reason of subsection (a)(1) with respect to  
11 any taxpayer for any taxable year shall not exceed,  
12 in the aggregate with respect to all exterior windows  
13 and skylights, \$600.

14           “(4) DOORS.—The credit allowed under this  
15 section by reason of subsection (a)(1) with respect to  
16 any taxpayer for any taxable year shall not exceed—

17                   “(A) \$250 in the case of any exterior door,  
18           and

19                   “(B) \$500 in the aggregate with respect to  
20 all exterior doors.

21           “(5) HEAT PUMP AND HEAT PUMP WATER  
22 HEATERS; BIOMASS STOVES AND BOILERS.—Not-  
23 withstanding paragraphs (1) and (2), the credit al-  
24 lowed under this section by reason of subsection  
25 (a)(2) with respect to any taxpayer for any taxable

1 year shall not, in the aggregate, exceed \$2,000 with  
2 respect to amounts paid or incurred for property de-  
3 scribed in clauses (i) and (ii) of subsection (d)(2)(A)  
4 and in subsection (d)(2)(B).”.

5 (d) MODIFICATIONS RELATED TO QUALIFIED EN-  
6 ERGY EFFICIENCY IMPROVEMENTS.—

7 (1) STANDARDS FOR ENERGY EFFICIENT  
8 BUILDING ENVELOPE COMPONENTS.—Section  
9 25C(e)(2) is amended by striking “meets—” and all  
10 that follows through the period at the end and in-  
11 sserting the following: “meets—

12 “(A) in the case of an exterior window or  
13 skylight, Energy Star most efficient certifi-  
14 cation requirements,

15 “(B) in the case of an exterior door, appli-  
16 cable Energy Star requirements, and

17 “(C) in the case of any other component,  
18 the prescriptive criteria for such component es-  
19 tablished by the most recent International En-  
20 ergy Conservation Code standard in effect as of  
21 the beginning of the calendar year which is 2  
22 years prior to the calendar year in which such  
23 component is placed in service.”.

24 (2) ROOFS NOT TREATED AS BUILDING ENVE-  
25 LOPE COMPONENTS.—Section 25C(e)(3) is amended

1 by adding “and” at the end of subparagraph (B), by  
2 striking “, and” at the end of subparagraph (C) and  
3 inserting a period, and by striking subparagraph  
4 (D).

5 (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”.

10 (e) MODIFICATION OF RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—Section 25C(d) is amended to  
11 read as follows:  
12

13 “(d) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—For purposes of this section—

15 “(1) IN GENERAL.—The term ‘residential energy property expenditures’ means expenditures  
16 made by the taxpayer for qualified energy property  
17 which is—  
18

19 “(A) installed on or in connection with a  
20 dwelling unit located in the United States and  
21 used as a residence by the taxpayer, and

22 “(B) originally placed in service by the taxpayer.  
23

1       Such term includes expenditures for labor costs  
2       properly allocable to the onsite preparation, assem-  
3       bly, or original installation of the property.

4           “(2) QUALIFIED ENERGY PROPERTY.—The  
5       term ‘qualified energy property’ means any of the  
6       following:

7           “(A) Any of the following which meet or  
8       exceed the highest efficiency tier (not including  
9       any advanced tier) established by the Consor-  
10      tium for Energy Efficiency which is in effect as  
11      of the beginning of the calendar year in which  
12      the property is placed in service:

13           “(i) An electric or natural gas heat  
14      pump water heater.

15           “(ii) An electric or natural gas heat  
16      pump.

17           “(iii) A central air conditioner.

18           “(iv) A natural gas, propane, or oil  
19      water heater.

20           “(v) A natural gas, propane, or oil  
21      furnace or hot water boiler.

22           “(B) A biomass stove or boiler which—

23           “(i) uses the burning of biomass fuel  
24      to heat a dwelling unit located in the  
25      United States and used as a residence by

1 the taxpayer, or to heat water for use in  
2 such a dwelling unit, and

3 “(ii) has a thermal efficiency rating of  
4 at least 75 percent (measured by the high-  
5 er heating value of the fuel).

6 “(C) Any oil furnace or hot water boiler  
7 which—

8 “(i) is placed in service after Decem-  
9 ber 31, 2022, and before January 1, 2027,  
10 and—

11 “(I) meets or exceeds 2021 En-  
12 ergy Star efficiency criteria, and

13 “(II) is rated by the manufac-  
14 turer for use with fuel blends at least  
15 20 percent of the volume of which  
16 consists of an eligible fuel, or

17 “(ii) is placed in service after Decem-  
18 ber 31, 2026, and—

19 “(I) achieves an annual fuel utili-  
20 zation efficiency rate of not less than  
21 90, and

22 “(II) is rated by the manufac-  
23 turer for use with fuel blends at least  
24 50 percent of the volume of which  
25 consists of an eligible fuel.

1           “(D) Any improvement to, or replacement  
2 of, a panelboard, sub-panelboard, branch cir-  
3 cuits, or feeders which—

4           “(i) is installed in a manner con-  
5 sistent with the National Electric Code,

6           “(ii) has a load capacity of not less  
7 than 200 amps,

8           “(iii) is installed in conjunction  
9 with—

10           “(I) any qualified energy effi-  
11 ciency improvements, or

12           “(II) any qualified energy prop-  
13 erty described in subparagraphs (A)  
14 through (C) for which a credit is al-  
15 lowed under this section for expendi-  
16 tures with respect to such property,  
17 and

18           “(iv) enables the installation and use  
19 of any property described in subclause (I)  
20 or (II) of clause (iii).

21           “(3) ELIGIBLE FUEL.—For purposes of para-  
22 graph (2), the term ‘eligible fuel’ means—

23           “(A) biodiesel and renewable diesel (within  
24 the meaning of section 40A), and



1                   “(B) second generation biofuel (within the  
2                   meaning of section 40).”.

3           (f) HOME ENERGY AUDITS.—

4                   (1) IN GENERAL.—Section 25C(a), as amended  
5                   by subsection (b), is amended by striking “and” at  
6                   the end of paragraph (1), by striking the period at  
7                   the end of paragraph (2) and inserting “, and”, and  
8                   by adding at the end the following new paragraph:

9                   “(3) the amount paid or incurred by the tax-  
10                  payer during the taxable year for home energy au-  
11                  dits.”.

12                  (2) LIMITATION.—Section 25C(b), as amended  
13                  by subsection (c), is amended adding at the end the  
14                  following new paragraph:

15                  “(6) HOME ENERGY AUDITS.—

16                          “(A) DOLLAR LIMITATION.—The amount  
17                          of the credit allowed under this section by rea-  
18                          son of subsection (a)(3) shall not exceed \$150.

19                          “(B) SUBSTANTIATION REQUIREMENT.—  
20                          No credit shall be allowed under this section by  
21                          reason of subsection (a)(3) unless the taxpayer  
22                          includes with the taxpayer’s return of tax such  
23                          information or documentation as the Secretary  
24                          may require.”.

25                  (3) HOME ENERGY AUDITS.—

1           (A) IN GENERAL.—Section 25C is amend-  
2           ed by redesignating subsections (e), (f), and (g),  
3           as subsections (f), (g), and (h), respectively,  
4           and by inserting after subsection (d) the fol-  
5           lowing new subsection:

6           “(e) HOME ENERGY AUDITS.—For purposes of this  
7           section, the term ‘home energy audit’ means an inspection  
8           and written report with respect to a dwelling unit located  
9           in the United States and owned or used by the taxpayer  
10          as the taxpayer’s principal residence (within the meaning  
11          of section 121) which—

12           “(1) identifies the most significant and cost-ef-  
13          fective energy efficiency improvements with respect  
14          to such dwelling unit, including an estimate of the  
15          energy and cost savings with respect to each such  
16          improvement, and

17           “(2) is conducted and prepared by a home en-  
18          ergy auditor that meets the certification or other re-  
19          quirements specified by the Secretary in regulations  
20          or other guidance (as prescribed by the Secretary  
21          not later than 365 days after the date of the enact-  
22          ment of this subsection).”.

23           (B) CONFORMING AMENDMENT.—Section  
24          1016(a)(33) is amended by striking “section  
25          25C(f)” and inserting “section 25C(g)”.

1           (4) LACK OF SUBSTANTIATION TREATED AS  
2 MATHEMATICAL OR CLERICAL ERROR.—Section  
3 6213(g)(2) is amended—

4           (A) in subparagraph (P), by striking  
5 “and” at the end,

6           (B) in subparagraph (Q), by striking the  
7 period at the end and inserting “, and”, and

8           (C) by inserting after subparagraph (Q)  
9 the following:

10           “(R) an omission of information or docu-  
11 mentation required under section 25C(b)(6)(B)  
12 (relating to home energy audits) to be included  
13 on a return.”.

14 (g) IDENTIFICATION NUMBER REQUIREMENT.—

15           (1) IN GENERAL.—Section 25C, as amended by  
16 this section, is amended by redesignating subsection  
17 (h) as subsection (i) and by inserting after sub-  
18 section (g) the following new subsection:

19           “(h) PRODUCT IDENTIFICATION NUMBER REQUIRE-  
20 MENT.—

21           “(1) IN GENERAL.—No credit shall be allowed  
22 under subsection (a) with respect to any item of  
23 specified property placed in service after December  
24 31, 2024, unless—

1           “(A) such item is produced by a qualified  
2 manufacturer, and

3           “(B) the taxpayer includes the qualified  
4 product identification number of such item on  
5 the return of tax for the taxable year.

6           “(2) QUALIFIED PRODUCT IDENTIFICATION  
7 NUMBER.—For purposes of this section, the term  
8 ‘qualified product identification number’ means, with  
9 respect to any item of specified property, the prod-  
10 uct identification number assigned to such item by  
11 the qualified manufacturer pursuant to the method-  
12 ology referred to in paragraph (3).

13           “(3) QUALIFIED MANUFACTURER.—For pur-  
14 poses of this section, the term ‘qualified manufac-  
15 turer’ means any manufacturer of specified property  
16 which enters into an agreement with the Secretary  
17 which provides that such manufacturer will—

18           “(A) assign a product identification num-  
19 ber to each item of specified property produced  
20 by such manufacturer utilizing a methodology  
21 that will ensure that such number (including  
22 any alphanumeric) is unique to each such item  
23 (by utilizing numbers or letters which are  
24 unique to such manufacturer or by such other  
25 method as the Secretary may provide),

1           “(B) label such item with such number in  
2           such manner as the Secretary may provide, and

3           “(C) make periodic written reports to the  
4           Secretary (at such times and in such manner as  
5           the Secretary may provide) of the product iden-  
6           tification numbers so assigned and including  
7           such information as the Secretary may require  
8           with respect to the item of specified property to  
9           which such number was so assigned.

10           “(4) SPECIFIED PROPERTY.—For purposes of  
11           this subsection, the term ‘specified property’ means  
12           any qualified energy property and any property de-  
13           scribed in subparagraph (B) or (C) of subsection  
14           (c)(3).”.

15           (2) OMISSION OF CORRECT PRODUCT IDENTI-  
16           FICATION NUMBER TREATED AS MATHEMATICAL OR  
17           CLERICAL ERROR.—Section 6213(g)(2), as amended  
18           by the preceding provisions of this Act, is amend-  
19           ed—

20           (A) in subparagraph (Q), by striking  
21           “and” at the end,

22           (B) in subparagraph (R), by striking the  
23           period at the end and inserting “, and”, and

24           (C) by inserting after subparagraph (R)  
25           the following:

1                   “(S) an omission of a correct product iden-  
2                   tification number required under section 25C(h)  
3                   (relating to credit for nonbusiness energy prop-  
4                   erty) to be included on a return.”.

5           (h) ENERGY EFFICIENT HOME IMPROVEMENT  
6 CREDIT.—

7           (1) IN GENERAL.—The heading for section 25C  
8           is amended by striking “**NONBUSINESS ENERGY**  
9           **PROPERTY**” and inserting “**ENERGY EFFICIENT**  
10           **HOME IMPROVEMENT CREDIT**”.

11           (2) CLERICAL AMENDMENT.—The table of sec-  
12           tions for subpart A of part IV of subchapter A of  
13           chapter 1 is amended by striking the item relating  
14           to section 25C and inserting after the item relating  
15           to section 25B the following item:

“Sec. 25C. Energy efficient home improvement credit.”.

16           (i) EFFECTIVE DATES.—

17           (1) IN GENERAL.—Except as otherwise pro-  
18           vided by this subsection, the amendments made by  
19           this section shall apply to property placed in service  
20           after December 31, 2022.

21           (2) EXTENSION OF CREDIT.—The amendments  
22           made by subsection (a) shall apply to property  
23           placed in service after December 31, 2021.

24           (3) IDENTIFICATION NUMBER REQUIREMENT.—  
25           The amendments made by subsection (g) shall apply

1 to property placed in service after December 31,  
2 2024.

3 **SEC. 13302. RESIDENTIAL CLEAN ENERGY CREDIT.**

4 (a) EXTENSION OF CREDIT.—

5 (1) IN GENERAL.—Section 25D(h) is amended  
6 by striking “December 31, 2023” and inserting  
7 “December 31, 2034”.

8 (2) APPLICATION OF PHASEOUT.—Section  
9 25D(g) is amended—

10 (A) in paragraph (2), by striking “before  
11 January 1, 2023, 26 percent, and” and insert-  
12 ing “before January 1, 2022, 26 percent,” and

13 (B) by striking paragraph (3) and by in-  
14 serting after paragraph (2) the following new  
15 paragraphs:

16 “(3) in the case of property placed in service  
17 after December 31, 2021, and before January 1,  
18 2033, 30 percent,

19 “(4) in the case of property placed in service  
20 after December 31, 2032, and before January 1,  
21 2034, 26 percent, and

22 “(5) in the case of property placed in service  
23 after December 31, 2033, and before January 1,  
24 2035, 22 percent.”.

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1 (b) RESIDENTIAL CLEAN ENERGY CREDIT FOR BAT-  
2 TERY STORAGE TECHNOLOGY; CERTAIN EXPENDITURES  
3 DISALLOWED.—

4 (1) ALLOWANCE OF CREDIT.—Paragraph (6) of  
5 section 25D(a) is amended to read as follows:

6 “(6) the qualified battery storage technology ex-  
7 penditures.”.

8 (2) DEFINITION OF QUALIFIED BATTERY STOR-  
9 AGE TECHNOLOGY EXPENDITURE.—Paragraph (6)  
10 of section 25D(d) is amended to read as follows:

11 “(6) QUALIFIED BATTERY STORAGE TECH-  
12 NOLOGY EXPENDITURE.—The term ‘qualified bat-  
13 tery storage technology expenditure’ means an ex-  
14 penditure for battery storage technology which—

15 “(A) is installed in connection with a  
16 dwelling unit located in the United States and  
17 used as a residence by the taxpayer, and

18 “(B) has a capacity of not less than 3 kilo-  
19 watt hours.”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 25D(d)(3) is amended by inserting  
22 “, without regard to subparagraph (D) thereof”  
23 after “section 48(c)(1)”.



1           (2) The heading for section 25D is amended by  
2 striking “**ENERGY EFFICIENT PROPERTY**” and  
3 inserting “**CLEAN ENERGY CREDIT**”.

4           (3) The table of sections for subpart A of part  
5 IV of subchapter A of chapter 1 is amended by  
6 striking the item relating to section 25D and insert-  
7 ing the following:

“Sec. 25D. Residential clean energy credit.”.

8           (d) **EFFECTIVE DATES.**—

9           (1) **IN GENERAL.**—Except as provided in para-  
10 graph (2), the amendments made by this section  
11 shall apply to expenditures made after December 31,  
12 2021.

13           (2) **RESIDENTIAL CLEAN ENERGY CREDIT FOR**  
14 **BATTERY STORAGE TECHNOLOGY; CERTAIN EXPEND-**  
15 **ITURES DISALLOWED.**—The amendments made by  
16 subsection (b) shall apply to expenditures made after  
17 December 31, 2022.

18 **SEC. 13303. ENERGY EFFICIENT COMMERCIAL BUILDINGS**  
19 **DEDUCTION.**

20           (a) **IN GENERAL.**—

21           (1) **MAXIMUM AMOUNT OF DEDUCTION.**—Sub-  
22 section (b) of section 179D is amended to read as  
23 follows:

24           “(b) **MAXIMUM AMOUNT OF DEDUCTION.**—

1           “(1) IN GENERAL.—The deduction under sub-  
2           section (a) with respect to any building for any tax-  
3           able year shall not exceed the excess (if any) of—

4                   “(A) the product of—

5                           “(i) the applicable dollar value, and

6                           “(ii) the square footage of the build-  
7                   ing, over

8                   “(B) the aggregate amount of the deduc-  
9                   tions under subsections (a) and (f) with respect  
10                  to the building for the 3 taxable years imme-  
11                  diately preceding such taxable year (or, in the  
12                  case of any such deduction allowable to a per-  
13                  son other than the taxpayer, for any taxable  
14                  year ending during the 4-taxable-year period  
15                  ending with such taxable year).

16                  “(2) APPLICABLE DOLLAR VALUE.—For pur-  
17                  poses of paragraph (1)(A)(i), the applicable dollar  
18                  value shall be an amount equal to \$0.50 increased  
19                  (but not above \$1.00) by \$0.02 for each percentage  
20                  point by which the total annual energy and power  
21                  costs for the building are certified to be reduced by  
22                  a percentage greater than 25 percent.

23                  “(3) INCREASED DEDUCTION AMOUNT FOR  
24                  CERTAIN PROPERTY.—

1           “(A) IN GENERAL.—In the case of any  
2 property which satisfies the requirements of  
3 subparagraph (B), paragraph (2) shall be ap-  
4 plied by substituting ‘\$2.50’ for ‘\$0.50’, ‘\$.10’  
5 for ‘\$.02’, and ‘\$5.00’ for ‘\$1.00’.

6           “(B) PROPERTY REQUIREMENTS.—In the  
7 case of any energy efficient commercial building  
8 property, energy efficient building retrofit prop-  
9 erty, or property installed pursuant to a quali-  
10 fied retrofit plan, such property shall meet the  
11 requirements of this subparagraph if —

12           “(i) installation of such property be-  
13 gins prior to the date that is 60 days after  
14 the Secretary publishes guidance with re-  
15 spect to the requirements of paragraphs  
16 (4)(A) and (5), or

17           “(ii) installation of such property sat-  
18 isfies the requirements of paragraphs  
19 (4)(A) and (5).

20           “(4) PREVAILING WAGE REQUIREMENTS.—

21           “(A) IN GENERAL.—The requirements de-  
22 scribed in this subparagraph with respect to  
23 any property are that the taxpayer shall ensure  
24 that any laborers and mechanics employed by  
25 the taxpayer or any contractor or subcontractor

1 in the installation of any property shall be paid  
2 wages at rates not less than the prevailing rates  
3 for construction, alteration, or repair of a simi-  
4 lar character in the locality in which such prop-  
5 erty is located as most recently determined by  
6 the Secretary of Labor, in accordance with sub-  
7 chapter IV of chapter 31 of title 40, United  
8 States Code.

9 “(B) CORRECTION AND PENALTY RELATED  
10 TO FAILURE TO SATISFY WAGE REQUIRE-  
11 MENTS.—Rules similar to the rules of section  
12 45(b)(7)(B) shall apply.

13 “(5) APPRENTICESHIP REQUIREMENTS.—Rules  
14 similar to the rules of section 45(b)(8) shall apply.

15 “(6) REGULATIONS.—The Secretary shall issue  
16 such regulations or other guidance as the Secretary  
17 determines necessary to carry out the purposes of  
18 this subsection, including regulations or other guid-  
19 ance which provides for requirements for record-  
20 keeping or information reporting for purposes of ad-  
21 ministering the requirements of this subsection.”.

22 (2) MODIFICATION OF EFFICIENCY STAND-  
23 ARD.—Section 179D(c)(1)(D) is amended by strik-  
24 ing “50 percent” and inserting “25 percent”.

1           (3)       REFERENCE       STANDARD.—Section  
2       179D(c)(2) is amended by striking “the most re-  
3       cent” and inserting the following: “the more recent  
4       of—

5                   “(A) Standard 90.1-2007 published by the  
6       American Society of Heating, Refrigerating,  
7       and Air Conditioning Engineers and the Illu-  
8       minating Engineering Society of North Amer-  
9       ica, or

10                   “(B) the most recent”.

11           (4) FINAL DETERMINATION; EXTENSION OF PE-  
12       RIOD; PLACED IN SERVICE DEADLINE.—Subpara-  
13       graph (B) of section 179D(c)(2), as amended by  
14       paragraph (3), is amended—

15                   (A) by inserting “for which the Depart-  
16       ment of Energy has issued a final determina-  
17       tion and” before “which has been affirmed”,

18                   (B) by striking “2 years” and inserting “4  
19       years”, and

20                   (C) by striking “that construction of such  
21       property begins” and inserting “such property  
22       is placed in service”.

23           (5) ELIMINATION OF PARTIAL ALLOWANCE.—

24                   (A) IN GENERAL.—Section 179D(d) is  
25       amended—

- 1 (i) by striking paragraph (1), and  
2 (ii) by redesignating paragraphs (2)  
3 through (6) as paragraphs (1) through (5),  
4 respectively.

5 (B) CONFORMING AMENDMENTS.—

- 6 (i) Section 179D(c)(1)(D) is amend-  
7 ed—

8 (I) by striking “subsection  
9 (d)(6)” and inserting “subsection  
10 (d)(5)”, and

11 (II) by striking “subsection  
12 (d)(2)” and inserting “subsection  
13 (d)(1)”.

14 (ii) Paragraph (2)(A) of section  
15 179D(d), as redesignated by subparagraph  
16 (A), is amended by striking “paragraph  
17 (2)” and inserting “paragraph (1)”.

18 (iii) Paragraph (4) of section  
19 179D(d), as redesignated by subparagraph  
20 (A), is amended by striking “paragraph  
21 (3)(B)(iii)” and inserting “paragraph  
22 (2)(B)(iii)”.

23 (iv) Section 179D is amended by  
24 striking subsection (f).

1 (v) Section 179D(h) is amended by  
2 striking “or (d)(1)(A)”.

3 (6) ALLOCATION OF DEDUCTION BY CERTAIN  
4 TAX-EXEMPT ENTITIES.—Paragraph (3) of section  
5 179D(d), as redesignated by paragraph (5)(A), is  
6 amended to read as follows:

7 “(3) ALLOCATION OF DEDUCTION BY CERTAIN  
8 TAX-EXEMPT ENTITIES.—

9 “(A) IN GENERAL.—In the case of energy  
10 efficient commercial building property installed  
11 on or in property owned by a specified tax-ex-  
12 empt entity, the Secretary shall promulgate reg-  
13 ulations or guidance to allow the allocation of  
14 the deduction to the person primarily respon-  
15 sible for designing the property in lieu of the  
16 owner of such property. Such person shall be  
17 treated as the taxpayer for purposes of this sec-  
18 tion.

19 “(B) SPECIFIED TAX-EXEMPT ENTITY.—  
20 For purposes of this paragraph, the term ‘spec-  
21 ified tax-exempt entity’ means—

22 “(i) the United States, any State or  
23 political subdivision thereof, any possession  
24 of the United States, or any agency or in-  
25 strumentality of any of the foregoing,

1                   “(ii) an Indian tribal government (as  
2                   defined in section 30D(g)(9)) or Alaska  
3                   Native Corporation (as defined in section 3  
4                   of the Alaska Native Claims Settlement  
5                   Act (43 U.S.C. 1602(m)), and

6                   “(iii) any organization exempt from  
7                   tax imposed by this chapter.”.

8                   (7) ALTERNATIVE DEDUCTION FOR ENERGY EF-  
9                   FICIENT BUILDING RETROFIT PROPERTY.—Section  
10                  179D, as amended by the preceding provisions of  
11                  this section, is amended by inserting after subsection  
12                  (e) the following new subsection:

13                  “(f) ALTERNATIVE DEDUCTION FOR ENERGY EFFI-  
14                  CIENT BUILDING RETROFIT PROPERTY.—

15                  “(1) IN GENERAL.—In the case of a taxpayer  
16                  which elects (at such time and in such manner as  
17                  the Secretary may provide) the application of this  
18                  subsection with respect to any qualified building,  
19                  there shall be allowed as a deduction for the taxable  
20                  year which includes the date of the qualifying final  
21                  certification with respect to the qualified retrofit  
22                  plan of such building, an amount equal to the lesser  
23                  of—

24                  “(A) the excess described in subsection (b)  
25                  (determined by substituting ‘energy use inten-



1           sity’ for ‘total annual energy and power costs’  
2           in paragraph (2) thereof), or

3                   “(B) the aggregate adjusted basis (deter-  
4                   mined after taking into account all adjustments  
5                   with respect to such taxable year other than the  
6                   reduction under subsection (e)) of energy effi-  
7                   cient building retrofit property placed in service  
8                   by the taxpayer pursuant to such qualified ret-  
9                   rofit plan.

10                   “(2) QUALIFIED RETROFIT PLAN.—For pur-  
11                   poses of this subsection, the term ‘qualified retrofit  
12                   plan’ means a written plan prepared by a qualified  
13                   professional which specifies modifications to a build-  
14                   ing which, in the aggregate, are expected to reduce  
15                   such building’s energy use intensity by 25 percent or  
16                   more in comparison to the baseline energy use inten-  
17                   sity of such building. Such plan shall provide for a  
18                   qualified professional to—

19                           “(A) as of any date during the 1-year pe-  
20                           riod ending on the date on which the property  
21                           installed pursuant to such plan is placed in  
22                           service, certify the energy use intensity of such  
23                           building as of such date,

24                           “(B) certify the status of property installed  
25                           pursuant to such plan as meeting the require-

1           ments of subparagraphs (B) and (C) of para-  
2           graph (3), and

3           “(C) as of any date that is more than 1  
4           year after the date on which the property in-  
5           stalled pursuant to such plan is placed in serv-  
6           ice, certify the energy use intensity of such  
7           building as of such date.

8           “(3) ENERGY EFFICIENT BUILDING RETROFIT  
9           PROPERTY.—For purposes of this subsection, the  
10          term ‘energy efficient building retrofit property’  
11          means property—

12                 “(A) with respect to which depreciation (or  
13                 amortization in lieu of depreciation) is allow-  
14                 able,

15                 “(B) which is installed on or in any quali-  
16                 fied building,

17                 “(C) which is installed as part of—

18                         “(i) the interior lighting systems,

19                         “(ii) the heating, cooling, ventilation,  
20                         and hot water systems, or

21                         “(iii) the building envelope, and

22                 “(D) which is certified in accordance with  
23                 paragraph (2)(B) as meeting the requirements  
24                 of subparagraphs (B) and (C).

1           “(4) QUALIFIED BUILDING.—For purposes of  
2 this subsection, the term ‘qualified building’ means  
3 any building which—

4           “(A) is located in the United States, and

5           “(B) was originally placed in service not  
6 less than 5 years before the establishment of  
7 the qualified retrofit plan with respect to such  
8 building.

9           “(5) QUALIFYING FINAL CERTIFICATION.—For  
10 purposes of this subsection, the term ‘qualifying  
11 final certification’ means, with respect to any quali-  
12 fied retrofit plan, the certification described in para-  
13 graph (2)(C) if the energy use intensity certified in  
14 such certification is not more than 75 percent of the  
15 baseline energy use intensity of the building.

16           “(6) BASELINE ENERGY USE INTENSITY.—

17           “(A) IN GENERAL.—For purposes of this  
18 subsection, the term ‘baseline energy use inten-  
19 sity’ means the energy use intensity certified  
20 under paragraph (2)(A), as adjusted to take  
21 into account weather.

22           “(B) DETERMINATION OF ADJUSTMENT.—

23 For purposes of subparagraph (A), the adjust-  
24 ments described in such subparagraph shall be

1           determined in such manner as the Secretary  
2           may provide.

3           “(7) OTHER DEFINITIONS.—For purposes of  
4           this subsection—

5                   “(A) ENERGY USE INTENSITY.—The term  
6                   ‘energy use intensity’ means the annualized,  
7                   measured site energy use intensity determined  
8                   in accordance with such regulations or other  
9                   guidance as the Secretary may provide and  
10                  measured in British thermal units.

11                  “(B) QUALIFIED PROFESSIONAL.—The  
12                  term ‘qualified professional’ means an indi-  
13                  vidual who is a licensed architect or a licensed  
14                  engineer and meets such other requirements as  
15                  the Secretary may provide.

16                  “(8) COORDINATION WITH DEDUCTION OTHER-  
17                  WISE ALLOWED UNDER SUBSECTION (a).—

18                   “(A) IN GENERAL.—In the case of any  
19                   building with respect to which an election is  
20                   made under paragraph (1), the term ‘energy ef-  
21                   ficient commercial building property’ shall not  
22                   include any energy efficient building retrofit  
23                   property with respect to which a deduction is  
24                   allowable under this subsection.

25                   “(B) CERTAIN RULES NOT APPLICABLE.—

1                   “(i) IN GENERAL.—Except as pro-  
2                   vided in clause (ii), subsection (d) shall not  
3                   apply for purposes of this subsection.

4                   “(ii) ALLOCATION OF DEDUCTION BY  
5                   CERTAIN TAX-EXEMPT ENTITIES.—Rules  
6                   similar to subsection (d)(3) shall apply for  
7                   purposes of this subsection.”.

8                   (8) INFLATION ADJUSTMENT.—Section  
9                   179D(g) is amended—

10                   (A) by striking “2020” and inserting  
11                   “2022”,

12                   (B) by striking “or subsection (d)(1)(A)”,  
13                   and

14                   (C) by striking “2019” and inserting  
15                   “2021”.

16                   (b) APPLICATION TO REAL ESTATE INVESTMENT  
17 TRUST EARNINGS AND PROFITS.—Section 312(k)(3)(B)  
18 is amended—

19                   (1) by striking “For purposes of computing the  
20 earnings and profits of a corporation” and inserting  
21 the following:

22                   “(i) IN GENERAL.—For purposes of  
23 computing the earnings and profits of a  
24 corporation, except as provided in clause  
25 (ii)”, and

1           (2) by adding at the end the following new  
2       clause:

3                       “(ii) SPECIAL RULE.—In the case of a  
4                       corporation that is a real estate investment  
5                       trust, any amount deductible under section  
6                       179D shall be allowed in the year in which  
7                       the property giving rise to such deduction  
8                       is placed in service (or, in the case of en-  
9                       ergy efficient building retrofit property, the  
10                      year in which the qualifying final certifi-  
11                      cation is made).”.

12       (c) CONFORMING AMENDMENT.—Paragraph (1) of  
13       section 179D(d), as redesignated by subsection (a)(5)(A),  
14       is amended by striking “not later than the date that is  
15       2 years before the date that construction of such property  
16       begins” and inserting “not later than the date that is 4  
17       years before the date such property is placed in service”.

18       (d) EFFECTIVE DATE.—

19                      (1) IN GENERAL.—Except as otherwise pro-  
20                      vided in this subsection, the amendments made by  
21                      this section shall apply to taxable years beginning  
22                      after December 31, 2022.

23                      (2) ALTERNATIVE DEDUCTION FOR ENERGY EF-  
24                      FICIENT BUILDING RETROFIT PROPERTY.—Sub-  
25                      section (f) of section 179D of the Internal Revenue

1 Code of 1986 (as amended by this section), and any  
2 other provision of such section solely for purposes of  
3 applying such subsection, shall apply to property  
4 placed in service after December 31, 2022 (in tax-  
5 able years ending after such date) if such property  
6 is placed in service pursuant to qualified retrofit  
7 plan (within the meaning of such section) estab-  
8 lished after such date.

9 **SEC. 13304. EXTENSION, INCREASE, AND MODIFICATIONS**  
10 **OF NEW ENERGY EFFICIENT HOME CREDIT.**

11 (a) EXTENSION OF CREDIT.—Section 45L(g) is  
12 amended by striking “December 31, 2021” and inserting  
13 “December 31, 2032”.

14 (b) INCREASE IN CREDIT AMOUNTS.—Paragraph (2)  
15 of section 45L(a) is amended to read as follows:

16 “(2) APPLICABLE AMOUNT.—For purposes of  
17 paragraph (1), the applicable amount is an amount  
18 equal to—

19 “(A) in the case of a dwelling unit which  
20 is eligible to participate in the Energy Star  
21 Residential New Construction Program or the  
22 Energy Star Manufactured New Homes pro-  
23 gram—

24 “(i) which meets the requirements of  
25 subsection (c)(1)(A) (and which does not

1 meet the requirements of subsection  
2 (c)(1)(B)), \$2,500, and

3 “(ii) which meets the requirements of  
4 subsection (c)(1)(B), \$5,000, and

5 “(B) in the case of a dwelling unit which  
6 is part of a building eligible to participate in  
7 the Energy Star Multifamily New Construction  
8 Program—

9 “(i) which meets the requirements of  
10 subsection (c)(1)(A) (and which does not  
11 meet the requirements of subsection  
12 (c)(1)(B)), \$500, and

13 “(ii) which meets the requirements of  
14 subsection (c)(1)(B), \$1,000.”.

15 (c) MODIFICATION OF ENERGY SAVING REQUIRE-  
16 MENTS.—Section 45L(c) is amended to read as follows:

17 “(c) ENERGY SAVING REQUIREMENTS.—

18 “(1) IN GENERAL.—

19 “(A) IN GENERAL.—A dwelling unit meets  
20 the requirements of this subparagraph if such  
21 dwelling unit meets the requirements of para-  
22 graph (2) or (3) (whichever is applicable).

23 “(B) ZERO ENERGY READY HOME PRO-  
24 GRAM.—A dwelling unit meets the requirements  
25 of this subparagraph if such dwelling unit is



1 certified as a zero energy ready home under the  
2 zero energy ready home program of the Depart-  
3 ment of Energy as in effect on January 1, 2023  
4 (or any successor program determined by the  
5 Secretary).

6 “(2) SINGLE-FAMILY HOME REQUIREMENTS.—  
7 A dwelling unit meets the requirements of this para-  
8 graph if—

9 “(A) such dwelling unit meets—

10 “(i)(I) in the case of a dwelling unit  
11 acquired before January 1, 2025, the En-  
12 ergy Star Single-Family New Homes Na-  
13 tional Program Requirements 3.1, or

14 “(II) in the case of a dwelling unit ac-  
15 quired after December 31, 2024, the En-  
16 ergy Star Single-Family New Homes Na-  
17 tional Program Requirements 3.2, and

18 “(ii) the most recent Energy Star Sin-  
19 gle-Family New Homes Program Require-  
20 ments applicable to the location of such  
21 dwelling unit (as in effect on the latter of  
22 January 1, 2023, or January 1 of two cal-  
23 endar years prior to the date the dwelling  
24 unit was acquired), or

1           “(B) such dwelling unit meets the most re-  
2           cent Energy Star Manufactured Home National  
3           program requirements as in effect on the latter  
4           of January 1, 2023, or January 1 of two cal-  
5           endar years prior to the date such dwelling unit  
6           is acquired.

7           “(3) MULTI-FAMILY HOME REQUIREMENTS.—A  
8           dwelling unit meets the requirements of this para-  
9           graph if—

10           “(A) such dwelling unit meets the most re-  
11           cent Energy Star Multifamily New Construction  
12           National Program Requirements (as in effect  
13           on either January 1, 2023, or January 1 of  
14           three calendar years prior to the date the dwell-  
15           ing was acquired, whichever is later), and

16           “(B) such dwelling unit meets the most re-  
17           cent Energy Star Multifamily New Construction  
18           Regional Program Requirements applicable to  
19           the location of such dwelling unit (as in effect  
20           on either January 1, 2023, or January 1 of  
21           three calendar years prior to the date the dwell-  
22           ing was acquired, whichever is later).”.

23           (d) PREVAILING WAGE REQUIREMENT.—Section  
24           45L is amended by redesignating subsection (g) as sub-

1 section (h) and by inserting after subsection (f) the fol-  
2 lowing new subsection:

3 “(g) PREVAILING WAGE REQUIREMENT.—

4 “(1) IN GENERAL.—In the case of a qualifying  
5 residence described in subsection (a)(2)(B) meeting  
6 the prevailing wage requirements of paragraph  
7 (2)(A), the credit amount allowed with respect to  
8 such residence shall be—

9 “(A) \$2,500 in the case of a residence  
10 which meets the requirements of subparagraph  
11 (A) of subsection (c)(1) (and which does not  
12 meet the requirements of subparagraph (B) of  
13 such subsection), and

14 “(B) \$5,000 in the case of a residence  
15 which meets the requirements of subsection  
16 (c)(1)(B).

17 “(2) PREVAILING WAGE REQUIREMENTS.—

18 “(A) IN GENERAL.—The requirements de-  
19 scribed in this subparagraph with respect to  
20 any qualified residence are that the taxpayer  
21 shall ensure that any laborers and mechanics  
22 employed by the taxpayer or any contractor or  
23 subcontractor in the construction of such resi-  
24 dence shall be paid wages at rates not less than  
25 the prevailing rates for construction, alteration,

1 or repair of a similar character in the locality  
2 in which such residence is located as most re-  
3 cently determined by the Secretary of Labor, in  
4 accordance with subchapter IV of chapter 31 of  
5 title 40, United States Code.

6 “(B) CORRECTION AND PENALTY RELATED  
7 TO FAILURE TO SATISFY WAGE REQUIRE-  
8 MENTS.—Rules similar to the rules of section  
9 45(b)(7)(B) shall apply.

10 “(3) REGULATIONS AND GUIDANCE.—The Sec-  
11 retary shall issue such regulations or other guidance  
12 as the Secretary determines necessary to carry out  
13 the purposes of this subsection, including regulations  
14 or other guidance which provides for requirements  
15 for recordkeeping or information reporting for pur-  
16 poses of administering the requirements of this sub-  
17 section.”.

18 (e) BASIS ADJUSTMENT.—Section 45L(e) is amended  
19 by inserting after the first sentence the following: “This  
20 subsection shall not apply for purposes of determining the  
21 adjusted basis of any building under section 42.”.

22 (f) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as provided in para-  
24 graph (2), the amendments made by this section

1 shall apply to dwelling units acquired after Decem-  
2 ber 31, 2022.

3 (2) EXTENSION OF CREDIT.—The amendments  
4 made by subsection (a) shall apply to dwelling units  
5 acquired after December 31, 2021.

6 **PART 4—CLEAN VEHICLES**

7 **SEC. 13401. CLEAN VEHICLE CREDIT.**

8 (a) PER VEHICLE DOLLAR LIMITATION.—Section  
9 30D(b) is amended by striking paragraphs (2) and (3) and  
10 inserting the following:

11 “(2) CRITICAL MINERALS.—In the case of a ve-  
12 hicle with respect to which the requirement de-  
13 scribed in subsection (e)(1)(A) is satisfied, the  
14 amount determined under this paragraph is \$3,750.

15 “(3) BATTERY COMPONENTS.—In the case of a  
16 vehicle with respect to which the requirement de-  
17 scribed in subsection (e)(2)(A) is satisfied, the  
18 amount determined under this paragraph is  
19 \$3,750.”.

20 (b) FINAL ASSEMBLY.—Section 30D(d) is amend-  
21 ed—

22 (1) in paragraph (1)—

23 (A) in subparagraph (E), by striking  
24 “and” at the end,

1 (B) in subparagraph (F)(ii), by striking  
2 the period at the end and inserting “, and”,  
3 and

4 (C) by adding at the end the following:

5 “(G) the final assembly of which occurs  
6 within North America.”,

7 (2) by adding at the end the following:

8 “(5) FINAL ASSEMBLY.—For purposes of para-  
9 graph (1)(G), the term ‘final assembly’ means the  
10 process by which a manufacturer produces a new  
11 clean vehicle at, or through the use of, a plant, fac-  
12 tory, or other place from which the vehicle is deliv-  
13 ered to a dealer or importer with all component  
14 parts necessary for the mechanical operation of the  
15 vehicle included with the vehicle, whether or not the  
16 component parts are permanently installed in or on  
17 the vehicle.”.

18 (c) DEFINITION OF NEW CLEAN VEHICLE.—

19 (1) IN GENERAL.—Section 30D(d), as amended  
20 by the preceding provisions of this section, is amend-  
21 ed—

22 (A) in the heading, by striking “QUALI-  
23 FIED PLUG-IN ELECTRIC DRIVE MOTOR” and  
24 inserting “CLEAN”,

25 (B) in paragraph (1)—

1 (i) in the matter preceding subpara-  
2 graph (A), by striking “qualified plug-in  
3 electric drive motor” and inserting  
4 “clean”,

5 (ii) in subparagraph (C), by inserting  
6 “qualified” before “manufacturer”,

7 (iii) in subparagraph (F)—

8 (I) in clause (i), by striking “4”  
9 and inserting “7”, and

10 (II) in clause (ii), by striking  
11 “and” at the end,

12 (iv) in subparagraph (G), by striking  
13 the period at the end and inserting “,  
14 and”, and

15 (v) by adding at the end the following:

16 “(H) for which the person who sells any  
17 vehicle to the taxpayer furnishes a report to the  
18 taxpayer and to the Secretary, at such time and  
19 in such manner as the Secretary shall provide,  
20 containing—

21 “(i) the name and taxpayer identifica-  
22 tion number of the taxpayer,

23 “(ii) the vehicle identification number  
24 of the vehicle, unless, in accordance with  
25 any applicable rules promulgated by the

1 Secretary of Transportation, the vehicle is  
2 not assigned such a number,

3 “(iii) the battery capacity of the vehi-  
4 cle,

5 “(iv) verification that original use of  
6 the vehicle commences with the taxpayer,  
7 and

8 “(v) the maximum credit under this  
9 section allowable to the taxpayer with re-  
10 spect to the vehicle.”,

11 (C) in paragraph (3)—

12 (i) in the heading, by striking “MANU-  
13 FACTURER” and inserting “QUALIFIED  
14 MANUFACTURER”,

15 (ii) by striking “The term ‘manufac-  
16 turer’ has the meaning given such term in”  
17 and inserting “The term ‘qualified manu-  
18 facturer’ means any manufacturer (within  
19 the meaning of the”, and

20 (iii) by inserting “) which enters into  
21 a written agreement with the Secretary  
22 under which such manufacturer agrees to  
23 make periodic written reports to the Sec-  
24 retary (at such times and in such manner  
25 as the Secretary may provide) providing



1 vehicle identification numbers and such  
2 other information related to each vehicle  
3 manufactured by such manufacturer as the  
4 Secretary may require” before the period  
5 at the end, and

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

7 “(6) NEW QUALIFIED FUEL CELL MOTOR VEHI-  
8 CLE.—For purposes of this section, the term ‘new  
9 clean vehicle’ shall include any new qualified fuel cell  
10 motor vehicle (as defined in section 30B(b)(3))  
11 which meets the requirements under subparagraphs  
12 (G) and (H) of paragraph (1).”.

13 (2) CONFORMING AMENDMENTS.—Section 30D  
14 is amended—

15 (A) in subsection (a), by striking “new  
16 qualified plug-in electric drive motor vehicle”  
17 and inserting “new clean vehicle”, and

18 (B) in subsection (b)(1), by striking “new  
19 qualified plug-in electric drive motor vehicle”  
20 and inserting “new clean vehicle”.

21 (d) ELIMINATION OF LIMITATION ON NUMBER OF  
22 VEHICLES ELIGIBLE FOR CREDIT.—Section 30D is  
23 amended by striking subsection (e).

24 (e) CRITICAL MINERAL AND BATTERY COMPONENT  
25 REQUIREMENTS.—

1           (1) IN GENERAL.—Section 30D, as amended by  
2           the preceding provisions of this section, is amended  
3           by inserting after subsection (d) the following:

4           “(e) CRITICAL MINERAL AND BATTERY COMPONENT  
5           REQUIREMENTS.—

6           “(1) CRITICAL MINERALS REQUIREMENT.—

7           “(A) IN GENERAL.—The requirement de-  
8           scribed in this subparagraph with respect to a  
9           vehicle is that, with respect to the battery from  
10          which the electric motor of such vehicle draws  
11          electricity, the percentage of the value of the  
12          applicable critical minerals (as defined in sec-  
13          tion 45X(c)(6)) contained in such battery that  
14          were—

15                   “(i) extracted or processed—

16                           “(I) in the United States, or

17                           “(II) in any country with which  
18                   the United States has a free trade  
19                   agreement in effect, or

20                   “(ii) recycled in North America,

21           is equal to or greater than the applicable per-  
22           centage (as certified by the qualified manufac-  
23           turer, in such form or manner as prescribed by  
24           the Secretary).

1           “(B) APPLICABLE PERCENTAGE.—For  
2 purposes of subparagraph (A), the applicable  
3 percentage shall be—

4           “(i) in the case of a vehicle placed in  
5 service after the date on which the pro-  
6 posed guidance described in paragraph  
7 (3)(B) is issued by the Secretary and be-  
8 fore January 1, 2024, 40 percent,

9           “(ii) in the case of a vehicle placed in  
10 service during calendar year 2024, 50 per-  
11 cent,

12           “(iii) in the case of a vehicle placed in  
13 service during calendar year 2025, 60 per-  
14 cent,

15           “(iv) in the case of a vehicle placed in  
16 service during calendar year 2026, 70 per-  
17 cent, and

18           “(v) in the case of a vehicle placed in  
19 service after December 31, 2026, 80 per-  
20 cent.

21           “(2) BATTERY COMPONENTS.—

22           “(A) IN GENERAL.—The requirement de-  
23 scribed in this subparagraph with respect to a  
24 vehicle is that, with respect to the battery from  
25 which the electric motor of such vehicle draws

1 electricity, the percentage of the value of the  
2 components contained in such battery that were  
3 manufactured or assembled in North America is  
4 equal to or greater than the applicable percent-  
5 age (as certified by the qualified manufacturer,  
6 in such form or manner as prescribed by the  
7 Secretary).

8 “(B) APPLICABLE PERCENTAGE.—For  
9 purposes of subparagraph (A), the applicable  
10 percentage shall be—

11 “(i) in the case of a vehicle placed in  
12 service after the date on which the pro-  
13 posed guidance described in paragraph  
14 (3)(B) is issued by the Secretary and be-  
15 fore January 1, 2024, 50 percent,

16 “(ii) in the case of a vehicle placed in  
17 service during calendar year 2024 or 2025,  
18 60 percent,

19 “(iii) in the case of a vehicle placed in  
20 service during calendar year 2026, 70 per-  
21 cent,

22 “(iv) in the case of a vehicle placed in  
23 service during calendar year 2027, 80 per-  
24 cent,

1                   “(v) in the case of a vehicle placed in  
2                   service during calendar year 2028, 90 per-  
3                   cent,

4                   “(vi) in the case of a vehicle placed in  
5                   service after December 31, 2028, 100 per-  
6                   cent.

7                   “(3) REGULATIONS AND GUIDANCE.—

8                   “(A) IN GENERAL.—The Secretary shall  
9                   issue such regulations or other guidance as the  
10                  Secretary determines necessary to carry out the  
11                  purposes of this subsection, including regula-  
12                  tions or other guidance which provides for re-  
13                  quirements for recordkeeping or information re-  
14                  porting for purposes of administering the re-  
15                  quirements of this subsection.

16                  “(B) DEADLINE FOR PROPOSED GUID-  
17                  ANCE.—Not later than December 31, 2022, the  
18                  Secretary shall issue proposed guidance with re-  
19                  spect to the requirements under this sub-  
20                  section.”.

21                  “(2) EXCLUDED ENTITIES.—Section 30D(d), as  
22                  amended by the preceding provisions of this section,  
23                  is amended by adding at the end the following:

1           “(7) EXCLUDED ENTITIES.—For purposes of  
2 this section, the term ‘new clean vehicle’ shall not in-  
3 clude—

4                   “(A) any vehicle placed in service after De-  
5 cember 31, 2024, with respect to which any of  
6 the applicable critical minerals contained in the  
7 battery of such vehicle (as described in sub-  
8 section (e)(1)(A)) were extracted, processed, or  
9 recycled by a foreign entity of concern (as de-  
10 fined in section 40207(a)(5) of the Infrastruc-  
11 ture Investment and Jobs Act (42 U.S.C.  
12 18741(a)(5))), or

13                   “(B) any vehicle placed in service after De-  
14 cember 31, 2023, with respect to which any of  
15 the components contained in the battery of such  
16 vehicle (as described in subsection (e)(2)(A))  
17 were manufactured or assembled by a foreign  
18 entity of concern (as so defined).”.

19           (f) SPECIAL RULES.—Section 30D(f) is amended by  
20 adding at the end the following:

21                   “(8) ONE CREDIT PER VEHICLE.—In the case  
22 of any vehicle, the credit described in subsection (a)  
23 shall only be allowed once with respect to such vehi-  
24 cle, as determined based upon the vehicle identifica-  
25 tion number of such vehicle.

1           “(9) VIN REQUIREMENT.—No credit shall be  
2           allowed under this section with respect to any vehicle  
3           unless the taxpayer includes the vehicle identification  
4           number of such vehicle on the return of tax for the  
5           taxable year.

6           “(10) LIMITATION BASED ON MODIFIED AD-  
7           JUSTED GROSS INCOME.—

8                   “(A) IN GENERAL.—No credit shall be al-  
9                   lowed under subsection (a) for any taxable year  
10                  if—

11                           “(i) the lesser of—

12                                   “(I) the modified adjusted gross  
13                                   income of the taxpayer for such tax-  
14                                   able year, or

15                                   “(II) the modified adjusted gross  
16                                   income of the taxpayer for the pre-  
17                                   ceding taxable year, exceeds

18                           “(ii) the threshold amount.

19                   “(B) THRESHOLD AMOUNT.—For purposes  
20                   of subparagraph (A)(ii), the threshold amount  
21                   shall be—

22                           “(i) in the case of a joint return or a  
23                           surviving spouse (as defined in section  
24                           2(a)), \$300,000,

1                   “(ii) in the case of a head of house-  
2                   hold (as defined in section 2(b)),  
3                   \$225,000, and

4                   “(iii) in the case of a taxpayer not de-  
5                   scribed in clause (i) or (ii), \$150,000.

6                   “(C) MODIFIED ADJUSTED GROSS IN-  
7                   COME.—For purposes of this paragraph, the  
8                   term ‘modified adjusted gross income’ means  
9                   adjusted gross income increased by any amount  
10                  excluded from gross income under section 911,  
11                  931, or 933.

12                  “(11) MANUFACTURER’S SUGGESTED RETAIL  
13                  PRICE LIMITATION.—

14                   “(A) IN GENERAL.—No credit shall be al-  
15                   lowed under subsection (a) for a vehicle with a  
16                   manufacturer’s suggested retail price in excess  
17                   of the applicable limitation.

18                   “(B) APPLICABLE LIMITATION.—For pur-  
19                   poses of subparagraph (A), the applicable limi-  
20                   tation for each vehicle classification is as fol-  
21                   lows:

22                   “(i) VANS.—In the case of a van,  
23                   \$80,000.

24                   “(ii) SPORT UTILITY VEHICLES.—In  
25                   the case of a sport utility vehicle, \$80,000.



1                   “(iii) PICKUP TRUCKS.—In the case of  
2                   a pickup truck, \$80,000.

3                   “(iv) OTHER.—In the case of any  
4                   other vehicle, \$55,000.

5                   “(C) REGULATIONS AND GUIDANCE.—For  
6                   purposes of this paragraph, the Secretary shall  
7                   prescribe such regulations or other guidance as  
8                   the Secretary determines necessary for deter-  
9                   mining vehicle classifications using criteria  
10                  similar to that employed by the Environmental  
11                  Protection Agency and the Department of the  
12                  Energy to determine size and class of vehi-  
13                  cles.”.

14                  (g) TRANSFER OF CREDIT.—

15                  (1) IN GENERAL.—Section 30D is amended by  
16                  striking subsection (g) and inserting the following:

17                  “(g) TRANSFER OF CREDIT.—

18                  “(1) IN GENERAL.—Subject to such regulations  
19                  or other guidance as the Secretary determines nec-  
20                  essary, if the taxpayer who acquires a new clean ve-  
21                  hicle elects the application of this subsection with re-  
22                  spect to such vehicle, the credit which would (but for  
23                  this subsection) be allowed to such taxpayer with re-  
24                  spect to such vehicle shall be allowed to the eligible

1       entity specified in such election (and not to such tax-  
2       payer).

3               “(2) ELIGIBLE ENTITY.—For purposes of this  
4       subsection, the term ‘eligible entity’ means, with re-  
5       spect to the vehicle for which the credit is allowed  
6       under subsection (a), the dealer which sold such ve-  
7       hicle to the taxpayer and has—

8               “(A) subject to paragraph (4), registered  
9       with the Secretary for purposes of this para-  
10      graph, at such time, and in such form and  
11      manner, as the Secretary may prescribe,

12              “(B) prior to the election described in  
13      paragraph (1) and not later than at the time of  
14      such sale, disclosed to the taxpayer purchasing  
15      such vehicle—

16              “(i) the manufacturer’s suggested re-  
17      tail price,

18              “(ii) the value of the credit allowed  
19      and any other incentive available for the  
20      purchase of such vehicle, and

21              “(iii) the amount provided by the  
22      dealer to such taxpayer as a condition of  
23      the election described in paragraph (1),

24              “(C) not later than at the time of such  
25      sale, made payment to such taxpayer (whether

1 in cash or in the form of a partial payment or  
2 down payment for the purchase of such vehicle)  
3 in an amount equal to the credit otherwise al-  
4 lowable to such taxpayer, and

5 “(D) with respect to any incentive other-  
6 wise available for the purchase of a vehicle for  
7 which a credit is allowed under this section, in-  
8 cluding any incentive in the form of a rebate or  
9 discount provided by the dealer or manufac-  
10 turer, ensured that—

11 “(i) the availability or use of such in-  
12 centive shall not limit the ability of a tax-  
13 payer to make an election described in  
14 paragraph (1), and

15 “(ii) such election shall not limit the  
16 value or use of such incentive.

17 “(3) TIMING.—An election described in para-  
18 graph (1) shall be made by the taxpayer not later  
19 than the date on which the vehicle for which the  
20 credit is allowed under subsection (a) is purchased.

21 “(4) REVOCATION OF REGISTRATION.—Upon  
22 determination by the Secretary that a dealer has  
23 failed to comply with the requirements described in  
24 paragraph (2), the Secretary may revoke the reg-

1       istration (as described in subparagraph (A) of such  
2       paragraph) of such dealer.

3           “(5) TAX TREATMENT OF PAYMENTS.—With  
4       respect to any payment described in paragraph  
5       (2)(C), such payment—

6           “(A) shall not be includible in the gross in-  
7       come of the taxpayer, and

8           “(B) with respect to the dealer, shall not  
9       be deductible under this title.

10          “(6) APPLICATION OF CERTAIN OTHER RE-  
11       QUIREMENTS.—In the case of any election under  
12       paragraph (1) with respect to any vehicle—

13           “(A) the requirements of paragraphs (1)  
14       and (2) of subsection (f) shall apply to the tax-  
15       payer who acquired the vehicle in the same  
16       manner as if the credit determined under this  
17       section with respect to such vehicle were al-  
18       lowed to such taxpayer,

19           “(B) paragraph (6) of such subsection  
20       shall not apply, and

21           “(C) the requirement of paragraph (9) of  
22       such subsection (f) shall be treated as satisfied  
23       if the eligible entity provides the vehicle identi-  
24       fication number of such vehicle to the Secretary  
25       in such manner as the Secretary may provide.

1           “(7) ADVANCE PAYMENT TO REGISTERED  
2 DEALERS.—

3           “(A) IN GENERAL.—The Secretary shall  
4 establish a program to make advance payments  
5 to any eligible entity in an amount equal to the  
6 cumulative amount of the credits allowed under  
7 subsection (a) with respect to any vehicles sold  
8 by such entity for which an election described  
9 in paragraph (1) has been made.

10           “(B) EXCESSIVE PAYMENTS.—Rules simi-  
11 lar to the rules of section 6417(d)(6) shall  
12 apply for purposes of this paragraph.

13           “(C) TREATMENT OF ADVANCE PAY-  
14 MENTS.—For purposes of section 1324 of title  
15 31, United States Code, the payments under  
16 subparagraph (A) shall be treated in the same  
17 manner as a refund due from a credit provision  
18 referred to in subsection (b)(2) of such section.

19           “(8) DEALER.—For purposes of this sub-  
20 section, the term ‘dealer’ means a person licensed by  
21 a State, the District of Columbia, the Common-  
22 wealth of Puerto Rico, any other territory or posses-  
23 sion of the United States, an Indian tribal govern-  
24 ment, or any Alaska Native Corporation (as defined  
25 in section 3 of the Alaska Native Claims Settlement

1 Act (43 U.S.C. 1602(m)) to engage in the sale of ve-  
2 hicles.

3 “(9) INDIAN TRIBAL GOVERNMENT.—For pur-  
4 poses of this subsection, the term ‘Indian tribal gov-  
5 ernment’ means the recognized governing body of  
6 any Indian or Alaska Native tribe, band, nation,  
7 pueblo, village, community, component band, or com-  
8 ponent reservation, individually identified (including  
9 parenthetically) in the list published most recently as  
10 of the date of enactment of this subsection pursuant  
11 to section 104 of the Federally Recognized Indian  
12 Tribe List Act of 1994 (25 U.S.C. 5131).

13 “(10) RECAPTURE.—In the case of any tax-  
14 payer who has made an election described in para-  
15 graph (1) with respect to a new clean vehicle and re-  
16 ceived a payment described in paragraph (2)(C)  
17 from an eligible entity, if the credit under subsection  
18 (a) would otherwise (but for this subsection) not be  
19 allowable to such taxpayer pursuant to the applica-  
20 tion of subsection (f)(10), the tax imposed on such  
21 taxpayer under this chapter for the taxable year in  
22 which such vehicle was placed in service shall be in-  
23 creased by the amount of the payment received by  
24 such taxpayer.”.

1           (2) CONFORMING AMENDMENTS.—Section 30D,  
2           as amended by the preceding provisions of this sec-  
3           tion, is amended—

4                   (A) in subsection (d)(1)(H) of such sec-  
5           tion—

6                           (i) in clause (iv), by striking “and” at  
7           the end,

8                           (ii) in clause (v), by striking the pe-  
9           riod at the end and inserting “, and”, and

10                          (iii) by adding at the end the fol-  
11           lowing:

12                           “(vi) in the case of a taxpayer who  
13           makes an election under subsection (g)(1),  
14           any amount described in subsection  
15           (g)(2)(C) which has been provided to such  
16           taxpayer.”, and

17                          (B) in subsection (f)—

18                           (i) by striking paragraph (3), and

19                           (ii) in paragraph (8), by inserting “,  
20           including any vehicle with respect to which  
21           the taxpayer elects the application of sub-  
22           section (g)” before the period at the end.

23           (h) TERMINATION.—Section 30D is amended by add-  
24           ing at the end the following:

1       “(h) TERMINATION.—No credit shall be allowed  
2 under this section with respect to any vehicle placed in  
3 service after December 31, 2032.”.

4       (i) ADDITIONAL CONFORMING AMENDMENTS.—

5           (1) The heading of section 30D is amended by  
6 striking “**NEW QUALIFIED PLUG-IN ELECTRIC**  
7 **DRIVE MOTOR VEHICLES**” and inserting “**CLEAN**  
8 **VEHICLE CREDIT**”.

9           (2) Section 30B is amended—

10           (A) in subsection (h)(8), by striking “, ex-  
11 cept that no benefit shall be recaptured if such  
12 property ceases to be eligible for such credit by  
13 reason of conversion to a qualified plug-in elec-  
14 tric drive motor vehicle”, and

15           (B) by striking subsection (i).

16           (3) Section 38(b)(30) is amended by striking  
17 “qualified plug-in electric drive motor” and inserting  
18 “clean”.

19           (4) Section 6213(g)(2), as amended by the pre-  
20 ceding provisions of this Act, is amended—

21           (A) in subparagraph (R), by striking  
22 “and” at the end,

23           (B) in subparagraph (S), by striking the  
24 period at the end and inserting “, and”, and



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1 (C) by inserting after subparagraph (S)  
2 the following:

3 “(T) an omission of a correct vehicle iden-  
4 tification number required under section  
5 30D(f)(9) (relating to credit for new clean vehi-  
6 cles) to be included on a return.”.

7 (5) Section 6501(m) is amended by striking  
8 “30D(e)(4)” and inserting “30D(f)(6)”.

9 (6) The table of sections for subpart B of part  
10 IV of subchapter A of chapter 1 is amended by  
11 striking the item relating to section 30D and insert-  
12 ing after the item relating to section 30C the fol-  
13 lowing item:

“Sec. 30D. Clean vehicle credit.”.

14 (j) GROSS-UP OF DIRECT SPENDING.—Beginning in  
15 fiscal year 2023 and each fiscal year thereafter, the por-  
16 tion of any credit allowed to an eligible entity (as defined  
17 in section 30D(g)(2) of the Internal Revenue Code of  
18 1986) pursuant to an election made under section 30D(g)  
19 of the Internal Revenue Code of 1986 that is direct spend-  
20 ing shall be increased by 6.0445 percent.

21 (k) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graphs (2), (3), (4), and (5), the amendments made  
24 by this section shall apply to vehicles placed in serv-  
25 ice after December 31, 2022.

1           (2) FINAL ASSEMBLY.—The amendments made  
2           by subsection (b) shall apply to vehicles sold after  
3           the date of enactment of this Act.

4           (3) PER VEHICLE DOLLAR LIMITATION AND RE-  
5           LATED REQUIREMENTS.—The amendments made by  
6           subsections (a) and (e) shall apply to vehicles placed  
7           in service after the date on which the proposed guid-  
8           ance described in paragraph (3)(B) of section  
9           30D(e) of the Internal Revenue Code of 1986 (as  
10          added by subsection (e)) is issued by the Secretary  
11          of the Treasury (or the Secretary’s delegate).

12          (4) TRANSFER OF CREDIT.—The amendments  
13          made by subsection (g) shall apply to vehicles placed  
14          in service after December 31, 2023.

15          (5) ELIMINATION OF MANUFACTURER LIMITA-  
16          TION.—The amendment made by subsection (d)  
17          shall apply to vehicles sold after December 31, 2022.

18          (1) TRANSITION RULE.—Solely for purposes of the  
19          application of section 30D of the Internal Revenue Code  
20          of 1986, in the case of a taxpayer that—

21                 (1) after December 31, 2021, and before the  
22                 date of enactment of this Act, purchased, or entered  
23                 into a written binding contract to purchase, a new  
24                 qualified plug-in electric drive motor vehicle (as de-  
25                 fined in section 30D(d)(1) of the Internal Revenue

1 Code of 1986, as in effect on the day before the date  
2 of enactment of this Act), and

3 (2) placed such vehicle in service on or after the  
4 date of enactment of this Act,

5 such taxpayer may elect (at such time, and in such form  
6 and manner, as the Secretary of the Treasury, or the Sec-  
7 retary's delegate, may prescribe) to treat such vehicle as  
8 having been placed in service on the day before the date  
9 of enactment of this Act.

10 **SEC. 13402. CREDIT FOR PREVIOUSLY-OWNED CLEAN VEHI-**  
11 **CLES.**

12 (a) IN GENERAL.—Subpart A of part IV of sub-  
13 chapter A of chapter 1 is amended by inserting after sec-  
14 tion 25D the following new section:

15 **“SEC. 25E. PREVIOUSLY-OWNED CLEAN VEHICLES.**

16 “(a) ALLOWANCE OF CREDIT.—In the case of a  
17 qualified buyer who during a taxable year places in service  
18 a previously-owned clean vehicle, there shall be allowed as  
19 a credit against the tax imposed by this chapter for the  
20 taxable year an amount equal to the lesser of—

21 “(1) \$4,000, or

22 “(2) the amount equal to 30 percent of the sale  
23 price with respect to such vehicle.

24 “(b) LIMITATION BASED ON MODIFIED ADJUSTED  
25 GROSS INCOME.—

1           “(1) IN GENERAL.—No credit shall be allowed  
2 under subsection (a) for any taxable year if—

3           “(A) the lesser of—

4                   “(i) the modified adjusted gross in-  
5 come of the taxpayer for such taxable year,  
6 or

7                   “(ii) the modified adjusted gross in-  
8 come of the taxpayer for the preceding tax-  
9 able year, exceeds

10           “(B) the threshold amount.

11           “(2) THRESHOLD AMOUNT.—For purposes of  
12 paragraph (1)(B), the threshold amount shall be—

13           “(A) in the case of a joint return or a sur-  
14 viving spouse (as defined in section 2(a)),  
15 \$150,000,

16           “(B) in the case of a head of household (as  
17 defined in section 2(b)), \$112,500, and

18           “(C) in the case of a taxpayer not de-  
19 scribed in subparagraph (A) or (B), \$75,000.

20           “(3) MODIFIED ADJUSTED GROSS INCOME.—

21 For purposes of this subsection, the term ‘modified  
22 adjusted gross income’ means adjusted gross income  
23 increased by any amount excluded from gross in-  
24 come under section 911, 931, or 933.

25           “(c) DEFINITIONS.—For purposes of this section—

1           “(1) PREVIOUSLY-OWNED CLEAN VEHICLE.—

2           The term ‘previously-owned clean vehicle’ means,  
3           with respect to a taxpayer, a motor vehicle—

4                   “(A) the model year of which is at least 2  
5                   years earlier than the calendar year in which  
6                   the taxpayer acquires such vehicle,

7                   “(B) the original use of which commences  
8                   with a person other than the taxpayer,

9                   “(C) which is acquired by the taxpayer in  
10                  a qualified sale, and

11                  “(D) which—

12                           “(i) meets the requirements of sub-  
13                           paragraphs (C), (D), (E), (F), and (H)  
14                           (except for clause (iv) thereof) of section  
15                           30D(d)(1), or

16                           “(ii) is a motor vehicle which—

17                                   “(I) satisfies the requirements  
18                                   under subparagraphs (A) and (B) of  
19                                   section 30B(b)(3), and

20                                   “(II) has a gross vehicle weight  
21                                   rating of less than 14,000 pounds.

22           “(2) QUALIFIED SALE.—The term ‘qualified  
23           sale’ means a sale of a motor vehicle—

24                   “(A) by a dealer (as defined in section  
25                   30D(g)(8)),

1           “(B) for a sale price which does not exceed  
2           \$25,000, and

3           “(C) which is the first transfer since the  
4           date of the enactment of this section to a quali-  
5           fied buyer other than the person with whom the  
6           original use of such vehicle commenced.

7           “(3) QUALIFIED BUYER.—The term ‘qualified  
8           buyer’ means, with respect to a sale of a motor vehi-  
9           cle, a taxpayer—

10           “(A) who is an individual,

11           “(B) who purchases such vehicle for use  
12           and not for resale,

13           “(C) with respect to whom no deduction is  
14           allowable with respect to another taxpayer  
15           under section 151, and

16           “(D) who has not been allowed a credit  
17           under this section for any sale during the 3-  
18           year period ending on the date of the sale of  
19           such vehicle.

20           “(4) MOTOR VEHICLE; CAPACITY.—The terms  
21           ‘motor vehicle’ and ‘capacity’ have the meaning  
22           given such terms in paragraphs (2) and (4) of sec-  
23           tion 30D(d), respectively.

24           “(d) VIN NUMBER REQUIREMENT.—No credit shall  
25           be allowed under subsection (a) with respect to any vehicle

1 unless the taxpayer includes the vehicle identification  
2 number of such vehicle on the return of tax for the taxable  
3 year.

4 “(e) APPLICATION OF CERTAIN RULES.—For pur-  
5 poses of this section, rules similar to the rules of section  
6 30D(f) (without regard to paragraph (10) or (11) thereof)  
7 shall apply for purposes of this section.

8 “(f) TERMINATION.—No credit shall be allowed  
9 under this section with respect to any vehicle acquired  
10 after December 31, 2032.”.

11 (b) TRANSFER OF CREDIT.—Section 25E, as added  
12 by subsection (a), is amended—

13 (1) by redesignating subsection (f) as sub-  
14 section (g), and

15 (2) by inserting after subsection (e) the fol-  
16 lowing:

17 “(f) TRANSFER OF CREDIT.—Rules similar to the  
18 rules of section 30D(g) shall apply.”.

19 (c) CONFORMING AMENDMENTS.—Section  
20 6213(g)(2), as amended by the preceding provisions of  
21 this Act, is amended—

22 (1) in subparagraph (S), by striking “and” at  
23 the end,

24 (2) in subparagraph (T), by striking the period  
25 at the end and inserting “, and”, and

1           (3) by inserting after subparagraph (T) the fol-  
2           lowing:

3                   “(U) an omission of a correct vehicle iden-  
4                   tification number required under section 25E(d)  
5                   (relating to credit for previously-owned clean  
6                   vehicles) to be included on a return.”.

7           (d) CLERICAL AMENDMENT.—The table of sections  
8           for subpart A of part IV of subchapter A of chapter 1  
9           is amended by inserting after the item relating to section  
10          25D the following new item:

          “Sec. 25E. Previously-owned clean vehicles.”.

11          (e) EFFECTIVE DATE.—

12                   (1) IN GENERAL.—Except as provided in para-  
13                   graph (2), the amendments made by this section  
14                   shall apply to vehicles acquired after December 31,  
15                   2022.

16                   (2) TRANSFER OF CREDIT.—The amendments  
17                   made by subsection (b) shall apply to vehicles ac-  
18                   quired after December 31, 2023.

19          **SEC. 13403. QUALIFIED COMMERCIAL CLEAN VEHICLES.**

20                   (a) IN GENERAL.—Subpart D of part IV of sub-  
21                   chapter A of chapter 1, as amended by the preceding pro-  
22                   visions of this Act, is amended by adding at the end the  
23                   following new section:



1 **“SEC. 45W. CREDIT FOR QUALIFIED COMMERCIAL CLEAN**  
2 **VEHICLES.**

3 “(a) IN GENERAL.—For purposes of section 38, the  
4 qualified commercial clean vehicle credit for any taxable  
5 year is an amount equal to the sum of the credit amounts  
6 determined under subsection (b) with respect to each  
7 qualified commercial clean vehicle placed in service by the  
8 taxpayer during the taxable year.

9 “(b) PER VEHICLE AMOUNT.—

10 “(1) IN GENERAL.—Subject to paragraph (4),  
11 the amount determined under this subsection with  
12 respect to any qualified commercial clean vehicle  
13 shall be equal to the lesser of—

14 “(A) 15 percent of the basis of such vehi-  
15 cle (30 percent in the case of a vehicle not pow-  
16 ered by a gasoline or diesel internal combustion  
17 engine), or

18 “(B) the incremental cost of such vehicle.

19 “(2) INCREMENTAL COST.—For purposes of  
20 paragraph (1)(B), the incremental cost of any quali-  
21 fied commercial clean vehicle is an amount equal to  
22 the excess of the purchase price for such vehicle over  
23 such price of a comparable vehicle.

24 “(3) COMPARABLE VEHICLE.—For purposes of  
25 this subsection, the term ‘comparable vehicle’ means,  
26 with respect to any qualified commercial clean vehi-

1       cle, any vehicle which is powered solely by a gasoline  
2       or diesel internal combustion engine and which is  
3       comparable in size and use to such vehicle.

4           “(4) LIMITATION.—The amount determined  
5       under this subsection with respect to any qualified  
6       commercial clean vehicle shall not exceed—

7           “(A) in the case of a vehicle which has a  
8           gross vehicle weight rating of less than 14,000  
9           pounds, \$7,500, and

10          “(B) in the case of a vehicle not described  
11       in subparagraph (A), \$40,000.

12       “(c) QUALIFIED COMMERCIAL CLEAN VEHICLE.—  
13       For purposes of this section, the term ‘qualified commer-  
14       cial clean vehicle’ means any vehicle which—

15          “(1) meets the requirements of section  
16       30D(d)(1)(C) and is acquired for use or lease by the  
17       taxpayer and not for resale,

18          “(2) either—

19           “(A) meets the requirements of subpara-  
20       graph (D) of section 30D(d)(1) and is manufac-  
21       tured primarily for use on public streets, roads,  
22       and highways (not including a vehicle operated  
23       exclusively on a rail or rails), or

24           “(B) is mobile machinery, as defined in  
25       section 4053(8) (including vehicles that are not

1           designed to perform a function of transporting  
2           a load over the public highways),

3           “(3) either—

4                   “(A) is propelled to a significant extent by  
5           an electric motor which draws electricity from a  
6           battery which has a capacity of not less than 15  
7           kilowatt hours (or, in the case of a vehicle  
8           which has a gross vehicle weight rating of less  
9           than 14,000 pounds, 7 kilowatt hours) and is  
10          capable of being recharged from an external  
11          source of electricity, or

12                   “(B) is a motor vehicle which satisfies the  
13          requirements under subparagraphs (A) and (B)  
14          of section 30B(b)(3), and

15                   “(4) is of a character subject to the allowance  
16          for depreciation.

17          “(d) SPECIAL RULES.—

18                   “(1) IN GENERAL.—Rules similar to the rules  
19          under subsection (f) of section 30D (without regard  
20          to paragraph (10) or (11) thereof) shall apply for  
21          purposes of this section.

22                   “(2) VEHICLES PLACED IN SERVICE BY TAX-  
23          EXEMPT ENTITIES.—Subsection (c)(4) shall not  
24          apply to any vehicle which is not subject to a lease  
25          and which is placed in service by a tax-exempt entity

1 described in clause (i), (ii), or (iv) of section  
2 168(h)(2)(A).

3 “(3) NO DOUBLE BENEFIT.—No credit shall be  
4 allowed under this section with respect to any vehicle  
5 for which a credit was allowed under section 30D.

6 “(e) VIN NUMBER REQUIREMENT.—No credit shall  
7 be determined under subsection (a) with respect to any  
8 vehicle unless the taxpayer includes the vehicle identifica-  
9 tion number of such vehicle on the return of tax for the  
10 taxable year.

11 “(f) REGULATIONS AND GUIDANCE.—The Secretary  
12 shall issue such regulations or other guidance as the Sec-  
13 retary determines necessary to carry out the purposes of  
14 this section, including regulations or other guidance relat-  
15 ing to determination of the incremental cost of any quali-  
16 fied commercial clean vehicle.

17 “(g) TERMINATION.—No credit shall be determined  
18 under this section with respect to any vehicle acquired  
19 after December 31, 2032.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 38(b), as amended by the preceding  
22 provisions of this Act, is amended—

23 (A) in paragraph (35), by striking “plus”  
24 at the end,

1 (B) in paragraph (36), by striking the pe-  
2 riod at the end and inserting “, plus”, and

3 (C) by adding at the end the following new  
4 paragraph:

5 “(37) the qualified commercial clean vehicle  
6 credit determined under section 45W.”.

7 (2) Section 6213(g)(2), as amended by the pre-  
8 ceding provisions of this Act, is amended—

9 (A) in subparagraph (T), by striking  
10 “and” at the end,

11 (B) in subparagraph (U), by striking the  
12 period at the end and inserting “, and”, and

13 (C) by inserting after subparagraph (U)  
14 the following:

15 “(V) an omission of a correct vehicle iden-  
16 tification number required under section  
17 45W(e) (relating to commercial clean vehicle  
18 credit) to be included on a return.”.

19 (3) The table of sections for subpart D of part  
20 IV of subchapter A of chapter 1, as amended by the  
21 preceding provisions of this Act, is amended by add-  
22 ing at the end the following new item:

“Sec. 45W. Qualified commercial clean vehicle credit.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to vehicles acquired after Decem-  
25 ber 31, 2022.

1 **SEC. 13404. ALTERNATIVE FUEL REFUELING PROPERTY**  
2 **CREDIT.**

3 (a) IN GENERAL.—Section 30C(g) is amended by  
4 striking “December 31, 2021” and inserting “December  
5 31, 2032”.

6 (b) CREDIT FOR PROPERTY OF A CHARACTER SUB-  
7 JECT TO DEPRECIATION.—

8 (1) IN GENERAL.—Section 30C(a) is amended  
9 by inserting “(6 percent in the case of property of  
10 a character subject to depreciation)” after “30 per-  
11 cent”.

12 (2) MODIFICATION OF CREDIT LIMITATION.—  
13 Subsection (b) of section 30C is amended—

14 (A) in the matter preceding paragraph

15 (1)—

16 (i) by striking “with respect to all”  
17 and inserting “with respect to any single  
18 item of”, and

19 (ii) by striking “at a location”, and

20 (B) in paragraph (1), by striking “\$30,000  
21 in the case of a property” and inserting  
22 “\$100,000 in the case of any such item of prop-  
23 erty”.

24 (3) BIDIRECTIONAL CHARGING EQUIPMENT IN-  
25 CLUDED AS QUALIFIED ALTERNATIVE FUEL VEHI-

1 CLE REFUELING PROPERTY.—Section 30C(c) is  
2 amended to read as follows:

3 “(c) QUALIFIED ALTERNATIVE FUEL VEHICLE RE-  
4 FUELING PROPERTY.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘qualified alter-  
6 native fuel vehicle refueling property’ has the same  
7 meaning as the term ‘qualified clean-fuel vehicle re-  
8 fueling property’ would have under section 179A  
9 if—

10 “(A) paragraph (1) of section 179A(d) did  
11 not apply to property installed on property  
12 which is used as the principal residence (within  
13 the meaning of section 121) of the taxpayer,  
14 and

15 “(B) only the following were treated as  
16 clean-burning fuels for purposes of section  
17 179A(d):

18 “(i) Any fuel at least 85 percent of  
19 the volume of which consists of one or  
20 more of the following: ethanol, natural gas,  
21 compressed natural gas, liquified natural  
22 gas, liquefied petroleum gas, or hydrogen.

23 “(ii) Any mixture—

24 “(I) which consists of two or  
25 more of the following: biodiesel (as de-

1                    fined in section 40A(d)(1)), diesel fuel  
2                    (as defined in section 4083(a)(3)), or  
3                    kerosene, and

4                    “(II) at least 20 percent of the  
5                    volume of which consists of biodiesel  
6                    (as so defined) determined without re-  
7                    gard to any kerosene in such mixture.

8                    “(iii) Electricity.

9                    “(2) BIDIRECTIONAL CHARGING EQUIPMENT.—  
10                  Property shall not fail to be treated as qualified al-  
11                  ternative fuel vehicle refueling property solely be-  
12                  cause such property—

13                    “(A) is capable of charging the battery of  
14                    a motor vehicle propelled by electricity, and

15                    “(B) allows discharging electricity from  
16                    such battery to an electric load external to such  
17                    motor vehicle.”.

18                  (c) CERTAIN ELECTRIC CHARGING STATIONS IN-  
19                  CLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE  
20                  REFUELING PROPERTY.—Section 30C is amended by re-  
21                  designating subsections (f) and (g) as subsections (g) and  
22                  (h), respectively, and by inserting after subsection (e) the  
23                  following:



1           “(f) SPECIAL RULE FOR ELECTRIC CHARGING STA-  
2 TIONS FOR CERTAIN VEHICLES WITH 2 OR 3 WHEELS.—

3 For purposes of this section—

4           “(1) IN GENERAL.—The term ‘qualified alter-  
5 native fuel vehicle refueling property’ includes any  
6 property described in subsection (c) for the re-  
7 charging of a motor vehicle described in paragraph  
8 (2), but only if such property—

9           “(A) meets the requirements of subsection  
10 (a)(2), and

11           “(B) is of a character subject to deprecia-  
12 tion.

13           “(2) MOTOR VEHICLE.—A motor vehicle is de-  
14 scribed in this paragraph if the motor vehicle—

15           “(A) is manufactured primarily for use on  
16 public streets, roads, or highways (not including  
17 a vehicle operated exclusively on a rail or rails),

18           “(B) has 2 or 3 wheels, and

19           “(C) is propelled by electricity.”.

20           (d) WAGE AND APPRENTICESHIP REQUIREMENTS.—

21 Section 30C, as amended by this section, is further  
22 amended by redesignating subsections (g) and (h) as sub-  
23 sections (h) and (i) and by inserting after subsection (f)  
24 the following new subsection:

1           “(g) WAGE AND APPRENTICESHIP REQUIRE-  
2 MENTS.—

3           “(1) INCREASED CREDIT AMOUNT.—

4                   “(A) IN GENERAL.—In the case of any  
5 qualified alternative fuel vehicle refueling  
6 project which satisfies the requirements of sub-  
7 paragraph (C), the amount of the credit deter-  
8 mined under subsection (a) for any qualified al-  
9 ternative fuel vehicle refueling property of a  
10 character subject to an allowance for deprecia-  
11 tion which is part of such project shall be equal  
12 to such amount (determined without regard to  
13 this sentence) multiplied by 5.

14                   “(B) QUALIFIED ALTERNATIVE FUEL VE-  
15 HICLE REFUELING PROJECT.—For purposes of  
16 this subsection, the term ‘qualified alternative  
17 fuel vehicle refueling project’ means a project  
18 consisting of one or more properties that are  
19 part of a single project.

20                   “(C) PROJECT REQUIREMENTS.—A project  
21 meets the requirements of this subparagraph if  
22 it is one of the following:

23                           “(i) A project the construction of  
24 which begins prior to the date that is 60  
25 days after the Secretary publishes guid-

1           ance with respect to the requirements of  
2           paragraphs (2)(A) and (3).

3           “(ii) A project which satisfies the re-  
4           quirements of paragraphs (2)(A) and (3).

5           “(2) PREVAILING WAGE REQUIREMENTS.—

6           “(A) IN GENERAL.—The requirements de-  
7           scribed in this subparagraph with respect to  
8           any qualified alternative fuel vehicle refueling  
9           project are that the taxpayer shall ensure that  
10          any laborers and mechanics employed by the  
11          taxpayer or any contractor or subcontractor in  
12          the construction of any qualified alternative fuel  
13          vehicle refueling property which is part of such  
14          project shall be paid wages at rates not less  
15          than the prevailing rates for construction, alter-  
16          ation, or repair of a similar character in the lo-  
17          cality in which such project is located as most  
18          recently determined by the Secretary of Labor,  
19          in accordance with subchapter IV of chapter 31  
20          of title 40, United States Code.

21          “(B) CORRECTION AND PENALTY RELATED  
22          TO FAILURE TO SATISFY WAGE REQUIRE-  
23          MENTS.—Rules similar to the rules of section  
24          45(b)(7)(B) shall apply.

1           “(3) APPRENTICESHIP REQUIREMENTS.—Rules  
2 similar to the rules of section 45(b)(8) shall apply.

3           “(4) REGULATIONS AND GUIDANCE.—The Sec-  
4 retary shall issue such regulations or other guidance  
5 as the Secretary determines necessary to carry out  
6 the purposes of this subsection, including regulations  
7 or other guidance which provides for requirements  
8 for recordkeeping or information reporting for pur-  
9 poses of administering the requirements of this sub-  
10 section.”.

11       (e) ELIGIBLE CENSUS TRACTS.—Subsection (c) of  
12 section 30C, as amended by subsection (b)(3), is amended  
13 by adding at the end the following:

14           “(3) PROPERTY REQUIRED TO BE LOCATED IN  
15 ELIGIBLE CENSUS TRACTS.—

16           “(A) IN GENERAL.—Property shall not be  
17 treated as qualified alternative fuel vehicle re-  
18 fueling property unless such property is placed  
19 in service in an eligible census tract.

20           “(B) ELIGIBLE CENSUS TRACT.—

21           “(i) IN GENERAL.—For purposes of  
22 this paragraph, the term ‘eligible census  
23 tract’ means any population census tract  
24 which—

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1 “(I) is described in section  
2 45D(e), or

3 “(II) is not an urban area.

4 “(ii) URBAN AREA.—For purposes of  
5 clause (i)(II), the term ‘urban area’ means  
6 a census tract (as defined by the Bureau  
7 of the Census) which, according to the  
8 most recent decennial census, has been  
9 designated as an urban area by the Sec-  
10 retary of Commerce.”.

11 (f) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to property placed in service after De-  
15 cember 31, 2022.

16 (2) EXTENSION.—The amendments made by  
17 subsection (a) shall apply to property placed in serv-  
18 ice after December 31, 2021.

19 **PART 5—INVESTMENT IN CLEAN ENERGY**  
20 **MANUFACTURING AND ENERGY SECURITY**

21 **SEC. 13501. EXTENSION OF THE ADVANCED ENERGY**  
22 **PROJECT CREDIT.**

23 (a) EXTENSION OF CREDIT.—Section 48C is amend-  
24 ed by redesignating subsection (e) as subsection (f) and

1 by inserting after subsection (d) the following new sub-  
2 section:

3 “(e) ADDITIONAL ALLOCATIONS.—

4 “(1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this subsection, the  
6 Secretary shall establish a program to consider and  
7 award certifications for qualified investments eligible  
8 for credits under this section to qualifying advanced  
9 energy project sponsors.

10 “(2) LIMITATION.—The total amount of credits  
11 which may be allocated under the program estab-  
12 lished under paragraph (1) shall not exceed  
13 \$10,000,000,000, of which not greater than  
14 \$6,000,000,000 may be allocated to qualified invest-  
15 ments which are not located within a census tract  
16 which—

17 “(A) is described in clause (iii) of section  
18 45(b)(11)(B), and

19 “(B) prior to the date of enactment of this  
20 subsection, had no project which received a cer-  
21 tification and allocation of credits under sub-  
22 section (d).

23 “(3) CERTIFICATIONS.—

24 “(A) APPLICATION REQUIREMENT.—Each  
25 applicant for certification under this subsection

1 shall submit an application at such time and  
2 containing such information as the Secretary  
3 may require.

4 “(B) TIME TO MEET CRITERIA FOR CER-  
5 TIFICATION.—Each applicant for certification  
6 shall have 2 years from the date of acceptance  
7 by the Secretary of the application during  
8 which to provide to the Secretary evidence that  
9 the requirements of the certification have been  
10 met.

11 “(C) PERIOD OF ISSUANCE.—An applicant  
12 which receives a certification shall have 2 years  
13 from the date of issuance of the certification in  
14 order to place the project in service and to no-  
15 tify the Secretary that such project has been so  
16 placed in service, and if such project is not  
17 placed in service by that time period, then the  
18 certification shall no longer be valid. If any cer-  
19 tification is revoked under this subparagraph,  
20 the amount of the limitation under paragraph  
21 (2) shall be increased by the amount of the  
22 credit with respect to such revoked certification.

23 “(D) LOCATION OF PROJECT.—In the case  
24 of an applicant which receives a certification, if  
25 the Secretary determines that the project has

1           been placed in service at a location which is ma-  
2           terially different than the location specified in  
3           the application for such project, the certifi-  
4           cation shall no longer be valid.

5           “(4) CREDIT RATE CONDITIONED UPON WAGE  
6           AND APPRENTICESHIP REQUIREMENTS.—

7                   “(A) BASE RATE.—For purposes of alloca-  
8                   tions under this subsection, the amount of the  
9                   credit determined under subsection (a) shall be  
10                  determined by substituting ‘6 percent’ for ‘30  
11                  percent’.

12                  “(B) ALTERNATIVE RATE.—In the case of  
13                  any project which satisfies the requirements of  
14                  paragraphs (5)(A) and (6), subparagraph (A)  
15                  shall not apply.

16           “(5) PREVAILING WAGE REQUIREMENTS.—

17                   “(A) IN GENERAL.—The requirements de-  
18                   scribed in this subparagraph with respect to a  
19                   project are that the taxpayer shall ensure that  
20                   any laborers and mechanics employed by the  
21                   taxpayer or any contractor or subcontractor in  
22                   the re-equipping, expansion, or establishment of  
23                   a manufacturing facility shall be paid wages at  
24                   rates not less than the prevailing rates for con-  
25                   struction, alteration, or repair of a similar char-



1           acter in the locality in which such project is lo-  
2           cated as most recently determined by the Sec-  
3           retary of Labor, in accordance with subchapter  
4           IV of chapter 31 of title 40, United States  
5           Code.

6                   “(B) CORRECTION AND PENALTY RELATED  
7                   TO FAILURE TO SATISFY WAGE REQUIRE-  
8                   MENTS.—Rules similar to the rules of section  
9                   45(b)(7)(B) shall apply.

10                   “(6) APPRENTICESHIP REQUIREMENTS.—Rules  
11                   similar to the rules of section 45(b)(8) shall apply.

12                   “(7) DISCLOSURE OF ALLOCATIONS.—The Sec-  
13                   retary shall, upon making a certification under this  
14                   subsection, publicly disclose the identity of the appli-  
15                   cant and the amount of the credit with respect to  
16                   such applicant.”.

17                   (b) MODIFICATION OF QUALIFYING ADVANCED EN-  
18                   ERGY PROJECTS.—Section 48C(c)(1)(A) is amended—

19                   (1) by inserting “, any portion of the qualified  
20                   investment of which is certified by the Secretary  
21                   under subsection (e) as eligible for a credit under  
22                   this section” after “means a project”,

23                   (2) in clause (i)—

24                   (A) by striking “a manufacturing facility  
25                   for the production of” and inserting “an indus-

1 trial or manufacturing facility for the produc-  
2 tion or recycling of”,

3 (B) in clause (I), by inserting “water,”  
4 after “sun,”,

5 (C) in clause (II), by striking “an energy  
6 storage system for use with electric or hybrid-  
7 electric motor vehicles” and inserting “energy  
8 storage systems and components”,

9 (D) in clause (III), by striking “grids to  
10 support the transmission of intermittent  
11 sources of renewable energy, including storage  
12 of such energy” and inserting “grid moderniza-  
13 tion equipment or components”,

14 (E) in subclause (IV), by striking “and se-  
15 quester carbon dioxide emissions” and inserting  
16 “, remove, use, or sequester carbon oxide emis-  
17 sions”,

18 (F) by striking subclause (V) and inserting  
19 the following:

20 “(V) equipment designed to re-  
21 fine, electrolyze, or blend any fuel,  
22 chemical, or product which is—

23 “(aa) renewable, or

24 “(bb) low-carbon and low-  
25 emission,”,

1 (G) by striking subclause (VI),  
2 (H) by redesignating subclause (VII) as  
3 subclause (IX),  
4 (I) by inserting after subclause (V) the fol-  
5 lowing new subclauses:  
6 “(VI) property designed to  
7 produce energy conservation tech-  
8 nologies (including residential, com-  
9 mercial, and industrial applications),  
10 “(VII) light-, medium-, or heavy-  
11 duty electric or fuel cell vehicles, as  
12 well as—  
13 “(aa) technologies, compo-  
14 nents, or materials for such vehi-  
15 cles, and  
16 “(bb) associated charging or  
17 refueling infrastructure,  
18 “(VIII) hybrid vehicles with a  
19 gross vehicle weight rating of not less  
20 than 14,000 pounds, as well as tech-  
21 nologies, components, or materials for  
22 such vehicles, or”, and  
23 (J) in subclause (IX), as so redesignated,  
24 by striking “and” at the end, and

1           (3) by striking clause (ii) and inserting the fol-  
2           lowing:

3                   “(ii) which re-equips an industrial or  
4                   manufacturing facility with equipment de-  
5                   signed to reduce greenhouse gas emissions  
6                   by at least 20 percent through the installa-  
7                   tion of—

8                           “(I) low- or zero-carbon process  
9                           heat systems,

10                           “(II) carbon capture, transport,  
11                           utilization and storage systems,

12                           “(III) energy efficiency and re-  
13                           duction in waste from industrial proc-  
14                           esses, or

15                           “(IV) any other industrial tech-  
16                           nology designed to reduce greenhouse  
17                           gas emissions, as determined by the  
18                           Secretary, or

19                           “(iii) which re-equips, expands, or es-  
20                           tablishes an industrial facility for the proc-  
21                           essing, refining, or recycling of critical ma-  
22                           terials (as defined in section 7002(a) of the  
23                           Energy Act of 2020 (30 U.S.C.  
24                           1606(a)).”.

1 (c) CONFORMING AMENDMENT.—Subparagraph (A)  
2 of section 48C(e)(2) is amended to read as follows:

3 “(A) which is necessary for—

4 “(i) the production or recycling of  
5 property described in clause (i) of para-  
6 graph (1)(A),

7 “(ii) re-equipping an industrial or  
8 manufacturing facility described in clause  
9 (ii) of such paragraph, or

10 “(iii) re-equipping, expanding, or es-  
11 tablishing an industrial facility described in  
12 clause (iii) of such paragraph.”.

13 (d) DENIAL OF DOUBLE BENEFIT.—48C(f), as re-  
14 designated by this section, is amended by striking “or  
15 48B” and inserting “48B, 48E, 45Q, or 45V”.

16 (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on January 1, 2023.

18 **SEC. 13502. ADVANCED MANUFACTURING PRODUCTION**  
19 **CREDIT.**

20 (a) IN GENERAL.—Subpart D of part IV of sub-  
21 chapter A of chapter 1, as amended by the preceding pro-  
22 visions of this Act, is amended by adding at the end the  
23 following new section:

1 **“SEC. 45X. ADVANCED MANUFACTURING PRODUCTION**  
2 **CREDIT.**

3 “(a) IN GENERAL.—

4 “(1) ALLOWANCE OF CREDIT.—For purposes of  
5 section 38, the advanced manufacturing production  
6 credit for any taxable year is an amount equal to the  
7 sum of the credit amounts determined under sub-  
8 section (b) with respect to each eligible component  
9 which is—

10 “(A) produced by the taxpayer, and

11 “(B) during the taxable year, sold by such  
12 taxpayer to an unrelated person.

13 “(2) PRODUCTION AND SALE MUST BE IN  
14 TRADE OR BUSINESS.—Any eligible component pro-  
15 duced and sold by the taxpayer shall be taken into  
16 account only if the production and sale described in  
17 paragraph (1) is in a trade or business of the tax-  
18 payer.

19 “(3) UNRELATED PERSON.—

20 “(A) IN GENERAL.—For purposes of this  
21 subsection, a taxpayer shall be treated as selling  
22 components to an unrelated person if such com-  
23 ponent is sold to such person by a person re-  
24 lated to the taxpayer.

25 “(B) ELECTION.—

1                   “(i) IN GENERAL.—At the election of  
2                   the taxpayer (in such form and manner as  
3                   the Secretary may prescribe), a sale of  
4                   components by such taxpayer to a related  
5                   person shall be deemed to have been made  
6                   to an unrelated person.

7                   “(ii) REQUIREMENT.—As a condition  
8                   of, and prior to, any election described in  
9                   clause (i), the Secretary may require such  
10                  information or registration as the Sec-  
11                  retary deems necessary for purposes of  
12                  preventing duplication, fraud, or any im-  
13                  proper or excessive amount determined  
14                  under paragraph (1).

15                  “(b) CREDIT AMOUNT.—

16                  “(1) IN GENERAL.—Subject to paragraph (3),  
17                  the amount determined under this subsection with  
18                  respect to any eligible component, including any eli-  
19                  gible component it incorporates, shall be equal to—

20                         “(A) in the case of a thin film photovoltaic  
21                         cell or a crystalline photovoltaic cell, an amount  
22                         equal to the product of—

23                                 “(i) 4 cents, multiplied by

24                                 “(ii) the capacity of such cell (ex-  
25                                 pressed on a per direct current watt basis),

1           “(B) in the case of a photovoltaic wafer,  
2           \$12 per square meter,

3           “(C) in the case of solar grade polysilicon,  
4           \$3 per kilogram,

5           “(D) in the case of a polymeric backsheets,  
6           40 cents per square meter,

7           “(E) in the case of a solar module, an  
8           amount equal to the product of—

9                   “(i) 7 cents, multiplied by

10                   “(ii) the capacity of such module (ex-  
11                   pressed on a per direct current watt basis),

12           “(F) in the case of a wind energy compo-  
13           nent—

14                   “(i) if such component is a related  
15                   offshore wind vessel, an amount equal to  
16                   10 percent of the sales price of such vessel,  
17                   and

18                   “(ii) if such component is not de-  
19                   scribed in clause (i), an amount equal to  
20                   the product of—

21                           “(I) the applicable amount with  
22                           respect to such component (as deter-  
23                           mined under paragraph (2)(A)), mul-  
24                           tiplied by



1                   “(II) the total rated capacity (ex-  
2                   pressed on a per watt basis) of the  
3                   completed wind turbine for which such  
4                   component is designed,

5                   “(G) in the case of a torque tube, 87 cents  
6                   per kilogram,

7                   “(H) in the case of a structural fastener,  
8                   \$2.28 per kilogram,

9                   “(I) in the case of an inverter, an amount  
10                  equal to the product of—

11                  “(i) the applicable amount with re-  
12                  spect to such inverter (as determined  
13                  under paragraph (2)(B)), multiplied by

14                  “(ii) the capacity of such inverter (ex-  
15                  pressed on a per alternating current watt  
16                  basis),

17                  “(J) in the case of electrode active mate-  
18                  rials, an amount equal to 10 percent of the  
19                  costs incurred by the taxpayer with respect to  
20                  production of such materials,

21                  “(K) in the case of a battery cell, an  
22                  amount equal to the product of—

23                  “(i) \$35, multiplied by

1                   “(ii) subject to paragraph (4), the ca-  
2                   pacity of such battery cell (expressed on a  
3                   kilowatt-hour basis),

4                   “(L) in the case of a battery module, an  
5                   amount equal to the product of—

6                   “(i) \$10 (or, in the case of a battery  
7                   module which does not use battery cells,  
8                   \$45), multiplied by

9                   “(ii) subject to paragraph (4), the ca-  
10                  pacity of such battery module (expressed  
11                  on a kilowatt-hour basis), and

12                  “(M) in the case of any applicable critical  
13                  mineral, an amount equal to 10 percent of the  
14                  costs incurred by the taxpayer with respect to  
15                  production of such mineral.

16                  “(2) APPLICABLE AMOUNTS.—

17                  “(A) WIND ENERGY COMPONENTS.—For  
18                  purposes of paragraph (1)(F)(ii), the applicable  
19                  amount with respect to any wind energy compo-  
20                  nent shall be—

21                         “(i) in the case of a blade, 2 cents,

22                         “(ii) in the case of a nacelle, 5 cents,

23                         “(iii) in the case of a tower, 3 cents,

24                         and

1 “(iv) in the case of an offshore wind  
2 foundation—

3 “(I) which uses a fixed platform,  
4 2 cents, or

5 “(II) which uses a floating plat-  
6 form, 4 cents.

7 “(B) INVERTERS.—For purposes of para-  
8 graph (1)(I), the applicable amount with re-  
9 spect to any inverter shall be—

10 “(i) in the case of a central inverter,  
11 0.25 cents,

12 “(ii) in the case of a utility inverter,  
13 1.5 cents,

14 “(iii) in the case of a commercial in-  
15 verter, 2 cents,

16 “(iv) in the case of a residential in-  
17 verter, 6.5 cents, and

18 “(v) in the case of a microinverter or  
19 a distributed wind inverter, 11 cents.

20 “(3) PHASE OUT.—

21 “(A) IN GENERAL.—Subject to subpara-  
22 graph (C), in the case of any eligible component  
23 sold after December 31, 2029, the amount de-  
24 termined under this subsection with respect to

1 such component shall be equal to the product  
2 of—

3 “(i) the amount determined under  
4 paragraph (1) with respect to such compo-  
5 nent, as determined without regard to this  
6 paragraph, multiplied by

7 “(ii) the phase out percentage under  
8 subparagraph (B).

9 “(B) PHASE OUT PERCENTAGE.—The  
10 phase out percentage under this subparagraph  
11 is equal to—

12 “(i) in the case of an eligible compo-  
13 nent sold during calendar year 2030, 75  
14 percent,

15 “(ii) in the case of an eligible compo-  
16 nent sold during calendar year 2031, 50  
17 percent,

18 “(iii) in the case of an eligible compo-  
19 nent sold during calendar year 2032, 25  
20 percent,

21 “(iv) in the case of an eligible compo-  
22 nent sold after December 31, 2032, 0 per-  
23 cent.

24 “(C) EXCEPTION.—For purposes of deter-  
25 mining the amount under this subsection with

1           respect to any applicable critical mineral, this  
2           paragraph shall not apply.

3           “(4) LIMITATION ON CAPACITY OF BATTERY  
4           CELLS AND BATTERY MODULES.—

5                   “(A) IN GENERAL.—For purposes of sub-  
6           paragraph (K)(ii) or (L)(ii) of paragraph (1),  
7           the capacity determined under either subpara-  
8           graph with respect to a battery cell or battery  
9           module shall not exceed a capacity-to-power  
10          ratio of 100:1.

11                   “(B) CAPACITY-TO-POWER RATIO.—For  
12          purposes of this paragraph, the term ‘capacity-  
13          to-power ratio’ means, with respect to a battery  
14          cell or battery module, the ratio of the capacity  
15          of such cell or module to the maximum dis-  
16          charge amount of such cell or module.

17          “(c) DEFINITIONS.—For purposes of this section—

18                   “(1) ELIGIBLE COMPONENT.—

19                           “(A) IN GENERAL.—The term ‘eligible  
20          component’ means—

21                                   “(i) any solar energy component,

22                                   “(ii) any wind energy component,

23                                   “(iii) any inverter described in sub-  
24          paragraphs (B) through (G) of paragraph

25          (2),

1                   “(iv) any qualifying battery compo-  
2                   nent, and

3                   “(v) any applicable critical mineral.

4                   “(B) APPLICATION WITH OTHER CRED-  
5                   ITS.—The term ‘eligible component’ shall not  
6                   include any property which is produced at a fa-  
7                   cility if the basis of any property which is part  
8                   of such facility is taken into account for pur-  
9                   poses of the credit allowed under section 48C  
10                  after the date of the enactment of this section.

11                  “(2) INVERTERS.—

12                  “(A) IN GENERAL.—The term ‘inverter’  
13                  means an end product which is suitable to con-  
14                  vert direct current electricity from 1 or more  
15                  solar modules or certified distributed wind en-  
16                  ergy systems into alternating current electricity.

17                  “(B) CENTRAL INVERTER.—The term  
18                  ‘central inverter’ means an inverter which is  
19                  suitable for large utility-scale systems and has  
20                  a capacity which is greater than 1,000 kilowatts  
21                  (expressed on a per alternating current watt  
22                  basis).

23                  “(C) COMMERCIAL INVERTER.—The term  
24                  ‘commercial inverter’ means an inverter  
25                  which—

1           “(i) is suitable for commercial or util-  
2           ity-scale applications,

3           “(ii) has a rated output of 208, 480,  
4           600, or 800 volt three-phase power, and

5           “(iii) has a capacity which is not less  
6           than 20 kilowatts and not greater than  
7           125 kilowatts (expressed on a per alter-  
8           nating current watt basis).

9           “(D) DISTRIBUTED WIND INVERTER.—

10           “(i) IN GENERAL.—The term ‘distrib-  
11           uted wind inverter’ means an inverter  
12           which—

13           “(I) is used in a residential or  
14           non-residential system which utilizes 1  
15           or more certified distributed wind en-  
16           ergy systems, and

17           “(II) has a rated output of not  
18           greater than 150 kilowatts.

19           “(ii) CERTIFIED DISTRIBUTED WIND  
20           ENERGY SYSTEM.—The term ‘certified dis-  
21           tributed wind energy system’ means a wind  
22           energy system which is certified by an ac-  
23           credited certification agency to meet  
24           Standard 9.1-2009 of the American Wind  
25           Energy Association (including any subse-

1                   quent revisions to or modifications of such  
2                   Standard which have been approved by the  
3                   American National Standards Institute).

4                   “(E) MICROINVERTER.—The term ‘micro-  
5                   inverter’ means an inverter which—

6                   “(i) is suitable to connect with one  
7                   solar module,

8                   “(ii) has a rated output of—

9                   “(I) 120 or 240 volt single-phase  
10                  power, or

11                  “(II) 208 or 480 volt three-phase  
12                  power, and

13                  “(iii) has a capacity which is not  
14                  greater than 650 watts (expressed on a per  
15                  alternating current watt basis).

16                  “(F) RESIDENTIAL INVERTER.—The term  
17                  ‘residential inverter’ means an inverter which—

18                  “(i) is suitable for a residence,

19                  “(ii) has a rated output of 120 or 240  
20                  volt single-phase power, and

21                  “(iii) has a capacity which is not  
22                  greater than 20 kilowatts (expressed on a  
23                  per alternating current watt basis).

24                  “(G) UTILITY INVERTER.—The term ‘util-  
25                  ity inverter’ means an inverter which—



1                   “(i) is suitable for commercial or util-  
2                   ity-scale systems,

3                   “(ii) has a rated output of not less  
4                   than 600 volt three-phase power, and

5                   “(iii) has a capacity which is greater  
6                   than 125 kilowatts and not greater than  
7                   1000 kilowatts (expressed on a per alter-  
8                   nating current watt basis)

9                   “(3) SOLAR ENERGY COMPONENT.—

10                   “(A) IN GENERAL.—The term ‘solar en-  
11                   ergy component’ means any of the following:

12                   “(i) Solar modules.

13                   “(ii) Photovoltaic cells.

14                   “(iii) Photovoltaic wafers.

15                   “(iv) Solar grade polysilicon.

16                   “(v) Torque tubes or structural fas-  
17                   teners.

18                   “(vi) Polymeric backsheets.

19                   “(B) ASSOCIATED DEFINITIONS.—

20                   “(i) PHOTOVOLTAIC CELL.—The term  
21                   ‘photovoltaic cell’ means the smallest semi-  
22                   conductor element of a solar module which  
23                   performs the immediate conversion of light  
24                   into electricity.

1                   “(ii) PHOTOVOLTAIC WAFER.—The  
2                   term ‘photovoltaic wafer’ means a thin  
3                   slice, sheet, or layer of semiconductor ma-  
4                   terial of at least 240 square centimeters—  
5                   “(I) produced by a single manu-  
6                   facturer either—  
7                   “(aa) directly from molten  
8                   or evaporated solar grade  
9                   polysilicon or deposition of solar  
10                  grade thin film semiconductor  
11                  photon absorber layer, or  
12                  “(bb) through formation of  
13                  an ingot from molten polysilicon  
14                  and subsequent slicing, and  
15                  “(II) which comprises the sub-  
16                  strate or absorber layer of one or  
17                  more photovoltaic cells.  
18                  “(iii) POLYMERIC BACKSHEET.—The  
19                  term ‘polymeric backsheet’ means a sheet  
20                  on the back of a solar module which acts  
21                  as an electric insulator and protects the  
22                  inner components of such module from the  
23                  surrounding environment.

1                   “(iv) SOLAR GRADE POLYSILICON.—

2                   The term ‘solar grade polysilicon’ means  
3                   silicon which is—

4                   “(I) suitable for use in photo-  
5                   voltaic manufacturing, and

6                   “(II) purified to a minimum pu-  
7                   rity of 99.999999 percent silicon by  
8                   mass.

9                   “(v) SOLAR MODULE.—The term  
10                  ‘solar module’ means the connection and  
11                  lamination of photovoltaic cells into an en-  
12                  vironmentally protected final assembly  
13                  which is—

14                  “(I) suitable to generate elec-  
15                  tricity when exposed to sunlight, and

16                  “(II) ready for installation with-  
17                  out an additional manufacturing proc-  
18                  ess.

19                  “(vi) SOLAR TRACKER.—The term  
20                  ‘solar tracker’ means a mechanical system  
21                  that moves solar modules according to the  
22                  position of the sun and to increase energy  
23                  output.

24                  “(vii) SOLAR TRACKER COMPO-  
25                  NENTS.—

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1                   “(I) TORQUE TUBE.—The term  
2                   ‘torque tube’ means a structural steel  
3                   support element (including longitu-  
4                   dinal purlins) which—

5                   “(aa) is part of a solar  
6                   tracker,

7                   “(bb) is of any cross-sec-  
8                   tional shape,

9                   “(cc) may be assembled  
10                  from individually manufactured  
11                  segments,

12                  “(dd) spans longitudinally  
13                  between foundation posts,

14                  “(ee) supports solar panels  
15                  and is connected to a mounting  
16                  attachment for solar panels (with  
17                  or without separate module inter-  
18                  face rails), and

19                  “(ff) is rotated by means of  
20                  a drive system.

21                  “(II) STRUCTURAL FASTENER.—  
22                  The term ‘structural fastener’ means  
23                  a component which is used—

24                  “(aa) to connect the me-  
25                  chanical and drive system compo-

1 nents of a solar tracker to the  
2 foundation of such solar tracker,  
3 “(bb) to connect torque  
4 tubes to drive assemblies, or  
5 “(cc) to connect segments of  
6 torque tubes to one another.

7 “(4) WIND ENERGY COMPONENT.—

8 “(A) IN GENERAL.—The term ‘wind en-  
9 ergy component’ means any of the following:

10 “(i) Blades.

11 “(ii) Nacelles.

12 “(iii) Towers.

13 “(iv) Offshore wind foundations.

14 “(v) Related offshore wind vessels.

15 “(B) ASSOCIATED DEFINITIONS.—

16 “(i) BLADE.—The term ‘blade’ means  
17 an airfoil-shaped blade which is responsible  
18 for converting wind energy to low-speed ro-  
19 tational energy.

20 “(ii) OFFSHORE WIND FOUNDA-  
21 TION.—The term ‘offshore wind founda-  
22 tion’ means the component (including tran-  
23 sition piece) which secures an offshore  
24 wind tower and any above-water turbine  
25 components to the seafloor using—

1                   “(I) fixed platforms, such as off-  
2                   shore wind monopiles, jackets, or  
3                   gravity-based foundations, or

4                   “(II) floating platforms and asso-  
5                   ciated mooring systems.

6                   “(iii) NACELLE.—The term ‘nacelle’  
7                   means the assembly of the drivetrain and  
8                   other tower-top components of a wind tur-  
9                   bine (with the exception of the blades and  
10                  the hub) within their cover housing.

11                  “(iv) RELATED OFFSHORE WIND VES-  
12                  SEL.—The term ‘related offshore wind ves-  
13                  sel’ means any vessel which is purpose-  
14                  built or retrofitted for purposes of the de-  
15                  velopment, transport, installation, oper-  
16                  ation, or maintenance of offshore wind en-  
17                  ergy components.

18                  “(v) TOWER.—The term ‘tower’  
19                  means a tubular or lattice structure which  
20                  supports the nacelle and rotor of a wind  
21                  turbine.

22                  “(5) QUALIFYING BATTERY COMPONENT.—

23                  “(A) IN GENERAL.—The term ‘qualifying  
24                  battery component’ means any of the following:

25                  “(i) Electrode active materials.

1 “(ii) Battery cells.

2 “(iii) Battery modules.

3 “(B) ASSOCIATED DEFINITIONS.—

4 “(i) ELECTRODE ACTIVE MATERIAL.—

5 The term ‘electrode active material’ means  
6 cathode materials, anode materials, anode  
7 foils, and electrochemically active mate-  
8 rials, including solvents, additives, and  
9 electrolyte salts that contribute to the elec-  
10 trochemical processes necessary for energy  
11 storage .

12 “(ii) BATTERY CELL.—The term ‘bat-  
13 tery cell’ means an electrochemical cell—

14 “(I) comprised of 1 or more posi-  
15 tive electrodes and 1 or more negative  
16 electrodes,

17 “(II) with an energy density of  
18 not less than 100 watt-hours per liter,  
19 and

20 “(III) capable of storing at least  
21 12 watt-hours of energy.

22 “(iii) BATTERY MODULE.—The term  
23 ‘battery module’ means a module—

24 “(I)(aa) in the case of a module  
25 using battery cells, with 2 or more

1 battery cells which are configured  
2 electrically, in series or parallel, to  
3 create voltage or current, as appro-  
4 priate, to a specified end use, or

5 “(bb) with no battery cells, and

6 “(II) with an aggregate capacity  
7 of not less than 7 kilowatt-hours (or,  
8 in the case of a module for a hydro-  
9 gen fuel cell vehicle, not less than 1  
10 kilowatt-hour).

11 “(6) APPLICABLE CRITICAL MINERALS.—The  
12 term ‘applicable critical mineral’ means any of the  
13 following:

14 “(A) ALUMINUM.—Aluminum which is—

15 “(i) converted from bauxite to a min-  
16 imum purity of 99 percent alumina by  
17 mass, or

18 “(ii) purified to a minimum purity of  
19 99.9 percent aluminum by mass.

20 “(B) ANTIMONY.—Antimony which is—

21 “(i) converted to antimony trisulfide  
22 concentrate with a minimum purity of 90  
23 percent antimony trisulfide by mass, or

24 “(ii) purified to a minimum purity of  
25 99.65 percent antimony by mass.



1                   “(C) BARITE.—Barite which is barium sul-  
2                   fate purified to a minimum purity of 80 percent  
3                   barite by mass.

4                   “(D) BERYLLIUM.—Beryllium which is—  
5                   “(i) converted to copper-beryllium  
6                   master alloy, or

7                   “(ii) purified to a minimum purity of  
8                   99 percent beryllium by mass.

9                   “(E) CERIUM.—Cerium which is—

10                   “(i) converted to cerium oxide which  
11                   is purified to a minimum purity of 99.9  
12                   percent cerium oxide by mass, or

13                   “(ii) purified to a minimum purity of  
14                   99 percent cerium by mass.

15                   “(F) CESIUM.—Cesium which is—

16                   “(i) converted to cesium formate or  
17                   cesium carbonate, or

18                   “(ii) purified to a minimum purity of  
19                   99 percent cesium by mass.

20                   “(G) CHROMIUM.—Chromium which is—

21                   “(i) converted to ferrochromium con-  
22                   sisting of not less than 60 percent chro-  
23                   mium by mass, or

24                   “(ii) purified to a minimum purity of  
25                   99 percent chromium by mass.

1 “(H) COBALT.—Cobalt which is—  
2 “(i) converted to cobalt sulfate, or  
3 “(ii) purified to a minimum purity of  
4 99.6 percent cobalt by mass.

5 “(I) DYSPROSIUM.—Dysprosium which  
6 is—

7 “(i) converted to not less than 99 per-  
8 cent pure dysprosium iron alloy by mass,  
9 or

10 “(ii) purified to a minimum purity of  
11 99 percent dysprosium by mass.

12 “(J) EUROPIUM.—Europium which is—

13 “(i) converted to europium oxide  
14 which is purified to a minimum purity of  
15 99.9 percent europium oxide by mass, or

16 “(ii) purified to a minimum purity of  
17 99 percent by mass.

18 “(K) FLUORSPAR.—Fluorspar which is—

19 “(i) converted to fluorspar which is  
20 purified to a minimum purity of 97 percent  
21 calcium fluoride by mass, or

22 “(ii) purified to a minimum purity of  
23 99 percent fluorspar by mass.

24 “(L) GADOLINIUM.—Gadolinium which  
25 is—

1                   “(i) converted to gadolinium oxide  
2                   which is purified to a minimum purity of  
3                   99.9 percent gadolinium oxide by mass, or

4                   “(ii) purified to a minimum purity of  
5                   99 percent gadolinium by mass.

6                   “(M) GERMANIUM.—Germanium which  
7                   is—

8                   “(i) converted to germanium tetra-  
9                   chloride, or

10                   “(ii) purified to a minimum purity of  
11                   99.99 percent germanium by mass.

12                   “(N) GRAPHITE.—Graphite which is puri-  
13                   fied to a minimum purity of 99.9 percent gra-  
14                   phitic carbon by mass.

15                   “(O) INDIUM.—Indium which is—

16                   “(i) converted to—

17                   “(I) indium tin oxide, or

18                   “(II) indium oxide which is puri-  
19                   fied to a minimum purity of 99.9 per-  
20                   cent indium oxide by mass, or

21                   “(ii) purified to a minimum purity of  
22                   99 percent indium by mass.

23                   “(P) LITHIUM.—Lithium which is—

24                   “(i) converted to lithium carbonate or  
25                   lithium hydroxide, or

1                   “(ii) purified to a minimum purity of  
2                   99.9 percent lithium by mass.

3                   “(Q) MANGANESE.—Manganese which is—

4                   “(i) converted to manganese sulphate,  
5                   or

6                   “(ii) purified to a minimum purity of  
7                   99.7 percent manganese by mass.

8                   “(R) NEODYMIUM.—Neodymium which  
9                   is—

10                   “(i) converted to neodymium-praseo-  
11                   dymium oxide which is purified to a min-  
12                   imum purity of 99 percent neodymium-pra-  
13                   seodymium oxide by mass,

14                   “(ii) converted to neodymium oxide  
15                   which is purified to a minimum purity of  
16                   99.5 percent neodymium oxide by mass

17                   “(iii) purified to a minimum purity of  
18                   99.9 percent neodymium by mass.

19                   “(S) NICKEL.—Nickel which is—

20                   “(i) converted to nickel sulphate, or

21                   “(ii) purified to a minimum purity of  
22                   99 percent nickel by mass.

23                   “(T) NIOBIUM.—Niobium which is—

24                   “(i) converted to ferronibium, or

1                   “(ii) purified to a minimum purity of  
2                   99 percent niobium by mass.

3                   “(U) TELLURIUM.—Tellurium which is—

4                   “(i) converted to cadmium telluride,  
5                   or

6                   “(ii) purified to a minimum purity of  
7                   99 percent tellurium by mass.

8                   “(V) TIN.—Tin which is purified to low  
9                   alpha emitting tin which—

10                   “(i) has a purity of greater than  
11                   99.99 percent by mass, and

12                   “(ii) possesses an alpha emission rate  
13                   of not greater than 0.01 counts per hour  
14                   per centimeter square.

15                   “(W) TUNGSTEN.—Tungsten which is con-  
16                   verted to ammonium paratungstate or  
17                   ferrotungsten.

18                   “(X) VANADIUM.—Vanadium which is con-  
19                   verted to ferrovandium or vanadium pentoxide.

20                   “(Y) YTTRIUM.—Yttrium which is—

21                   “(i) converted to yttrium oxide which  
22                   is purified to a minimum purity of 99.999  
23                   percent yttrium oxide by mass, or

24                   “(ii) purified to a minimum purity of  
25                   99.9 percent yttrium by mass.

1                   “(Z) OTHER MINERALS.—Any of the fol-  
2                   lowing minerals, provided that such mineral is  
3                   purified to a minimum purity of 99 percent by  
4                   mass:

- 5                   “(i) Arsenic.  
6                   “(ii) Bismuth.  
7                   “(iii) Erbium.  
8                   “(iv) Gallium.  
9                   “(v) Hafnium.  
10                  “(vi) Holmium.  
11                  “(vii) Iridium.  
12                  “(viii) Lanthanum.  
13                  “(ix) Lutetium.  
14                  “(x) Magnesium.  
15                  “(xi) Palladium.  
16                  “(xii) Platinum.  
17                  “(xiii) Praseodymium.  
18                  “(xiv) Rhodium.  
19                  “(xv) Rubidium.  
20                  “(xvi) Ruthenium.  
21                  “(xvii) Samarium.  
22                  “(xviii) Scandium.  
23                  “(xix) Tantalum.  
24                  “(xx) Terbium.  
25                  “(xxi) Thulium.

1 “(xxii) Titanium.

2 “(xxiii) Ytterbium.

3 “(xxiv) Zinc.

4 “(xxv) Zirconium.

5 “(d) SPECIAL RULES.—In this section—

6 “(1) RELATED PERSONS.—Persons shall be  
7 treated as related to each other if such persons  
8 would be treated as a single employer under the reg-  
9 ulations prescribed under section 52(b).

10 “(2) ONLY PRODUCTION IN THE UNITED  
11 STATES TAKEN INTO ACCOUNT.—Sales shall be  
12 taken into account under this section only with re-  
13 spect to eligible components the production of which  
14 is within—

15 “(A) the United States (within the mean-  
16 ing of section 638(1)), or

17 “(B) a possession of the United States  
18 (within the meaning of section 638(2)).

19 “(3) PASS-THRU IN THE CASE OF ESTATES AND  
20 TRUSTS.—Under regulations prescribed by the Sec-  
21 retary, rules similar to the rules of subsection (d) of  
22 section 52 shall apply.

23 “(4) SALE OF INTEGRATED COMPONENTS.—  
24 For purposes of this section, a person shall be treat-  
25 ed as having sold an eligible component to an unre-

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1       lated person if such component is integrated, incor-  
2       porated, or assembled into another eligible compo-  
3       nent which is sold to an unrelated person.”.

4       (b) CONFORMING AMENDMENTS.—

5           (1) Section 38(b) of the Internal Revenue Code  
6       of 1986, as amended by the preceding provisions of  
7       this Act, is amended—

8           (A) in paragraph (36), by striking “plus”  
9       at the end,

10          (B) in paragraph (37), by striking the pe-  
11       riod at the end and inserting “, plus”, and

12          (C) by adding at the end the following new  
13       paragraph:

14       “(38) the advanced manufacturing production  
15       credit determined under section 45X(a).”.

16          (2) The table of sections for subpart D of part  
17       IV of subchapter A of chapter 1, as amended by the  
18       preceding provisions of this Act, is amended by add-  
19       ing at the end the following new item:

“Sec. 45X. Advanced manufacturing production credit.”.

20       (c) EFFECTIVE DATE.—The amendments made by  
21       this section shall apply to components produced and sold  
22       after December 31, 2022.



1

**PART 6—SUPERFUND****2 SEC. 13601. REINSTATEMENT OF SUPERFUND.**

3 (a) HAZARDOUS SUBSTANCE SUPERFUND FINANC-  
4 ING RATE.—

5 (1) EXTENSION.—Section 4611 is amended by  
6 striking subsection (e).

7 (2) ADJUSTMENT FOR INFLATION.—

8 (A) Section 4611(c)(2)(A) is amended by  
9 striking “9.7 cents” and inserting “16.4 cents”.

10 (B) Section 4611(c) is amended by adding  
11 at the end the following:

12 “(3) ADJUSTMENT FOR INFLATION.—

13 “(A) IN GENERAL.—In the case of a year  
14 beginning after 2023, the amount in paragraph  
15 (2)(A) shall be increased by an amount equal  
16 to—

17 “(i) such amount, multiplied by

18 “(ii) the cost-of-living adjustment de-  
19 termined under section 1(f)(3) for the cal-  
20 endar year, determined by substituting  
21 ‘calendar year 2022’ for ‘calendar year  
22 2016’ in subparagraph (A)(ii) thereof.

23 “(B) ROUNDING.—If any amount as ad-  
24 justed under subparagraph (A) is not a multiple  
25 of \$0.01, such amount shall be rounded to the  
26 next lowest multiple of \$0.01.”.

1 (b) AUTHORITY FOR ADVANCES.—Section  
2 9507(d)(3)(B) is amended by striking “December 31,  
3 1995” and inserting “December 31, 2032”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall take effect on January 1, 2023.

6 **PART 7—INCENTIVES FOR CLEAN ELECTRICITY**  
7 **AND CLEAN TRANSPORTATION**

8 **SEC. 13701. CLEAN ELECTRICITY PRODUCTION CREDIT.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-  
10 chapter A of chapter 1, as amended by the preceding pro-  
11 visions of this Act, is amended by adding at the end the  
12 following new section:

13 **“SEC. 45Y. CLEAN ELECTRICITY PRODUCTION CREDIT.**

14 “(a) AMOUNT OF CREDIT.—

15 “(1) IN GENERAL.—For purposes of section 38,  
16 the clean electricity production credit for any taxable  
17 year is an amount equal to the product of—

18 “(A) the kilowatt hours of electricity—

19 “(i) produced by the taxpayer at a  
20 qualified facility, and

21 “(ii)(I) sold by the taxpayer to an un-  
22 related person during the taxable year, or

23 “(II) in the case of a qualified facility  
24 which is equipped with a metering device  
25 which is owned and operated by an unre-

1           lated person, sold, consumed, or stored by  
2           the taxpayer during the taxable year, mul-  
3           tiplied by

4           “(B) the applicable amount with respect to  
5           such qualified facility.

6           “(2) APPLICABLE AMOUNT.—

7           “(A) BASE AMOUNT.—Subject to sub-  
8           section (g)(7), in the case of any qualified facil-  
9           ity which is not described in clause (i) or (ii) of  
10          subparagraph (B) and does not satisfy the re-  
11          quirements described in clause (iii) of such sub-  
12          paragraph, the applicable amount shall be 0.3  
13          cents.

14          “(B) ALTERNATIVE AMOUNT.—Subject to  
15          subsection (g)(7), in the case of any qualified  
16          facility—

17                 “(i) with a maximum net output of  
18                 less than 1 megawatt (as measured in al-  
19                 ternating current),

20                 “(ii) the construction of which begins  
21                 prior to the date that is 60 days after the  
22                 Secretary publishes guidance with respect  
23                 to the requirements of paragraphs (9) and  
24                 (10) of subsection (g), or

25                 “(iii) which—

1                   “(I) satisfies the requirements  
2                   under paragraph (9) of subsection (g),  
3                   and

4                   “(II) with respect to the con-  
5                   struction of such facility, satisfies the  
6                   requirements under paragraph (10) of  
7                   subsection (g),

8                   the applicable amount shall be 1.5 cents.

9                   “(b) QUALIFIED FACILITY.—

10                   “(1) IN GENERAL.—

11                   “(A) DEFINITION.—Subject to subpara-  
12                   graphs (B), (C), and (D), the term ‘qualified  
13                   facility’ means a facility owned by the tax-  
14                   payer—

15                   “(i) which is used for the generation  
16                   of electricity,

17                   “(ii) which is placed in service after  
18                   December 31, 2024, and

19                   “(iii) for which the greenhouse gas  
20                   emissions rate (as determined under para-  
21                   graph (2)) is not greater than zero.

22                   “(B) 10-YEAR PRODUCTION CREDIT.—For  
23                   purposes of this section, a facility shall only be  
24                   treated as a qualified facility during the 10-year

1 period beginning on the date the facility was  
2 originally placed in service.

3 “(C) EXPANSION OF FACILITY; INCRE-  
4 MENTAL PRODUCTION.—The term ‘qualified fa-  
5 cility’ shall include either of the following in  
6 connection with a facility described in subpara-  
7 graph (A) (without regard to clause (ii) of such  
8 subparagraph) which was placed in service be-  
9 fore January 1, 2025, but only to the extent of  
10 the increased amount of electricity produced at  
11 the facility by reason of the following:

12 “(i) A new unit which is placed in  
13 service after December 31, 2024.

14 “(ii) Any additions of capacity which  
15 are placed in service after December 31,  
16 2024.

17 “(D) COORDINATION WITH OTHER CRED-  
18 ITS.—The term ‘qualified facility’ shall not in-  
19 clude any facility for which a credit determined  
20 under section 45, 45J, 45Q, 45U, 48, 48A, or  
21 48E is allowed under section 38 for the taxable  
22 year or any prior taxable year.

23 “(2) GREENHOUSE GAS EMISSIONS RATE.—

24 “(A) IN GENERAL.—For purposes of this  
25 section, the term ‘greenhouse gas emissions

1 rate' means the amount of greenhouse gases  
2 emitted into the atmosphere by a facility in the  
3 production of electricity, expressed as grams of  
4 CO<sub>2</sub>e per KWh.

5 “(B) FUEL COMBUSTION AND GASIFI-  
6 CATION.—In the case of a facility which pro-  
7 duces electricity through combustion or gasifi-  
8 cation, the greenhouse gas emissions rate for  
9 such facility shall be equal to the net rate of  
10 greenhouse gases emitted into the atmosphere  
11 by such facility (taking into account lifecycle  
12 greenhouse gas emissions, as described in sec-  
13 tion 211(o)(1)(H) of the Clean Air Act (42  
14 U.S.C. 7545(o)(1)(H))) in the production of  
15 electricity, expressed as grams of CO<sub>2</sub>e per  
16 KWh.

17 “(C) ESTABLISHMENT OF EMISSIONS  
18 RATES FOR FACILITIES.—

19 “(i) PUBLISHING EMISSIONS RATES.—  
20 The Secretary shall annually publish a  
21 table that sets forth the greenhouse gas  
22 emissions rates for types or categories of  
23 facilities, which a taxpayer shall use for  
24 purposes of this section.

1                   “(ii)       PROVISIONAL       EMISSIONS  
2                   RATE.—In the case of any facility for  
3                   which an emissions rate has not been es-  
4                   tablished by the Secretary, a taxpayer  
5                   which owns such facility may file a petition  
6                   with the Secretary for determination of the  
7                   emissions rate with respect to such facility.

8                   “(D) CARBON CAPTURE AND SEQUESTRA-  
9                   TION EQUIPMENT.—For purposes of this sub-  
10                  section, the amount of greenhouse gases emit-  
11                  ted into the atmosphere by a facility in the pro-  
12                  duction of electricity shall not include any quali-  
13                  fied carbon dioxide that is captured by the tax-  
14                  payer and—

15                       “(i) pursuant to any regulations es-  
16                       tablished under paragraph (2) of section  
17                       45Q(f), disposed of by the taxpayer in se-  
18                       cure geological storage, or

19                       “(ii) utilized by the taxpayer in a  
20                       manner described in paragraph (5) of such  
21                       section.

22                  “(c) INFLATION ADJUSTMENT.—

23                       “(1) IN GENERAL.—In the case of a calendar  
24                       year beginning after 2024, the 0.3 cent amount in  
25                       paragraph (2)(A) of subsection (a) and the 1.5 cent

1 amount in paragraph (2)(B) of such subsection shall  
2 each be adjusted by multiplying such amount by the  
3 inflation adjustment factor for the calendar year in  
4 which the sale, consumption, or storage of the elec-  
5 tricity occurs. If the 0.3 cent amount as increased  
6 under this paragraph is not a multiple of 0.05 cent,  
7 such amount shall be rounded to the nearest mul-  
8 tiple of 0.05 cent. If the 1.5 cent amount as in-  
9 creased under this paragraph is not a multiple of 0.1  
10 cent, such amount shall be rounded to the nearest  
11 multiple of 0.1 cent.

12 “(2) ANNUAL COMPUTATION.—The Secretary  
13 shall, not later than April 1 of each calendar year,  
14 determine and publish in the Federal Register the  
15 inflation adjustment factor for such calendar year in  
16 accordance with this subsection.

17 “(3) INFLATION ADJUSTMENT FACTOR.—The  
18 term ‘inflation adjustment factor’ means, with re-  
19 spect to a calendar year, a fraction the numerator  
20 of which is the GDP implicit price deflator for the  
21 preceding calendar year and the denominator of  
22 which is the GDP implicit price deflator for the cal-  
23 endar year 1992. The term ‘GDP implicit price  
24 deflator’ means the most recent revision of the im-  
25 plicit price deflator for the gross domestic product



1 as computed and published by the Department of  
2 Commerce before March 15 of the calendar year.

3 “(d) CREDIT PHASE-OUT.—

4 “(1) IN GENERAL.—The amount of the clean  
5 electricity production credit under subsection (a) for  
6 any qualified facility the construction of which be-  
7 gins during a calendar year described in paragraph  
8 (2) shall be equal to the product of—

9 “(A) the amount of the credit determined  
10 under subsection (a) without regard to this sub-  
11 section, multiplied by

12 “(B) the phase-out percentage under para-  
13 graph (2).

14 “(2) PHASE-OUT PERCENTAGE.—The phase-out  
15 percentage under this paragraph is equal to—

16 “(A) for a facility the construction of  
17 which begins during the first calendar year fol-  
18 lowing the applicable year, 100 percent,

19 “(B) for a facility the construction of  
20 which begins during the second calendar year  
21 following the applicable year, 75 percent,

22 “(C) for a facility the construction of  
23 which begins during the third calendar year fol-  
24 lowing the applicable year, 50 percent, and

1           “(D) for a facility the construction of  
2           which begins during any calendar year subse-  
3           quent to the calendar year described in sub-  
4           paragraph (C), 0 percent.

5           “(3) APPLICABLE YEAR.—For purposes of this  
6           subsection, the term ‘applicable year’ means the  
7           later of—

8           “(A) the calendar year in which the Sec-  
9           retary determines that the annual greenhouse  
10          gas emissions from the production of electricity  
11          in the United States are equal to or less than  
12          25 percent of the annual greenhouse gas emis-  
13          sions from the production of electricity in the  
14          United States for calendar year 2022, or

15          “(B) 2032.

16          “(e) DEFINITIONS.—For purposes of this section:

17          “(1) CO<sub>2</sub>e PER KWh.—The term ‘CO<sub>2</sub>e per  
18          KWh’ means, with respect to any greenhouse gas,  
19          the equivalent carbon dioxide (as determined based  
20          on global warming potential) per kilowatt hour of  
21          electricity produced.

22          “(2) GREENHOUSE GAS.—The term ‘greenhouse  
23          gas’ has the same meaning given such term under  
24          section 211(o)(1)(G) of the Clean Air Act (42

1 U.S.C. 7545(o)(1)(G)), as in effect on the date of  
2 the enactment of this section.

3 “(3) QUALIFIED CARBON DIOXIDE.—The term  
4 ‘qualified carbon dioxide’ means carbon dioxide cap-  
5 tured from an industrial source which—

6 “(A) would otherwise be released into the  
7 atmosphere as industrial emission of green-  
8 house gas,

9 “(B) is measured at the source of capture  
10 and verified at the point of disposal or utiliza-  
11 tion, and

12 “(C) is captured and disposed or utilized  
13 within the United States (within the meaning of  
14 section 638(1)) or a possession of the United  
15 States (within the meaning of section 638(2)).

16 “(f) GUIDANCE.—Not later than January 1, 2025,  
17 the Secretary shall issue guidance regarding implementa-  
18 tion of this section, including calculation of greenhouse  
19 gas emission rates for qualified facilities and determina-  
20 tion of clean electricity production credits under this sec-  
21 tion.

22 “(g) SPECIAL RULES.—

23 “(1) ONLY PRODUCTION IN THE UNITED  
24 STATES TAKEN INTO ACCOUNT.—Consumption,  
25 sales, or storage shall be taken into account under

1 this section only with respect to electricity the pro-  
2 duction of which is within—

3 “(A) the United States (within the mean-  
4 ing of section 638(1)), or

5 “(B) a possession of the United States  
6 (within the meaning of section 638(2)).

7 “(2) COMBINED HEAT AND POWER SYSTEM  
8 PROPERTY.—

9 “(A) IN GENERAL.—For purposes of sub-  
10 section (a)—

11 “(i) the kilowatt hours of electricity  
12 produced by a taxpayer at a qualified facil-  
13 ity shall include any production in the  
14 form of useful thermal energy by any com-  
15 bined heat and power system property  
16 within such facility, and

17 “(ii) the amount of greenhouse gases  
18 emitted into the atmosphere by such facil-  
19 ity in the production of such useful ther-  
20 mal energy shall be included for purposes  
21 of determining the greenhouse gas emis-  
22 sions rate for such facility.

23 “(B) COMBINED HEAT AND POWER SYS-  
24 TEM PROPERTY.—For purposes of this para-  
25 graph, the term ‘combined heat and power sys-

1           tem property' has the same meaning given such  
2           term by section 48(c)(3) (without regard to  
3           subparagraphs (A)(iv), (B), and (D) thereof).

4                   “(C) CONVERSION FROM BTU TO KWH.—

5                           “(i) IN GENERAL.—For purposes of  
6                           subparagraph (A)(i), the amount of kilo-  
7                           watt hours of electricity produced in the  
8                           form of useful thermal energy shall be  
9                           equal to the quotient of—

10                                   “(I) the total useful thermal en-  
11                                   ergy produced by the combined heat  
12                                   and power system property within the  
13                                   qualified facility, divided by

14   “(II) the heat rate for such facil-  
15   ity.

16                                   “(ii) HEAT RATE.—For purposes of  
17                                   this subparagraph, the term ‘heat rate’  
18                                   means the amount of energy used by the  
19                                   qualified facility to generate 1 kilowatt  
20                                   hour of electricity, expressed as British  
21                                   thermal units per net kilowatt hour gen-  
22                                   erated.

23                           “(3) PRODUCTION ATTRIBUTABLE TO THE TAX-  
24                           PAYER.—In the case of a qualified facility in which  
25                           more than 1 person has an ownership interest, ex-

1       cept to the extent provided in regulations prescribed  
2       by the Secretary, production from the facility shall  
3       be allocated among such persons in proportion to  
4       their respective ownership interests in the gross  
5       sales from such facility.

6           “(4) RELATED PERSONS.—Persons shall be  
7       treated as related to each other if such persons  
8       would be treated as a single employer under the reg-  
9       ulations prescribed under section 52(b). In the case  
10      of a corporation which is a member of an affiliated  
11      group of corporations filing a consolidated return,  
12      such corporation shall be treated as selling electricity  
13      to an unrelated person if such electricity is sold to  
14      such a person by another member of such group.

15           “(5) PASS-THRU IN THE CASE OF ESTATES AND  
16      TRUSTS.—Under regulations prescribed by the Sec-  
17      retary, rules similar to the rules of subsection (d) of  
18      section 52 shall apply.

19           “(6) ALLOCATION OF CREDIT TO PATRONS OF  
20      AGRICULTURAL COOPERATIVE.—

21           “(A) ELECTION TO ALLOCATE.—

22           “(i) IN GENERAL.—In the case of an  
23      eligible cooperative organization, any por-  
24      tion of the credit determined under sub-  
25      section (a) for the taxable year may, at the

1 election of the organization, be apportioned  
2 among patrons of the organization on the  
3 basis of the amount of business done by  
4 the patrons during the taxable year.

5 “(ii) FORM AND EFFECT OF ELEC-  
6 TION.—An election under clause (i) for any  
7 taxable year shall be made on a timely  
8 filed return for such year. Such election,  
9 once made, shall be irrevocable for such  
10 taxable year. Such election shall not take  
11 effect unless the organization designates  
12 the apportionment as such in a written no-  
13 tice mailed to its patrons during the pay-  
14 ment period described in section 1382(d).

15 “(B) TREATMENT OF ORGANIZATIONS AND  
16 PATRONS.—The amount of the credit appor-  
17 tioned to any patrons under subparagraph  
18 (A)—

19 “(i) shall not be included in the  
20 amount determined under subsection (a)  
21 with respect to the organization for the  
22 taxable year, and

23 “(ii) shall be included in the amount  
24 determined under subsection (a) for the  
25 first taxable year of each patron ending on

1 or after the last day of the payment period  
2 (as defined in section 1382(d)) for the tax-  
3 able year of the organization or, if earlier,  
4 for the taxable year of each patron ending  
5 on or after the date on which the patron  
6 receives notice from the cooperative of the  
7 apportionment.

8 “(C) SPECIAL RULES FOR DECREASE IN  
9 CREDITS FOR TAXABLE YEAR.—If the amount  
10 of the credit of a cooperative organization de-  
11 termined under subsection (a) for a taxable  
12 year is less than the amount of such credit  
13 shown on the return of the cooperative organi-  
14 zation for such year, an amount equal to the  
15 excess of—

16 “(i) such reduction, over

17 “(ii) the amount not apportioned to  
18 such patrons under subparagraph (A) for  
19 the taxable year,

20 shall be treated as an increase in tax imposed  
21 by this chapter on the organization. Such in-  
22 crease shall not be treated as tax imposed by  
23 this chapter for purposes of determining the  
24 amount of any credit under this chapter.



1           “(D) ELIGIBLE COOPERATIVE DEFINED.—

2           For purposes of this section, the term ‘eligible  
3           cooperative’ means a cooperative organization  
4           described in section 1381(a) which is owned  
5           more than 50 percent by agricultural producers  
6           or by entities owned by agricultural producers.  
7           For this purpose an entity owned by an agricul-  
8           tural producer is one that is more than 50 per-  
9           cent owned by agricultural producers.

10           “(7) INCREASE IN CREDIT IN ENERGY COMMU-  
11           NITIES.—In the case of any qualified facility which  
12           is located in an energy community (as defined in  
13           section 45(b)(11)(B)), for purposes of determining  
14           the amount of the credit under subsection (a) with  
15           respect to any electricity produced by the taxpayer  
16           at such facility during the taxable year, the applica-  
17           ble amount under paragraph (2) of such subsection  
18           shall be increased by an amount equal to 10 percent  
19           of the amount otherwise in effect under such para-  
20           graph.

21           “(8) CREDIT REDUCED FOR TAX-EXEMPT  
22           BONDS.—Rules similar to the rules of section  
23           45(b)(3) shall apply.

24           “(9) WAGE REQUIREMENTS.—Rules similar to  
25           the rules of section 45(b)(7) shall apply.

1           “(10) APPRENTICESHIP REQUIREMENTS.—  
2 Rules similar to the rules of section 45(b)(8) shall  
3 apply.

4           “(11) DOMESTIC CONTENT BONUS CREDIT  
5 AMOUNT.—

6           “(A) IN GENERAL.—In the case of any  
7 qualified facility which satisfies the requirement  
8 under subparagraph (B)(i), the amount of the  
9 credit determined under subsection (a) shall be  
10 increased by an amount equal to 10 percent of  
11 the amount so determined (as determined with-  
12 out application of paragraph (7)).

13           “(B) REQUIREMENT.—

14           “(i) IN GENERAL.—The requirement  
15 described in this subclause is satisfied with  
16 respect to any qualified facility if the tax-  
17 payer certifies to the Secretary (at such  
18 time, and in such form and manner, as the  
19 Secretary may prescribe) that any steel,  
20 iron, or manufactured product which is a  
21 component of such facility (upon comple-  
22 tion of construction) was produced in the  
23 United States (as determined under sec-  
24 tion 661 of title 49, Code of Federal Regu-  
25 lations).

1           “(ii) STEEL AND IRON.—In the case  
2 of steel or iron, clause (i) shall be applied  
3 in a manner consistent with section 661.5  
4 of title 49, Code of Federal Regulations.

5           “(iii) MANUFACTURED PRODUCT.—  
6 For purposes of clause (i), the manufac-  
7 tured products which are components of a  
8 qualified facility upon completion of con-  
9 struction shall be deemed to have been pro-  
10 duced in the United States if not less than  
11 the adjusted percentage (as determined  
12 under subparagraph (C)) of the total costs  
13 of all such manufactured products of such  
14 facility are attributable to manufactured  
15 products (including components) which are  
16 mined, produced, or manufactured in the  
17 United States.

18           “(C) ADJUSTED PERCENTAGE.—

19           “(i) IN GENERAL.—Subject to sub-  
20 clause (ii), for purposes of subparagraph  
21 (B)(iii), the adjusted percentage shall be—

22                   “(I) in the case of a facility the  
23 construction of which begins before  
24 January 1, 2025, 40 percent,

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1 “(II) in the case of a facility the  
2 construction of which begins after De-  
3 cember 31, 2024, and before January  
4 1, 2026, 45 percent,

5 “(III) in the case of a facility the  
6 construction of which begins after De-  
7 cember 31, 2025, and before January  
8 1, 2027, 50 percent, and

9 “(IV) in the case of a facility the  
10 construction of which begins after De-  
11 cember 31, 2026, 55 percent.

12 “(ii) OFFSHORE WIND FACILITY.—  
13 For purposes of subparagraph (B)(iii), in  
14 the case of a qualified facility which is an  
15 offshore wind facility, the adjusted per-  
16 centage shall be—

17 “(I) in the case of a facility the  
18 construction of which begins before  
19 January 1, 2025, 20 percent,

20 “(II) in the case of a facility the  
21 construction of which begins after De-  
22 cember 31, 2024, and before January  
23 1, 2026, 27.5 percent,

24 “(III) in the case of a facility the  
25 construction of which begins after De-

1 cember 31, 2025, and before January  
2 1, 2027, 35 percent,

3 “(IV) in the case of a facility the  
4 construction of which begins after De-  
5 cember 31, 2026, and before January  
6 1, 2028, 45 percent, and

7 “(V) in the case of a facility the  
8 construction of which begins after De-  
9 cember 31, 2027, 55 percent.

10 “(12) PHASEOUT FOR ELECTIVE PAYMENT.—

11 “(A) IN GENERAL.—In the case of a tax-  
12 payer making an election under section 6417  
13 with respect to a credit under this section, the  
14 amount of such credit shall be replaced with—

15 “(i) the value of such credit (deter-  
16 mined without regard to this paragraph),  
17 multiplied by

18 “(ii) the applicable percentage.

19 “(B) 100 PERCENT APPLICABLE PERCENT-  
20 AGE FOR CERTAIN QUALIFIED FACILITIES.—In  
21 the case of any qualified facility—

22 “(i) which satisfies the requirements  
23 under paragraph (11)(B), or

1                   “(ii) with a maximum net output of  
2                   less than 1 megawatt (as measured in al-  
3                   ternating current),

4                   the applicable percentage shall be 100 percent.

5                   “(C) PHASED DOMESTIC CONTENT RE-  
6                   QUIREMENT.—Subject to subparagraph (D), in  
7                   the case of any qualified facility which is not  
8                   described in subparagraph (B), the applicable  
9                   percentage shall be—

10                   “(i) if construction of such facility  
11                   began before January 1, 2024, 100 per-  
12                   cent,

13                   “(ii) if construction of such facility  
14                   began in calendar year 2024, 90 percent,

15                   “(iii) if construction of such facility  
16                   began in calendar year 2025, 85 percent,  
17                   and

18                   “(iv) if construction of such facility  
19                   began after December 31, 2025, 0 percent.

20                   “(D) EXCEPTION.—

21                   “(i) IN GENERAL.—For purposes of  
22                   this paragraph, the Secretary shall provide  
23                   exceptions to the requirements under this  
24                   paragraph if—

1                   “(I) the inclusion of steel, iron,  
2                   or manufactured products which are  
3                   produced in the United States in-  
4                   creases the overall costs of construc-  
5                   tion of qualified facilities by more  
6                   than 25 percent, or

7                   “(II) relevant steel, iron, or man-  
8                   ufactured products are not produced  
9                   in the United States in sufficient and  
10                  reasonably available quantities or of a  
11                  satisfactory quality.

12                  “(ii) APPLICABLE PERCENTAGE.—In  
13                  any case in which the Secretary provides  
14                  an exception pursuant to clause (i), the ap-  
15                  plicable percentage shall be 100 percent.”.

16                  (b) CONFORMING AMENDMENTS.—

17                   (1) Section 38(b), as amended by the preceding  
18                  provisions of this Act, is amended—

19                   (A) in paragraph (37), by striking “plus”  
20                  at the end,

21                   (B) in paragraph (38), by striking the pe-  
22                  riod at the end and inserting “, plus”, and

23                   (C) by adding at the end the following new  
24                  paragraph:

1           “(39) the clean electricity production credit de-  
2           termined under section 45Y(a).”.

3           (2) The table of sections for subpart D of part  
4           IV of subchapter A of chapter 1, as amended by the  
5           preceding provisions of this Act, is amended by add-  
6           ing at the end the following new item:

“Sec. 45Y. Clean electricity production credit.”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to facilities placed in service after  
9           December 31, 2024.

10 **SEC. 13702. CLEAN ELECTRICITY INVESTMENT CREDIT.**

11           (a) IN GENERAL.—Subpart E of part IV of sub-  
12           chapter A of chapter 1, as amended by section 107(a) of  
13           the CHIPS Act of 2022, is amended by inserting after  
14           section 48D the following new section:

15 **“SEC. 48E. CLEAN ELECTRICITY INVESTMENT CREDIT.**

16           “(a) INVESTMENT CREDIT FOR QUALIFIED PROP-  
17           PERTY.—

18           “(1) IN GENERAL.—For purposes of section 46,  
19           the clean electricity investment credit for any taxable  
20           year is an amount equal to the applicable percentage  
21           of the qualified investment for such taxable year  
22           with respect to—

23                       “(A) any qualified facility, and

24                       “(B) any energy storage technology.

25           “(2) APPLICABLE PERCENTAGE.—



1                   “(A) QUALIFIED FACILITIES.—Subject to  
2 paragraph (3)—

3                   “(i) BASE RATE.—In the case of any  
4 qualified facility which is not described in  
5 subclause (I) or (II) of clause (ii) and does  
6 not satisfy the requirements described in  
7 subclause (III) of such clause, the applica-  
8 ble percentage shall be 6 percent.

9                   “(ii) ALTERNATIVE RATE.—In the  
10 case of any qualified facility—

11                   “(I) with a maximum net output  
12 of less than 1 megawatt (as measured  
13 in alternating current),

14                   “(II) the construction of which  
15 begins prior to the date that is 60  
16 days after the Secretary publishes  
17 guidance with respect to the require-  
18 ments of paragraphs (3) and (4) of  
19 subsection (d), or

20                   “(III) which—

21                   “(aa) satisfies the require-  
22 ments of subsection (d)(3), and

23                   “(bb) with respect to the  
24 construction of such facility, sat-

1 isfies the requirements of sub-  
2 section (d)(4),  
3 the applicable percentage shall be 30 per-  
4 cent.

5 “(B) ENERGY STORAGE TECHNOLOGY.—  
6 Subject to paragraph (3)—

7 “(i) BASE RATE.—In the case of any  
8 energy storage technology which is not de-  
9 scribed in subclause (I) or (II) of clause  
10 (ii) and does not satisfy the requirements  
11 described in subclause (III) of such clause,  
12 the applicable percentage shall be 6 per-  
13 cent.

14 “(ii) ALTERNATIVE RATE.—In the  
15 case of any energy storage technology—

16 “(I) with a capacity of less than  
17 1 megawatt,

18 “(II) the construction of which  
19 begins prior to the date that is 60  
20 days after the Secretary publishes  
21 guidance with respect to the require-  
22 ments of paragraphs (3) and (4) of  
23 subsection (d), or

24 “(III) which—

1                   “(aa) satisfies the require-  
2                   ments of subsection (d)(3), and

3                   “(bb) with respect to the  
4                   construction of such property,  
5                   satisfies the requirements of sub-  
6                   section (d)(4),

7                   the applicable percentage shall be 30 per-  
8                   cent.

9                   “(3) INCREASE IN CREDIT RATE IN CERTAIN  
10                  CASES.—

11                   “(A) ENERGY COMMUNITIES.—

12                   “(i) IN GENERAL.—In the case of any  
13                   qualified investment with respect to a  
14                   qualified facility or with respect to energy  
15                   storage technology which is placed in serv-  
16                   ice within an energy community (as de-  
17                   fined in section 45(b)(11)(B)), for pur-  
18                   poses of applying paragraph (2) with re-  
19                   spect to such property or investment, the  
20                   applicable percentage shall be increased by  
21                   the applicable credit rate increase.

22                   “(ii) APPLICABLE CREDIT RATE IN-  
23                   CREASE.—For purposes of clause (i), the  
24                   applicable credit rate increase shall be an  
25                   amount equal to—

1                   “(I) in the case of any qualified  
2                   investment with respect to a qualified  
3                   facility described in paragraph  
4                   (2)(A)(i) or with respect to energy  
5                   storage technology described in para-  
6                   graph (2)(B)(i), 2 percentage points,  
7                   and

8                   “(II) in the case of any qualified  
9                   investment with respect to a qualified  
10                  facility described in paragraph  
11                  (2)(A)(ii) or with respect to energy  
12                  storage technology described in para-  
13                  graph (2)(B)(ii), 10 percentage  
14                  points.

15                  “(B) DOMESTIC CONTENT.—Rules similar  
16                  to the rules of section 48(a)(12) shall apply.

17                  “(b) QUALIFIED INVESTMENT WITH RESPECT TO A  
18                  QUALIFIED FACILITY.—

19                  “(1) IN GENERAL.—For purposes of subsection  
20                  (a), the qualified investment with respect to any  
21                  qualified facility for any taxable year is the sum  
22                  of—

23                  “(A) the basis of any qualified property  
24                  placed in service by the taxpayer during such

1 taxable year which is part of a qualified facility,  
2 plus

3 “(B) the amount of any expenditures  
4 which are—

5 “(i) paid or incurred by the taxpayer  
6 for qualified interconnection property—

7 “(I) in connection with a quali-  
8 fied facility which has a maximum net  
9 output of not greater than 5  
10 megawatts (as measured in alter-  
11 nating current), and

12 “(II) placed in service during the  
13 taxable year of the taxpayer, and

14 “(ii) properly chargeable to capital ac-  
15 count of the taxpayer.

16 “(2) QUALIFIED PROPERTY.—For purposes of  
17 this section, the term ‘qualified property’ means  
18 property—

19 “(A) which is—

20 “(i) tangible personal property, or

21 “(ii) other tangible property (not in-  
22 cluding a building or its structural compo-  
23 nents), but only if such property is used as  
24 an integral part of the qualified facility,

1           “(B) with respect to which depreciation (or  
2 amortization in lieu of depreciation) is allow-  
3 able, and

4           “(C)(i) the construction, reconstruction, or  
5 erection of which is completed by the taxpayer,  
6 or

7           “(ii) which is acquired by the taxpayer if  
8 the original use of such property commences  
9 with the taxpayer.

10       “(3) QUALIFIED FACILITY.—

11           “(A) IN GENERAL.—For purposes of this  
12 section, the term ‘qualified facility’ means a fa-  
13 cility—

14           “(i) which is used for the generation  
15 of electricity,

16           “(ii) which is placed in service after  
17 December 31, 2024, and

18           “(iii) for which the anticipated green-  
19 house gas emissions rate (as determined  
20 under subparagraph (B)(ii)) is not greater  
21 than zero.

22       “(B) ADDITIONAL RULES.—

23           “(i) EXPANSION OF FACILITY; INCRE-  
24           MENTAL PRODUCTION.—Rules similar to

1 the rules of section 45Y(b)(1)(C) shall  
2 apply for purposes of this paragraph.

3 “(ii) GREENHOUSE GAS EMISSIONS  
4 RATE.—Rules similar to the rules of sec-  
5 tion 45Y(b)(2) shall apply for purposes of  
6 this paragraph.

7 “(C) EXCLUSION.—The term ‘qualified fa-  
8 cility’ shall not include any facility for which—

9 “(i) a renewable electricity production  
10 credit determined under section 45,

11 “(ii) an advanced nuclear power facil-  
12 ity production credit determined under sec-  
13 tion 45J,

14 “(iii) a carbon oxide sequestration  
15 credit determined under section 45Q,

16 “(iv) a zero-emission nuclear power  
17 production credit determined under section  
18 45U,

19 “(v) a clean electricity production  
20 credit determined under section 45Y,

21 “(vi) an energy credit determined  
22 under section 48, or

23 “(vii) a qualifying advanced coal  
24 project credit under section 48A,

1 is allowed under section 38 for the taxable year  
2 or any prior taxable year.

3 “(4) QUALIFIED INTERCONNECTION PROP-  
4 ERTY.—For purposes of this paragraph, the term  
5 ‘qualified interconnection property’ has the meaning  
6 given such term in section 48(a)(8)(B).

7 “(5) COORDINATION WITH REHABILITATION  
8 CREDIT.—The qualified investment with respect to  
9 any qualified facility for any taxable year shall not  
10 include that portion of the basis of any property  
11 which is attributable to qualified rehabilitation ex-  
12 penditures (as defined in section 47(c)(2)).

13 “(6) DEFINITIONS.—For purposes of this sub-  
14 section, the terms ‘CO<sub>2</sub>e per KWh’ and ‘greenhouse  
15 gas emissions rate’ have the same meaning given  
16 such terms under section 45Y.

17 “(c) QUALIFIED INVESTMENT WITH RESPECT TO  
18 ENERGY STORAGE TECHNOLOGY.—

19 “(1) QUALIFIED INVESTMENT.—For purposes  
20 of subsection (a), the qualified investment with re-  
21 spect to energy storage technology for any taxable  
22 year is the basis of any energy storage technology  
23 placed in service by the taxpayer during such taxable  
24 year.



1           “(2) ENERGY STORAGE TECHNOLOGY.—For  
2 purposes of this section, the term ‘energy storage  
3 technology’ has the meaning given such term in sec-  
4 tion 48(c)(6) (except that subparagraph (D) of such  
5 section shall not apply).

6           “(d) SPECIAL RULES.—

7           “(1) CERTAIN PROGRESS EXPENDITURE RULES  
8 MADE APPLICABLE.—Rules similar to the rules of  
9 subsections (c)(4) and (d) of section 46 (as in effect  
10 on the day before the date of the enactment of the  
11 Revenue Reconciliation Act of 1990) shall apply for  
12 purposes of subsection (a).

13           “(2) SPECIAL RULE FOR PROPERTY FINANCED  
14 BY SUBSIDIZED ENERGY FINANCING OR PRIVATE AC-  
15 TIVITY BONDS.—Rules similar to the rules of section  
16 45(b)(3) shall apply.

17           “(3) PREVAILING WAGE REQUIREMENTS.—  
18 Rules similar to the rules of section 48(a)(10) shall  
19 apply.

20           “(4) APPRENTICESHIP REQUIREMENTS.—Rules  
21 similar to the rules of section 45(b)(8) shall apply.

22           “(5) DOMESTIC CONTENT REQUIREMENT FOR  
23 ELECTIVE PAYMENT.—In the case of a taxpayer  
24 making an election under section 6417 with respect

1 to a credit under this section, rules similar to the  
2 rules of section 45Y(g)(12) shall apply.

3 “(e) CREDIT PHASE-OUT.—

4 “(1) IN GENERAL.—The amount of the clean  
5 electricity investment credit under subsection (a) for  
6 any qualified investment with respect to any quali-  
7 fied facility or energy storage technology the con-  
8 struction of which begins during a calendar year de-  
9 scribed in paragraph (2) shall be equal to the prod-  
10 uct of—

11 “(A) the amount of the credit determined  
12 under subsection (a) without regard to this sub-  
13 section, multiplied by

14 “(B) the phase-out percentage under para-  
15 graph (2).

16 “(2) PHASE-OUT PERCENTAGE.—The phase-out  
17 percentage under this paragraph is equal to—

18 “(A) for any qualified investment with re-  
19 spect to any qualified facility or energy storage  
20 technology the construction of which begins  
21 during the first calendar year following the ap-  
22 plicable year, 100 percent,

23 “(B) for any qualified investment with re-  
24 spect to any qualified facility or energy storage  
25 technology the construction of which begins

1 during the second calendar year following the  
2 applicable year, 75 percent,

3 “(C) for any qualified investment with re-  
4 spect to any qualified facility or energy storage  
5 technology the construction of which begins  
6 during the third calendar year following the ap-  
7 plicable year, 50 percent, and

8 “(D) for any qualified investment with re-  
9 spect to any qualified facility or energy storage  
10 technology the construction of which begins  
11 during any calendar year subsequent to the cal-  
12 endar year described in subparagraph (C), 0  
13 percent.

14 “(3) APPLICABLE YEAR.—For purposes of this  
15 subsection, the term ‘applicable year’ has the same  
16 meaning given such term in section 45Y(d)(3).

17 “(f) GREENHOUSE GAS.—In this section, the term  
18 ‘greenhouse gas’ has the same meaning given such term  
19 under section 45Y(e)(2).

20 “(g) RECAPTURE OF CREDIT.—For purposes of sec-  
21 tion 50, if the Secretary determines that the greenhouse  
22 gas emissions rate for a qualified facility is greater than  
23 10 grams of CO<sub>2</sub>e per KWh, any property for which a  
24 credit was allowed under this section with respect to such

1 facility shall cease to be investment credit property in the  
2 taxable year in which the determination is made.

3 “(h) SPECIAL RULES FOR CERTAIN FACILITIES  
4 PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME  
5 COMMUNITIES.—

6 “(1) IN GENERAL.—In the case of any applica-  
7 ble facility with respect to which the Secretary  
8 makes an allocation of environmental justice capac-  
9 ity limitation under paragraph (4)—

10 “(A) the applicable percentage otherwise  
11 determined under subsection (a)(2) with respect  
12 to any eligible property which is part of such  
13 facility shall be increased by—

14 “(i) in the case of a facility described  
15 in subclause (I) of paragraph (2)(A)(iii)  
16 and not described in subclause (II) of such  
17 paragraph, 10 percentage points, and

18 “(ii) in the case of a facility described  
19 in subclause (II) of paragraph (2)(A)(iii),  
20 20 percentage points, and

21 “(B) the increase in the credit determined  
22 under subsection (a) by reason of this sub-  
23 section for any taxable year with respect to all  
24 property which is part of such facility shall not  
25 exceed the amount which bears the same ratio

1 to the amount of such increase (determined  
2 without regard to this subparagraph) as—

3 “(i) the environmental justice capacity  
4 limitation allocated to such facility, bears  
5 to

6 “(ii) the total megawatt nameplate ca-  
7 pacity of such facility, as measured in di-  
8 rect current.

9 “(2) APPLICABLE FACILITY.—For purposes of  
10 this subsection—

11 “(A) IN GENERAL.—The term ‘applicable  
12 facility’ means any qualified facility—

13 “(i) which is not described in section  
14 45Y(b)(2)(B),

15 “(ii) which has a maximum net output  
16 of less than 5 megawatts (as measured in  
17 alternating current), and

18 “(iii) which—

19 “(I) is located in a low-income  
20 community (as defined in section  
21 45D(e)) or on Indian land (as defined  
22 in section 2601(2) of the Energy Pol-  
23 icy Act of 1992 (25 U.S.C. 3501(2))),  
24 or

1                   “(II) is part of a qualified low-in-  
2                   come residential building project or a  
3                   qualified low-income economic benefit  
4                   project.

5                   “(B) QUALIFIED LOW-INCOME RESIDEN-  
6                   TIAL BUILDING PROJECT.—A facility shall be  
7                   treated as part of a qualified low-income resi-  
8                   dential building project if—

9                   “(i) such facility is installed on a resi-  
10                  dential rental building which participates  
11                  in a covered housing program (as defined  
12                  in section 41411(a) of the Violence Against  
13                  Women Act of 1994 (34 U.S.C.  
14                  12491(a)(3)), a housing assistance pro-  
15                  gram administered by the Department of  
16                  Agriculture under title V of the Housing  
17                  Act of 1949, a housing program adminis-  
18                  tered by a tribally designated housing enti-  
19                  ty (as defined in section 4(22) of the Na-  
20                  tive American Housing Assistance and  
21                  Self-Determination Act of 1996 (25 U.S.C.  
22                  4103(22))) or such other affordable hous-  
23                  ing programs as the Secretary may pro-  
24                  vide, and

1                   “(ii) the financial benefits of the elec-  
2                   tricity produced by such facility are allo-  
3                   cated equitably among the occupants of the  
4                   dwelling units of such building.

5                   “(C) QUALIFIED LOW-INCOME ECONOMIC  
6                   BENEFIT PROJECT.—A facility shall be treated  
7                   as part of a qualified low-income economic ben-  
8                   efit project if at least 50 percent of the finan-  
9                   cial benefits of the electricity produced by such  
10                  facility are provided to households with income  
11                  of—

12                  “(i) less than 200 percent of the pov-  
13                  erty line (as defined in section  
14                  36B(d)(3)(A)) applicable to a family of the  
15                  size involved, or

16                  “(ii) less than 80 percent of area me-  
17                  dian gross income (as determined under  
18                  section 142(d)(2)(B)).

19                  “(D) FINANCIAL BENEFIT.—For purposes  
20                  of subparagraphs (B) and (C), electricity ac-  
21                  quired at a below-market rate shall not fail to  
22                  be taken into account as a financial benefit.

23                  “(3) ELIGIBLE PROPERTY.—For purposes of  
24                  this subsection, the term ‘eligible property’ means a

1 qualified investment with respect to any applicable  
2 facility.

3 “(4) ALLOCATIONS.—

4 “(A) IN GENERAL.—Not later than Janu-  
5 ary 1, 2025, the Secretary shall establish a pro-  
6 gram to allocate amounts of environmental jus-  
7 tice capacity limitation to applicable facilities.  
8 In establishing such program and to carry out  
9 the purposes of this subsection, the Secretary  
10 shall provide procedures to allow for an efficient  
11 allocation process, including, when determined  
12 appropriate, consideration of multiple projects  
13 in a single application if such projects will be  
14 placed in service by a single taxpayer.

15 “(B) LIMITATION.—The amount of envi-  
16 ronmental justice capacity limitation allocated  
17 by the Secretary under subparagraph (A) dur-  
18 ing any calendar year shall not exceed the an-  
19 nual capacity limitation with respect to such  
20 year.

21 “(C) ANNUAL CAPACITY LIMITATION.—For  
22 purposes of this paragraph, the term ‘annual  
23 capacity limitation’ means 1.8 gigawatts of di-  
24 rect current capacity for each calendar year  
25 during the period beginning on January 1,



1           2025, and ending on December 31 of the appli-  
2           cable year (as defined in section 45Y(d)(3)),  
3           and zero thereafter.

4           “(D) CARRYOVER OF UNUSED LIMITA-  
5           TION.—

6                   “(i) IN GENERAL.—If the annual ca-  
7                   pacity limitation for any calendar year ex-  
8                   ceeds the aggregate amount allocated for  
9                   such year under this paragraph, such limi-  
10                  tation for the succeeding calendar year  
11                  shall be increased by the amount of such  
12                  excess. No amount may be carried under  
13                  the preceding sentence to any calendar  
14                  year after the third calendar year following  
15                  the applicable year (as defined in section  
16                  45Y(d)(3)).

17                   “(ii) CARRYOVER FROM SECTION 48  
18                   FOR CALENDAR YEAR 2025.—If the annual  
19                   capacity limitation for calendar year 2024  
20                   under section 48(e)(4)(D) exceeds the ag-  
21                   gregate amount allocated for such year  
22                   under such section, such excess amount  
23                   may be carried over and applied to the an-  
24                   nual capacity limitation under this sub-  
25                   section for calendar year 2025. The annual

1 capacity limitation for calendar year 2025  
2 shall be increased by the amount of such  
3 excess.

4 “(E) PLACED IN SERVICE DEADLINE.—

5 “(i) IN GENERAL.—Paragraph (1)  
6 shall not apply with respect to any prop-  
7 erty which is placed in service after the  
8 date that is 4 years after the date of the  
9 allocation with respect to the facility of  
10 which such property is a part.

11 “(ii) APPLICATION OF CARRYOVER.—  
12 Any amount of environmental justice ca-  
13 pacity limitation which expires under  
14 clause (i) during any calendar year shall be  
15 taken into account as an excess described  
16 in subparagraph (D)(i) (or as an increase  
17 in such excess) for such calendar year,  
18 subject to the limitation imposed by the  
19 last sentence of such subparagraph.

20 “(5) RECAPTURE.—The Secretary shall, by reg-  
21 ulations or other guidance, provide for recapturing  
22 the benefit of any increase in the credit allowed  
23 under subsection (a) by reason of this subsection  
24 with respect to any property which ceases to be  
25 property eligible for such increase (but which does

1 not cease to be investment credit property within the  
2 meaning of section 50(a)). The period and percent-  
3 age of such recapture shall be determined under  
4 rules similar to the rules of section 50(a). To the ex-  
5 tent provided by the Secretary, such recapture may  
6 not apply with respect to any property if, within 12  
7 months after the date the taxpayer becomes aware  
8 (or reasonably should have become aware) of such  
9 property ceasing to be property eligible for such in-  
10 crease, the eligibility of such property for such in-  
11 crease is restored. The preceding sentence shall not  
12 apply more than once with respect to any facility.

13 “(i) GUIDANCE.—Not later than January 1, 2025,  
14 the Secretary shall issue guidance regarding implementa-  
15 tion of this section.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 46, as amended by section 107(d)  
18 of the CHIPS Act of 2022, is amended—

19 (A) in paragraph (5), by striking “and” at  
20 the end,

21 (B) in paragraph (6), by striking the pe-  
22 riod at the end and inserting “, and”, and

23 (C) by adding at the end the following:

24 “(7) the clean electricity investment credit.”.

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1           (2) Section 49(a)(1)(C), as amended by section  
2           107(d) of the CHIPS Act of 2022, is amended—

3                   (A) by striking “and” at the end of clause  
4                   (v),

5                   (B) by striking the period at the end of  
6                   clause (vi) and inserting a comma, and

7                   (C) by adding at the end the following new  
8                   clauses:

9                           “(vii) the basis of any qualified prop-  
10                           erty which is part of a qualified facility  
11                           under section 48E, and

12                           “(viii) the basis of any energy storage  
13                           technology under section 48E.”.

14           (3) Section 50(a)(2)(E), as amended by section  
15           107(d) of the CHIPS Act of 2022, is amended by  
16           striking “or 48D(b)(5)” and inserting “48D(b)(5),  
17           or 48E(e)”.

18           (4) Section 50(c)(3) is amended by inserting  
19           “or clean electricity investment credit” after “In the  
20           case of any energy credit”.

21           (5) The table of sections for subpart E of part  
22           IV of subchapter A of chapter 1, as amended by sec-  
23           tion 107(d) of the CHIPS Act of 2022, is amended  
24           by inserting after the item relating to section 48D  
25           the following new item:

“48E. Clean electricity investment credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 December 31, 2024.

4 **SEC. 13703. COST RECOVERY FOR QUALIFIED FACILITIES,**  
5 **QUALIFIED PROPERTY, AND ENERGY STOR-**  
6 **AGE TECHNOLOGY.**

7 (a) IN GENERAL.—Section 168(e)(3)(B) is amend-  
8 ed—

9 (1) in clause (vi)(III), by striking “and” at the  
10 end,

11 (2) in clause (vii), by striking the period at the  
12 end and inserting “, and”, and

13 (3) by inserting after clause (vii) the following:

14 “(viii) any qualified facility (as de-  
15 fined in section 45Y(b)(1)(A)), any quali-  
16 fied property (as defined in subsection  
17 (b)(2) of section 48E) which is a qualified  
18 investment (as defined in subsection (b)(1)  
19 of such section), or any energy storage  
20 technology (as defined in subsection (c)(2)  
21 of such section).”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to facilities and property placed  
24 in service after December 31, 2024.

1 **SEC. 13704. CLEAN FUEL PRODUCTION CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-  
3 chapter A of chapter 1, as amended by the preceding pro-  
4 visions of this Act, is amended by adding at the end the  
5 following new section:

6 **“SEC. 45Z. CLEAN FUEL PRODUCTION CREDIT.**

7 “(a) AMOUNT OF CREDIT.—

8 “(1) IN GENERAL.—For purposes of section 38,  
9 the clean fuel production credit for any taxable year  
10 is an amount equal to the product of—

11 “(A) the applicable amount per gallon (or  
12 gallon equivalent) with respect to any transpor-  
13 tation fuel which is—

14 “(i) produced by the taxpayer at a  
15 qualified facility, and

16 “(ii) sold by the taxpayer in a manner  
17 described in paragraph (4) during the tax-  
18 able year, and

19 “(B) the emissions factor for such fuel (as  
20 determined under subsection (b)).

21 “(2) APPLICABLE AMOUNT.—

22 “(A) BASE AMOUNT.—In the case of any  
23 transportation fuel produced at a qualified facil-  
24 ity which does not satisfy the requirements de-  
25 scribed in subparagraph (B), the applicable  
26 amount shall be 20 cents.

1           “(B) ALTERNATIVE AMOUNT.—In the case  
2 of any transportation fuel produced at a quali-  
3 fied facility which satisfies the requirements  
4 under paragraphs (6) and (7) of subsection (f),  
5 the applicable amount shall be \$1.00.

6           “(3) SPECIAL RATE FOR SUSTAINABLE AVIA-  
7 TION FUEL.—

8           “(A) IN GENERAL.—In the case of a trans-  
9 portation fuel which is sustainable aviation fuel,  
10 paragraph (2) shall be applied—

11           “(i) in the case of fuel produced at a  
12 qualified facility described in paragraph  
13 (2)(A), by substituting ‘35 cents’ for ‘20  
14 cents’, and

15           “(ii) in the case of fuel produced at a  
16 qualified facility described in paragraph  
17 (2)(B), by substituting ‘\$1.75’ for ‘\$1.00’.

18           “(B) SUSTAINABLE AVIATION FUEL.—For  
19 purposes of this subparagraph (A), the term  
20 ‘sustainable aviation fuel’ means liquid fuel, the  
21 portion of which is not kerosene, which is sold  
22 for use in an aircraft and which—

23           “(i) meets the requirements of—

24           “(I) ASTM International Stand-  
25 ard D7566, or

1                   “(II) the Fischer Tropsch provi-  
2                   sions of ASTM International Stand-  
3                   ard D1655, Annex A1, and

4                   “(ii) is not derived from palm fatty  
5                   acid distillates or petroleum.

6                   “(4) SALE.—For purposes of paragraph (1),  
7                   the transportation fuel is sold in a manner described  
8                   in this paragraph if such fuel is sold by the taxpayer  
9                   to an unrelated person—

10                   “(A) for use by such person in the produc-  
11                   tion of a fuel mixture,

12                   “(B) for use by such person in a trade or  
13                   business, or

14                   “(C) who sells such fuel at retail to an-  
15                   other person and places such fuel in the fuel  
16                   tank of such other person.

17                   “(5) ROUNDING.—If any amount determined  
18                   under paragraph (1) is not a multiple of 1 cent,  
19                   such amount shall be rounded to the nearest cent.

20                   “(b) EMISSIONS FACTORS.—

21                   “(1) EMISSIONS FACTOR.—

22                   “(A) CALCULATION.—

23                   “(i) IN GENERAL.—The emissions fac-  
24                   tor of a transportation fuel shall be an  
25                   amount equal to the quotient of—



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1 “(I) an amount equal to—  
2 “(aa) 50 kilograms of CO<sub>2</sub>e  
3 per mmBTU, minus  
4 “(bb) the emissions rate for  
5 such fuel, divided by  
6 “(II) 50 kilograms of CO<sub>2</sub>e per  
7 mmBTU.

8 “(B) ESTABLISHMENT OF EMISSIONS  
9 RATE.—

10 “(i) IN GENERAL.—Subject to clauses  
11 (ii) and (iii), the Secretary shall annually  
12 publish a table which sets forth the emis-  
13 sions rate for similar types and categories  
14 of transportation fuels based on the  
15 amount of lifecycle greenhouse gas emis-  
16 sions (as described in section 211(o)(1)(H)  
17 of the Clean Air Act (42 U.S.C.  
18 7545(o)(1)(H)), as in effect on the date of  
19 the enactment of this section) for such  
20 fuels, expressed as kilograms of CO<sub>2</sub>e per  
21 mmBTU, which a taxpayer shall use for  
22 purposes of this section.

23 “(ii) NON-AVIATION FUEL.—In the  
24 case of any transportation fuel which is  
25 not a sustainable aviation fuel, the lifecycle

1 greenhouse gas emissions of such fuel shall  
2 be based on the most recent determina-  
3 tions under the Greenhouse gases, Regu-  
4 lated Emissions, and Energy use in Trans-  
5 portation model developed by Argonne Na-  
6 tional Laboratory, or a successor model (as  
7 determined by the Secretary).

8 “(iii) AVIATION FUEL.—In the case of  
9 any transportation fuel which is a sustain-  
10 able aviation fuel, the lifecycle greenhouse  
11 gas emissions of such fuel shall be deter-  
12 mined in accordance with—

13 “(I) the most recent Carbon Off-  
14 setting and Reduction Scheme for  
15 International Aviation which has been  
16 adopted by the International Civil  
17 Aviation Organization with the agree-  
18 ment of the United States, or

19 “(II) any similar methodology  
20 which satisfies the criteria under sec-  
21 tion 211(o)(1)(H) of the Clean Air  
22 Act (42 U.S.C. 7545(o)(1)(H)), as in  
23 effect on the date of enactment of this  
24 section.

25 “(C) ROUNDING OF EMISSIONS RATE.—

1                   “(i) IN GENERAL.—Subject to clause  
2                   (ii), the Secretary may round the emissions  
3                   rates under subparagraph (B) to the near-  
4                   est multiple of 5 kilograms of CO<sub>2</sub>e per  
5                   mmBTU.

6                   “(ii) EXCEPTION.—In the case of an  
7                   emissions rate that is between 2.5 kilo-  
8                   grams of CO<sub>2</sub>e per mmBTU and -2.5 kilo-  
9                   grams of CO<sub>2</sub>e per mmBTU, the Secretary  
10                  may round such rate to zero.

11                  “(D) PROVISIONAL EMISSIONS RATE.—In  
12                  the case of any transportation fuel for which an  
13                  emissions rate has not been established under  
14                  subparagraph (B), a taxpayer producing such  
15                  fuel may file a petition with the Secretary for  
16                  determination of the emissions rate with respect  
17                  to such fuel.

18                  “(2) ROUNDING.—If any amount determined  
19                  under paragraph (1)(A) is not a multiple of 0.1,  
20                  such amount shall be rounded to the nearest mul-  
21                  tiple of 0.1.

22                  “(c) INFLATION ADJUSTMENT.—

23                  “(1) IN GENERAL.—In the case of calendar  
24                  years beginning after 2024, the 20 cent amount in  
25                  subsection (a)(2)(A), the \$1.00 amount in sub-

1 section (a)(2)(B), the 35 cent amount in subsection  
2 (a)(3)(A)(i), and the \$1.75 amount in subsection  
3 (a)(3)(A)(ii) shall each be adjusted by multiplying  
4 such amount by the inflation adjustment factor for  
5 the calendar year in which the sale of the transpor-  
6 tation fuel occurs. If any amount as increased under  
7 the preceding sentence is not a multiple of 1 cent,  
8 such amount shall be rounded to the nearest mul-  
9 tiple of 1 cent.

10 “(2) INFLATION ADJUSTMENT FACTOR.—For  
11 purposes of paragraph (1), the inflation adjustment  
12 factor shall be the inflation adjustment factor deter-  
13 mined and published by the Secretary pursuant to  
14 section 45Y(c), determined by substituting ‘calendar  
15 year 2022’ for ‘calendar year 1992’ in paragraph (3)  
16 thereof.

17 “(d) DEFINITIONS.—In this section:

18 “(1) mmBTU.—The term ‘mmBTU’ means  
19 1,000,000 British thermal units.

20 “(2) CO<sub>2</sub>e.—The term ‘CO<sub>2</sub>e’ means, with re-  
21 spect to any greenhouse gas, the equivalent carbon  
22 dioxide (as determined based on relative global  
23 warming potential).

24 “(3) GREENHOUSE GAS.—The term ‘greenhouse  
25 gas’ has the same meaning given that term under

1 section 211(o)(1)(G) of the Clean Air Act (42  
2 U.S.C. 7545(o)(1)(G)), as in effect on the date of  
3 the enactment of this section.

4 “(4) QUALIFIED FACILITY.—The term ‘quali-  
5 fied facility’—

6 “(A) means a facility used for the produc-  
7 tion of transportation fuels, and

8 “(B) does not include any facility for  
9 which one of the following credits is allowed  
10 under section 38 for the taxable year:

11 “(i) The credit for production of clean  
12 hydrogen under section 45V.

13 “(ii) The credit determined under sec-  
14 tion 46 to the extent that such credit is at-  
15 tributable to the energy credit determined  
16 under section 48 with respect to any speci-  
17 fied clean hydrogen production facility for  
18 which an election is made under subsection  
19 (a)(15) of such section.

20 “(iii) The credit for carbon oxide se-  
21 questration under section 45Q.

22 “(5) TRANSPORTATION FUEL.—

23 “(A) IN GENERAL.—The term ‘transpor-  
24 tation fuel’ means a fuel which—

1 “(i) is suitable for use as a fuel in a  
2 highway vehicle or aircraft,

3 “(ii) has an emissions rate which is  
4 not greater than 50 kilograms of CO<sub>2e</sub> per  
5 mmBTU, and

6 “(iii) is not derived from coprocessing  
7 an applicable material (or materials de-  
8 rived from an applicable material) with a  
9 feedstock which is not biomass.

10 “(B) DEFINITIONS.—In this paragraph—

11 “(i) APPLICABLE MATERIAL.—The  
12 term ‘applicable material’ means—

13 “(I) monoglycerides, diglycerides,  
14 and triglycerides,

15 “(II) free fatty acids, and

16 “(III) fatty acid esters.

17 “(ii) BIOMASS.—The term ‘biomass’  
18 has the same meaning given such term in  
19 section 45K(c)(3).

20 “(e) GUIDANCE.—Not later than January 1, 2025,  
21 the Secretary shall issue guidance regarding implementa-  
22 tion of this section, including calculation of emissions fac-  
23 tors for transportation fuel, the table described in sub-  
24 section (b)(1)(B)(i), and the determination of clean fuel  
25 production credits under this section.

1 “(f) SPECIAL RULES.—

2 “(1) ONLY REGISTERED PRODUCTION IN THE  
3 UNITED STATES TAKEN INTO ACCOUNT.—

4 “(A) IN GENERAL.—No clean fuel produc-  
5 tion credit shall be determined under subsection  
6 (a) with respect to any transportation fuel un-  
7 less—

8 “(i) the taxpayer—

9 “(I) is registered as a producer  
10 of clean fuel under section 4101 at  
11 the time of production, and

12 “(II) in the case of any transpor-  
13 tation fuel which is a sustainable avia-  
14 tion fuel, provides—

15 “(aa) certification (in such  
16 form and manner as the Sec-  
17 retary shall prescribe) from an  
18 unrelated party demonstrating  
19 compliance with—

20 “(AA) any general re-  
21 quirements, supply chain  
22 traceability requirements,  
23 and information trans-  
24 mission requirements estab-  
25 lished under the Carbon Off-

1 setting and Reduction  
2 Scheme for International  
3 Aviation described in sub-  
4 clause (I) of subsection  
5 (b)(1)(B)(iii), or

6 “(BB) in the case of  
7 any methodology described  
8 in subclause (II) of such  
9 subsection, requirements  
10 similar to the requirements  
11 described in subitem (AA),  
12 and

13 “(bb) such other information  
14 with respect to such fuel as the  
15 Secretary may require for pur-  
16 poses of carrying out this section,  
17 and

18 “(ii) such fuel is produced in the  
19 United States.

20 “(B) UNITED STATES.—For purposes of  
21 this paragraph, the term ‘United States’ in-  
22 cludes any possession of the United States.

23 “(2) PRODUCTION ATTRIBUTABLE TO THE TAX-  
24 PAYER.—In the case of a facility in which more than  
25 1 person has an ownership interest, except to the ex-



1       tent provided in regulations prescribed by the Sec-  
2       retary, production from the facility shall be allocated  
3       among such persons in proportion to their respective  
4       ownership interests in the gross sales from such fa-  
5       cility.

6           “(3) RELATED PERSONS.—Persons shall be  
7       treated as related to each other if such persons  
8       would be treated as a single employer under the reg-  
9       ulations prescribed under section 52(b). In the case  
10      of a corporation which is a member of an affiliated  
11      group of corporations filing a consolidated return,  
12      such corporation shall be treated as selling fuel to  
13      an unrelated person if such fuel is sold to such a  
14      person by another member of such group.

15           “(4) PASS-THRU IN THE CASE OF ESTATES AND  
16      TRUSTS.—Under regulations prescribed by the Sec-  
17      retary, rules similar to the rules of subsection (d) of  
18      section 52 shall apply.

19           “(5) ALLOCATION OF CREDIT TO PATRONS OF  
20      AGRICULTURAL COOPERATIVE.—Rules similar to the  
21      rules of section 45Y(g)(6) shall apply.

22           “(6) PREVAILING WAGE REQUIREMENTS.—

23           “(A) IN GENERAL.—Subject to subpara-  
24      graph (B), rules similar to the rules of section  
25      45(b)(7) shall apply.

1           “(B) SPECIAL RULE FOR FACILITIES  
2           PLACED IN SERVICE BEFORE JANUARY 1,  
3           2025.—For purposes of subparagraph (A), in  
4           the case of any qualified facility placed in serv-  
5           ice before January 1, 2025—

6                   “(i) clause (i) of section 45(b)(7)(A)  
7                   shall not apply, and

8                   “(ii) clause (ii) of such section shall  
9                   be applied by substituting ‘with respect to  
10                  any taxable year beginning after December  
11                  31, 2024, for which the credit is allowed  
12                  under this section’ for ‘with respect to any  
13                  taxable year, for any portion of such tax-  
14                  able year which is within the period de-  
15                  scribed in subsection (a)(2)(A)(ii)’.

16                  “(7) APPRENTICESHIP REQUIREMENTS.—Rules  
17                  similar to the rules of section 45(b)(8) shall apply.

18                  “(g) TERMINATION.—This section shall not apply to  
19                  transportation fuel sold after December 31, 2027.”.

20                  (b) CONFORMING AMENDMENTS.—

21                   (1) Section 25C(d)(3), as amended by the pre-  
22                   ceding provisions of this Act, is amended—

23                           (A) in subparagraph (A), by striking  
24                           “and” at the end,

1 (B) in subparagraph (B), by striking the  
2 period at the end and inserting “, and”, and

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

5 “(C) transportation fuel (as defined in sec-  
6 tion 45Z(d)(5)).”.

7 (2) Section 30C(c)(1)(B), as amended by the  
8 preceding provisions of this Act, is amended by add-  
9 ing at the end the following new clause:

10 “(iv) Any transportation fuel (as de-  
11 fined in section 45Z(d)(5)).”.

12 (3) Section 38(b), as amended by the preceding  
13 provisions of this Act, is amended—

14 (A) in paragraph (38), by striking “plus”  
15 at the end,

16 (B) in paragraph (39), by striking the pe-  
17 riod at the end and inserting “, plus”, and

18 (C) by adding at the end the following new  
19 paragraph:

20 “(40) the clean fuel production credit deter-  
21 mined under section 45Z(a).”.

22 (4) The table of sections for subpart D of part  
23 IV of subchapter A of chapter 1, as amended by the  
24 preceding provisions of this Act, is amended by add-  
25 ing at the end the following new item:

“Sec. 45Z. Clean fuel production credit.”.

1           (5) Section 4101(a)(1), as amended by the pre-  
2           ceding provisions of this Act, is amended by insert-  
3           ing “every person producing a fuel eligible for the  
4           clean fuel production credit (pursuant to section  
5           45Z),” after “section 6426(k)(3),”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to transportation fuel produced  
8           after December 31, 2024.

9           **PART 8—CREDIT MONETIZATION AND**  
10           **APPROPRIATIONS**

11           **SEC. 13801. ELECTIVE PAYMENT FOR ENERGY PROPERTY**  
12           **AND ELECTRICITY PRODUCED FROM CER-**  
13           **TAIN RENEWABLE RESOURCES, ETC.**

14           (a) IN GENERAL.—Subchapter B of chapter 65 is  
15           amended by inserting after section 6416 the following new  
16           section:

17           **“SEC. 6417. ELECTIVE PAYMENT OF APPLICABLE CREDITS.**

18           “(a) IN GENERAL.—In the case of an applicable enti-  
19           ty making an election (at such time and in such manner  
20           as the Secretary may provide) under this section with re-  
21           spect to any applicable credit determined with respect to  
22           such entity, such entity shall be treated as making a pay-  
23           ment against the tax imposed by subtitle A (for the tax-  
24           able year with respect to which such credit was deter-  
25           mined) equal to the amount of such credit.

1       “(b) APPLICABLE CREDIT.—The term ‘applicable  
2 credit’ means each of the following:

3           “(1) So much of the credit for alternative fuel  
4 vehicle refueling property allowed under section 30C  
5 which, pursuant to subsection (d)(1) of such section,  
6 is treated as a credit listed in section 38(b).

7           “(2) So much of the renewable electricity pro-  
8 duction credit determined under section 45(a) as is  
9 attributable to qualified facilities which are originally  
10 placed in service after December 31, 2022.

11          “(3) So much of the credit for carbon oxide se-  
12 questration determined under section 45Q(a) as is  
13 attributable to carbon capture equipment which is  
14 originally placed in service after December 31, 2022.

15          “(4) The zero-emission nuclear power produc-  
16 tion credit determined under section 45U(a).

17          “(5) So much of the credit for production of  
18 clean hydrogen determined under section 45V(a) as  
19 is attributable to qualified clean hydrogen produc-  
20 tion facilities which are originally placed in service  
21 after December 31, 2012.

22          “(6) In the case of a tax-exempt entity de-  
23 scribed in clause (i), (ii), or (iv) of section  
24 168(h)(2)(A), the credit for qualified commercial ve-

1        hicles determined under section 45W by reason of  
2        subsection (d)(3) thereof.

3            “(7) The credit for advanced manufacturing  
4        production under section 45X(a).

5            “(8) The clean electricity production credit de-  
6        termined under section 45Y(a).

7            “(9) The clean fuel production credit deter-  
8        mined under section 45Z(a).

9            “(10) The energy credit determined under sec-  
10       tion 48.

11           “(11) The qualifying advanced energy project  
12       credit determined under section 48C.

13           “(12) The clean electricity investment credit de-  
14       termined under section 48E.

15        “(c) APPLICATION TO PARTNERSHIPS AND S COR-  
16       PORATIONS.—

17            “(1) IN GENERAL.—In the case of any applica-  
18       ble credit determined with respect to any facility or  
19       property held directly by a partnership or S corpora-  
20       tion, any election under subsection (a) shall be made  
21       by such partnership or S corporation. If such part-  
22       nership or S corporation makes an election under  
23       such subsection (in such manner as the Secretary  
24       may provide) with respect to such credit—

1           “(A) the Secretary shall make a payment  
2           to such partnership or S corporation equal to  
3           the amount of such credit,

4           “(B) subsection (e) shall be applied with  
5           respect to such credit before determining any  
6           partner’s distributive share, or shareholder’s  
7           pro rata share, of such credit,

8           “(C) any amount with respect to which the  
9           election in subsection (a) is made shall be treat-  
10          ed as tax exempt income for purposes of sec-  
11          tions 705 and 1366, and

12          “(D) a partner’s distributive share of such  
13          tax exempt income shall be based on such part-  
14          ner’s distributive share of the otherwise applica-  
15          ble credit for each taxable year.

16          “(2) COORDINATION WITH APPLICATION AT  
17          PARTNER OR SHAREHOLDER LEVEL.—In the case of  
18          any facility or property held directly by a partner-  
19          ship or S corporation, no election by any partner or  
20          shareholder shall be allowed under subsection (a)  
21          with respect to any applicable credit determined with  
22          respect to such facility or property.

23          “(3) TREATMENT OF PAYMENTS TO PARTNER-  
24          SHIPS AND S CORPORATIONS.—For purposes of sec-  
25          tion 1324 of title 31, United States Code, the pay-

1       ments under paragraph (1)(A) shall be treated in  
2       the same manner as a refund due from a credit pro-  
3       vision referred to in subsection (b)(2) of such sec-  
4       tion.

5       “(d) SPECIAL RULES.—For purposes of this sec-  
6       tion—

7               “(1) APPLICABLE ENTITY.—

8                       “(A) IN GENERAL.—The term ‘applicable  
9                       entity’ means—

10                               “(i) any organization exempt from the  
11                               tax imposed by subtitle A,

12                               “(ii) any State or political subdivision  
13                               thereof,

14                               “(iii) the Tennessee Valley Authority,

15                               “(iv) an Indian tribal government (as  
16                               defined in section 30D(g)(9)),

17                               “(v) any Alaska Native Corporation  
18                               (as defined in section 3 of the Alaska Na-  
19                               tive Claims Settlement Act (43 U.S.C.  
20                               1602(m)), or

21                               “(vi) any corporation operating on a  
22                               cooperative basis which is engaged in fur-  
23                               nishing electric energy to persons in rural  
24                               areas.



1           “(B) ELECTION WITH RESPECT TO CREDIT  
2           FOR PRODUCTION OF CLEAN HYDROGEN.—If a  
3           taxpayer other than an entity described in sub-  
4           paragraph (A) makes an election under this  
5           subparagraph with respect to any taxable year  
6           in which such taxpayer has placed in service a  
7           qualified clean hydrogen production facility (as  
8           defined in section 45V(c)(3)), such taxpayer  
9           shall be treated as an applicable entity for pur-  
10          poses of this section for such taxable year, but  
11          only with respect to the credit described in sub-  
12          section (b)(5).

13          “(C) ELECTION WITH RESPECT TO CREDIT  
14          FOR CARBON OXIDE SEQUESTRATION.—If a  
15          taxpayer other than an entity described in sub-  
16          paragraph (A) makes an election under this  
17          subparagraph with respect to any taxable year  
18          in which such taxpayer has, after December 31,  
19          2022, placed in service carbon capture equip-  
20          ment at a qualified facility (as defined in sec-  
21          tion 45Q(d)), such taxpayer shall be treated as  
22          an applicable entity for purposes of this section  
23          for such taxable year, but only with respect to  
24          the credit described in subsection (b)(3).

1           “(D) ELECTION WITH RESPECT TO AD-  
2           VANCED MANUFACTURING PRODUCTION CRED-  
3           IT.—

4           “(i) IN GENERAL.—If a taxpayer  
5           other than an entity described in subpara-  
6           graph (A) makes an election under this  
7           subparagraph with respect to any taxable  
8           year in which such taxpayer has, after De-  
9           cember 31, 2022, produced eligible compo-  
10          nents (as defined in section 45X(c)(1)),  
11          such taxpayer shall be treated as an appli-  
12          cable entity for purposes of this section for  
13          such taxable year, but only with respect to  
14          the credit described in subsection (b)(7).

15          “(ii) LIMITATION.—

16               “(I) IN GENERAL.—Except as  
17               provided in subclause (II), if a tax-  
18               payer makes an election under this  
19               subparagraph with respect to any tax-  
20               able year, such taxpayer shall be  
21               treated as having made such election  
22               for each of the 4 succeeding taxable  
23               years ending before January 1, 2033.

24               “(II) EXCEPTION.—A taxpayer  
25               may elect to revoke the application of

1 the election made under this subpara-  
2 graph to any taxable year described in  
3 subclause (I). Any such election, if  
4 made, shall apply to the applicable  
5 year specified in such election and  
6 each subsequent taxable year within  
7 the period described in subclause (I).  
8 Any election under this subclause may  
9 not be subsequently revoked.

10 “(iii) PROHIBITION ON TRANSFER.—  
11 For any taxable year described in clause  
12 (ii)(I), no election may be made by the tax-  
13 payer under section 6418(a) for such tax-  
14 able year with respect to eligible compo-  
15 nents for purposes of the credit described  
16 in subsection (b)(7).

17 “(E) OTHER RULES.—

18 “(i) IN GENERAL.—An election made  
19 under subparagraph (B), (C), or (D) shall  
20 be made at such time and in such manner  
21 as the Secretary may provide.

22 “(ii) LIMITATION.—No election may  
23 be made under subparagraph (B), (C), or  
24 (D) with respect to any taxable year begin-  
25 ning after December 31, 2032.



1 no event earlier than 180 days after  
2 the date of the enactment of this sec-  
3 tion.

4 “(ii) ADDITIONAL RULES.—Any elec-  
5 tion under subsection (a), once made, shall  
6 be irrevocable and shall apply (except as  
7 otherwise provided in this paragraph) with  
8 respect to any credit for the taxable year  
9 for which the election is made.

10 “(B) RENEWABLE ELECTRICITY PRODUC-  
11 TION CREDIT.—In the case of the credit de-  
12 scribed in subsection (b)(2), any election under  
13 subsection (a) shall—

14 “(i) apply separately with respect to  
15 each qualified facility,

16 “(ii) be made for the taxable year in  
17 which such qualified facility is originally  
18 placed in service, and

19 “(iii) shall apply to such taxable year  
20 and to any subsequent taxable year which  
21 is within the period described in subsection  
22 (a)(2)(A)(ii) of section 45 with respect to  
23 such qualified facility.

24 “(C) CREDIT FOR CARBON OXIDE SEQUES-  
25 TRATION.—

1                   “(i) IN GENERAL.—In the case of the  
2                   credit described in subsection (b)(3), any  
3                   election under subsection (a) shall—

4                   “(I) apply separately with respect  
5                   to the carbon capture equipment origi-  
6                   nally placed in service by the applica-  
7                   ble entity during a taxable year, and

8                   “(II)(aa) in the case of a tax-  
9                   payer who makes an election described  
10                  in paragraph (1)(C), apply to the tax-  
11                  able year in which such equipment is  
12                  placed in service and the 4 subsequent  
13                  taxable years with respect to such  
14                  equipment which end before January  
15                  1, 2033, and

16                  “(bb) in any other case, apply to  
17                  such taxable year and to any subse-  
18                  quent taxable year which is within the  
19                  period described in paragraph (3)(A)  
20                  or (4)(A) of section 45Q(a) with re-  
21                  spect to such equipment.

22                  “(ii) PROHIBITION ON TRANSFER.—  
23                  For any taxable year described in clause  
24                  (i)(II)(aa) with respect to carbon capture  
25                  equipment, no election may be made by the

1 taxpayer under section 6418(a) for such  
2 taxable year with respect to such equip-  
3 ment for purposes of the credit described  
4 in subsection (b)(3).

5 “(iii) REVOCATION OF ELECTION.—In  
6 the case of a taxpayer who makes an elec-  
7 tion described in paragraph (1)(C) with re-  
8 spect to carbon capture equipment, such  
9 taxpayer may, at any time during the pe-  
10 riod described in clause (i)(II)(aa), revoke  
11 the application of such election with re-  
12 spect to such equipment for any subse-  
13 quent taxable years during such period.  
14 Any such election, if made, shall apply to  
15 the applicable year specified in such elec-  
16 tion and each subsequent taxable year  
17 within the period described in clause  
18 (i)(II)(aa). Any election under this sub-  
19 clause may not be subsequently revoked.

20 “(D) CREDIT FOR PRODUCTION OF CLEAN  
21 HYDROGEN.—

22 “(i) IN GENERAL.—In the case of the  
23 credit described in subsection (b)(5), any  
24 election under subsection (a) shall—

1                   “(I) apply separately with respect  
2                   to each qualified clean hydrogen pro-  
3                   duction facility,

4                   “(II) be made for the taxable  
5                   year in which such facility is placed in  
6                   service (or within the 1-year period  
7                   subsequent to the date of enactment  
8                   of this section in the case of facilities  
9                   placed in service before December 31,  
10                  2022), and

11                  “(III)(aa) in the case of a tax-  
12                  payer who makes an election described  
13                  in paragraph (1)(B), apply to such  
14                  taxable year and the 4 subsequent  
15                  taxable years with respect to such fa-  
16                  cility which end before January 1,  
17                  2033, and

18                  “(bb) in any other case, apply to  
19                  such taxable year and all subsequent  
20                  taxable years with respect to such fa-  
21                  cility.

22                  “(ii) PROHIBITION ON TRANSFER.—  
23                  For any taxable year described in clause  
24                  (i)(III)(aa) with respect to a qualified  
25                  clean hydrogen production facility, no elec-



1           tion may be made by the taxpayer under  
2           section 6418(a) for such taxable year with  
3           respect to such facility for purposes of the  
4           credit described in subsection (b)(5).

5           “(iii) REVOCATION OF ELECTION.—In  
6           the case of a taxpayer who makes an elec-  
7           tion described in paragraph (1)(B) with re-  
8           spect to a qualified clean hydrogen produc-  
9           tion facility, such taxpayer may, at any  
10          time during the period described in clause  
11          (i)(III)(aa), revoke the application of such  
12          election with respect to such facility for  
13          any subsequent taxable years during such  
14          period. Any such election, if made, shall  
15          apply to the applicable year specified in  
16          such election and each subsequent taxable  
17          year within the period described in clause  
18          (i)(II)(aa). Any election under this sub-  
19          clause may not be subsequently revoked.

20          “(E) CLEAN ELECTRICITY PRODUCTION  
21          CREDIT.—In the case of the credit described in  
22          subsection (b)(8), any election under subsection  
23          (a) shall—

24                 “(i) apply separately with respect to  
25                 each qualified facility,

1                   “(ii) be made for the taxable year in  
2                   which such facility is placed in service, and

3                   “(iii) shall apply to such taxable year  
4                   and to any subsequent taxable year which  
5                   is within the period described in subsection  
6                   (b)(1)(B) of section 45Y with respect to  
7                   such facility.

8                   “(4) TIMING.—The payment described in sub-  
9                   section (a) shall be treated as made on—

10                   “(A) in the case of any government, or po-  
11                   litical subdivision, described in paragraph (1)  
12                   and for which no return is required under sec-  
13                   tion 6011 or 6033(a), the later of the date that  
14                   a return would be due under section 6033(a) if  
15                   such government or subdivision were described  
16                   in that section or the date on which such gov-  
17                   ernment or subdivision submits a claim for  
18                   credit or refund (at such time and in such man-  
19                   ner as the Secretary shall provide), and

20                   “(B) in any other case, the later of the due  
21                   date (determined without regard to extensions)  
22                   of the return of tax for the taxable year or the  
23                   date on which such return is filed.

24                   “(5) ADDITIONAL INFORMATION.—As a condi-  
25                   tion of, and prior to, any amount being treated as

1 a payment which is made by an applicable entity  
2 under subsection (a), the Secretary may require such  
3 information or registration as the Secretary deems  
4 necessary for purposes of preventing duplication,  
5 fraud, improper payments, or excessive payments  
6 under this section.

7 “(6) EXCESSIVE PAYMENT.—

8 “(A) IN GENERAL.—In the case of any  
9 amount treated as a payment which is made by  
10 the applicable entity under subsection (a), or  
11 the amount of the payment made pursuant to  
12 subsection (c), which the Secretary determines  
13 constitutes an excessive payment, the tax im-  
14 posed on such entity by chapter 1 (regardless of  
15 whether such entity would otherwise be subject  
16 to tax under such chapter) for the taxable year  
17 in which such determination is made shall be  
18 increased by an amount equal to the sum of—

19 “(i) the amount of such excessive pay-  
20 ment, plus

21 “(ii) an amount equal to 20 percent of  
22 such excessive payment.

23 “(B) REASONABLE CAUSE.—Subparagraph  
24 (A)(ii) shall not apply if the applicable entity  
25 demonstrates to the satisfaction of the Sec-

1           retary that the excessive payment resulted from  
2           reasonable cause.

3                   “(C) EXCESSIVE PAYMENT DEFINED.—For  
4           purposes of this paragraph, the term ‘excessive  
5           payment’ means, with respect to a facility or  
6           property for which an election is made under  
7           this section for any taxable year, an amount  
8           equal to the excess of—

9                   “(i) the amount treated as a payment  
10           which is made by the applicable entity  
11           under subsection (a), or the amount of the  
12           payment made pursuant to subsection (c),  
13           with respect to such facility or property for  
14           such taxable year, over

15                   “(ii) the amount of the credit which,  
16           without application of this section, would  
17           be otherwise allowable (as determined pur-  
18           suant to paragraph (2) and without regard  
19           to section 38(c)) under this title with re-  
20           spect to such facility or property for such  
21           taxable year.

22                   “(e) DENIAL OF DOUBLE BENEFIT.—In the case of  
23           an applicable entity making an election under this section  
24           with respect to an applicable credit, such credit shall be  
25           reduced to zero and shall, for any other purposes under

1 this title, be deemed to have been allowed to such entity  
2 for such taxable year.

3 “(f) MIRROR CODE POSSESSIONS.—In the case of  
4 any possession of the United States with a mirror code  
5 tax system (as defined in section 24(k)), this section shall  
6 not be treated as part of the income tax laws of the United  
7 States for purposes of determining the income tax law of  
8 such possession unless such possession elects to have this  
9 section be so treated.

10 “(g) BASIS REDUCTION AND RECAPTURE.—Except  
11 as otherwise provided in subsection (c)(2)(A), rules similar  
12 to the rules of section 50 shall apply for purposes of this  
13 section.

14 “(h) REGULATIONS.—The Secretary shall issue such  
15 regulations or other guidance as may be necessary to carry  
16 out the purposes of this section, including guidance to en-  
17 sure that the amount of the payment or deemed payment  
18 made under this section is commensurate with the amount  
19 of the credit that would be otherwise allowable (deter-  
20 mined without regard to section 38(c)).”.

21 (b) TRANSFER OF CERTAIN CREDITS.—Subchapter  
22 B of chapter 65, as amended by subsection (a), is amend-  
23 ed by inserting after section 6417 the following new sec-  
24 tion:

1 **“SEC. 6418. TRANSFER OF CERTAIN CREDITS.**

2       “(a) IN GENERAL.—In the case of an eligible tax-  
3 payer which elects to transfer all (or any portion specified  
4 in the election) of an eligible credit determined with re-  
5 spect to such taxpayer for any taxable year to a taxpayer  
6 (referred to in this section as the ‘transferee taxpayer’)  
7 which is not related (within the meaning of section 267(b)  
8 or 707(b)(1)) to the eligible taxpayer, the transferee tax-  
9 payer specified in such election (and not the eligible tax-  
10 payer) shall be treated as the taxpayer for purposes of  
11 this title with respect to such credit (or such portion there-  
12 of).

13       “(b) TREATMENT OF PAYMENTS MADE IN CONNEC-  
14 TION WITH TRANSFER.—With respect to any amount paid  
15 by a transferee taxpayer to an eligible taxpayer as consid-  
16 eration for a transfer described in subsection (a), such  
17 consideration—

18               “(1) shall be required to be paid in cash,

19               “(2) shall not be includible in gross income of  
20 the eligible taxpayer, and

21               “(3) with respect to the transferee taxpayer,  
22 shall not be deductible under this title.

23       “(c) APPLICATION TO PARTNERSHIPS AND S COR-  
24 PORATIONS.—

25               “(1) IN GENERAL.—In the case of any eligible  
26 credit determined with respect to any facility or

1 property held directly by a partnership or S corpora-  
2 tion, if such partnership or S corporation makes an  
3 election under subsection (a) (in such manner as the  
4 Secretary may provide) with respect to such credit—

5 “(A) any amount received as consideration  
6 for a transfer described in such subsection shall  
7 be treated as tax exempt income for purposes of  
8 sections 705 and 1366, and

9 “(B) a partner’s distributive share of such  
10 tax exempt income shall be based on such part-  
11 ner’s distributive share of the otherwise eligible  
12 credit for each taxable year.

13 “(2) COORDINATION WITH APPLICATION AT  
14 PARTNER OR SHAREHOLDER LEVEL.—In the case of  
15 any facility or property held directly by a partner-  
16 ship or S corporation, no election by any partner or  
17 shareholder shall be allowed under subsection (a)  
18 with respect to any eligible credit determined with  
19 respect to such facility or property.

20 “(d) TAXABLE YEAR IN WHICH CREDIT TAKEN INTO  
21 ACCOUNT.—In the case of any credit (or portion thereof)  
22 with respect to which an election is made under subsection  
23 (a), such credit shall be taken into account in the first  
24 taxable year of the transferee taxpayer ending with, or

1 after, the taxable year of the eligible taxpayer with respect  
2 to which the credit was determined.

3 “(e) LIMITATIONS ON ELECTION.—

4 “(1) TIME FOR ELECTION.—An election under  
5 subsection (a) to transfer any portion of an eligible  
6 credit shall be made not later than the due date (in-  
7 cluding extensions of time) for the return of tax for  
8 the taxable year for which the credit is determined,  
9 but in no event earlier than 180 days after the date  
10 of the enactment of this section. Any such election,  
11 once made, shall be irrevocable.

12 “(2) NO ADDITIONAL TRANSFERS.—No election  
13 may be made under subsection (a) by a transferee  
14 taxpayer with respect to any portion of an eligible  
15 credit which has been previously transferred to such  
16 taxpayer pursuant to this section.

17 “(f) DEFINITIONS.—For purposes of this section—

18 “(1) ELIGIBLE CREDIT.—

19 “(A) IN GENERAL.—The term ‘eligible  
20 credit’ means each of the following:

21 “(i) So much of the credit for alter-  
22 native fuel vehicle refueling property al-  
23 lowed under section 30C which, pursuant  
24 to subsection (d)(1) of such section, is  
25 treated as a credit listed in section 38(b).



1                   “(ii) The renewable electricity produc-  
2                   tion credit determined under section 45(a).

3                   “(iii) The credit for carbon oxide se-  
4                   questration determined under section  
5                   45Q(a).

6                   “(iv) The zero-emission nuclear power  
7                   production credit determined under section  
8                   45U(a).

9                   “(v) The clean hydrogen production  
10                  credit determined under section 45V(a).

11                  “(vi) The advanced manufacturing  
12                  production credit determined under section  
13                  45X(a).

14                  “(vii) The clean electricity production  
15                  credit determined under section 45Y(a).

16                  “(viii) The clean fuel production cred-  
17                  it determined under section 45Z(a).

18                  “(ix) The energy credit determined  
19                  under section 48.

20                  “(x) The qualifying advanced energy  
21                  project credit determined under section  
22                  48C.

23                  “(xi) The clean electricity investment  
24                  credit determined under section 48E.

1 “(B) ELECTION FOR CERTAIN CREDITS.—

2 In the case of any eligible credit described in  
3 clause (ii), (iii), (v), or (vii) of subparagraph  
4 (A), an election under subsection (a) shall be  
5 made—

6 “(i) separately with respect to each  
7 facility for which such credit is determined,  
8 and

9 “(ii) for each taxable year during the  
10 10-year period beginning on the date such  
11 facility was originally placed in service (or,  
12 in the case of the credit described in clause  
13 (iii), for each year during the 12-year pe-  
14 riod beginning on the date the carbon cap-  
15 ture equipment was originally placed in  
16 service at such facility).

17 “(C) EXCEPTION FOR BUSINESS CREDIT  
18 CARRYFORWARDS OR CARRYBACKS.—The term  
19 ‘eligible credit’ shall not include any business  
20 credit carryforward or business credit carryback  
21 determined under section 39.

22 “(2) ELIGIBLE TAXPAYER.—The term ‘eligible  
23 taxpayer’ means any taxpayer which is not described  
24 in section 6417(d)(1)(A).

1       “(g) SPECIAL RULES.—For purposes of this sec-  
2 tion—

3               “(1) ADDITIONAL INFORMATION.—As a condi-  
4 tion of, and prior to, any transfer of any portion of  
5 an eligible credit pursuant to subsection (a), the  
6 Secretary may require such information (including,  
7 in such form or manner as is determined appro-  
8 priate by the Secretary, such information returns) or  
9 registration as the Secretary deems necessary for  
10 purposes of preventing duplication, fraud, improper  
11 payments, or excessive payments under this section.

12               “(2) EXCESSIVE CREDIT TRANSFER.—

13                       “(A) IN GENERAL.—In the case of any  
14 portion of an eligible credit which is transferred  
15 to a transferee taxpayer pursuant to subsection  
16 (a) which the Secretary determines constitutes  
17 an excessive credit transfer, the tax imposed on  
18 the transferee taxpayer by chapter 1 (regardless  
19 of whether such entity would otherwise be sub-  
20 ject to tax under such chapter) for the taxable  
21 year in which such determination is made shall  
22 be increased by an amount equal to the sum  
23 of—

24                               “(i) the amount of such excessive  
25 credit transfer, plus

1                   “(ii) an amount equal to 20 percent of  
2                   such excessive credit transfer.

3                   “(B) REASONABLE CAUSE.—Subparagraph  
4                   (A)(ii) shall not apply if the transferee taxpayer  
5                   demonstrates to the satisfaction of the Sec-  
6                   retary that the excessive credit transfer resulted  
7                   from reasonable cause.

8                   “(C) EXCESSIVE CREDIT TRANSFER DE-  
9                   FINED.—For purposes of this paragraph, the  
10                  term ‘excessive credit transfer’ means, with re-  
11                  spect to a facility or property for which an elec-  
12                  tion is made under subsection (a) for any tax-  
13                  able year, an amount equal to the excess of—

14                   “(i) the amount of the eligible credit  
15                   claimed by the transferee taxpayer with re-  
16                   spect to such facility or property for such  
17                   taxable year, over

18                   “(ii) the amount of such credit which,  
19                   without application of this section, would  
20                   be otherwise allowable under this title with  
21                   respect to such facility or property for such  
22                   taxable year.

23                   “(3) BASIS REDUCTION; NOTIFICATION OF RE-  
24                   CAPTURE.—In the case of any election under sub-  
25                   section (a) with respect to any portion of an eligible

1 credit described in clauses (ix) through (xi) of sub-  
2 section (f)(1)(A)—

3 “(A) subsection (c) of section 50 shall  
4 apply to the applicable investment credit prop-  
5 erty (as defined in subsection (a)(5) of such  
6 section) as if such eligible credit was allowed to  
7 the eligible taxpayer, and

8 “(B) if, during any taxable year, the appli-  
9 cable investment credit property (as defined in  
10 subsection (a)(5) of section 50) is disposed of,  
11 or otherwise ceases to be investment credit  
12 property with respect to the eligible taxpayer,  
13 before the close of the recapture period (as de-  
14 scribed in subsection (a)(1) of such section)—

15 “(i) such eligible taxpayer shall pro-  
16 vide notice of such occurrence to the trans-  
17 feree taxpayer (in such form and manner  
18 as the Secretary shall prescribe), and

19 “(ii) the transferee taxpayer shall pro-  
20 vide notice of the recapture amount (as de-  
21 fined in subsection (c)(2) of such section),  
22 if any, to the eligible taxpayer (in such  
23 form and manner as the Secretary shall  
24 prescribe).

1           “(4) PROHIBITION ON ELECTION OR TRANSFER  
2           WITH RESPECT TO PROGRESS EXPENDITURES.—This  
3           section shall not apply with respect to any amount  
4           of an eligible credit which is allowed pursuant to  
5           rules similar to the rules of subsections (c)(4) and  
6           (d) of section 46 (as in effect on the day before the  
7           date of the enactment of the Revenue Reconciliation  
8           Act of 1990).

9           “(h) REGULATIONS.—The Secretary shall issue such  
10          regulations or other guidance as may be necessary to carry  
11          out the purposes of this section, including regulations or  
12          other guidance providing rules for determining a partner’s  
13          distributive share of the tax exempt income described in  
14          subsection (e)(1).”.

15          (c) REAL ESTATE INVESTMENT TRUSTS.—Section  
16          50(d) is amended by adding at the end the following: “In  
17          the case of a real estate investment trust making an elec-  
18          tion under section 6418, paragraphs (1)(B) and (2)(B)  
19          of the section 46(e) referred to in paragraph (1) of this  
20          subsection shall not apply to any investment credit prop-  
21          erty of such real estate investment trust to which such  
22          election applies.”.

23          (d) 3-YEAR CARRYBACK FOR APPLICABLE CRED-  
24          ITS.—Section 39(a) is amended by adding at the end the  
25          following:

1           “(4) 3-YEAR CARRYBACK FOR APPLICABLE  
2 CREDITS.—Notwithstanding subsection (d), in the  
3 case of any applicable credit (as defined in section  
4 6417(b))—

5           “(A) this section shall be applied sepa-  
6 rately from the business credit (other than the  
7 applicable credit),

8           “(B) paragraph (1) shall be applied by  
9 substituting ‘each of the 3 taxable years’ for  
10 ‘the taxable year’ in subparagraph (A) thereof,  
11 and

12           “(C) paragraph (2) shall be applied—

13           “(i) by substituting ‘23 taxable years’  
14 for ‘21 taxable years’ in subparagraph (A)  
15 thereof, and

16           “(ii) by substituting ‘22 taxable years’  
17 for ‘20 taxable years’ in subparagraph (B)  
18 thereof.”.

19           (e) CLERICAL AMENDMENT.—The table of sections  
20 for subchapter B of chapter 65 is amended by inserting  
21 after the item relating to section 6416 the following new  
22 items:

“Sec. 6417. Elective payment of applicable credits.

“Sec. 6418. Transfer of certain credits.”.

23           (f) GROSS-UP OF DIRECT SPENDING.—Beginning in  
24 fiscal year 2023 and each fiscal year thereafter, the por-

1 tion of any payment made to a taxpayer pursuant to an  
2 election under section 6417 of the Internal Revenue Code  
3 of 1986, or any amount treated as a payment which is  
4 made by the taxpayer under subsection (a) of such section,  
5 that is direct spending shall be increased by 6.0445 per-  
6 cent.

7 (g) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to taxable years beginning after  
9 December 31, 2022.

10 **SEC. 13802. APPROPRIATIONS.**

11 Immediately upon the enactment of this Act, in addi-  
12 tion to amounts otherwise available, there are appro-  
13 priated for fiscal year 2022, out of any money in the  
14 Treasury not otherwise appropriated, \$500,000,000 to re-  
15 main available until September 30, 2031, for necessary ex-  
16 penses for the Internal Revenue Service to carry out this  
17 subtitle (and the amendments made by this subtitle),  
18 which shall supplement and not supplant any other appro-  
19 priations that may be available for this purpose.

20 **PART 9—OTHER PROVISIONS**

21 **SEC. 13901. PERMANENT EXTENSION OF TAX RATE TO**  
22 **FUND BLACK LUNG DISABILITY TRUST FUND.**

23 (a) IN GENERAL.—Section 4121 is amended by strik-  
24 ing subsection (e).



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to sales in calendar quarters begin-  
3 ning after the date of the enactment of this Act.

4 **SEC. 13902. INCREASE IN RESEARCH CREDIT AGAINST PAY-**  
5 **ROLL TAX FOR SMALL BUSINESSES.**

6 (a) IN GENERAL.—Clause (i) of section 41(h)(4)(B)  
7 is amended—

8 (1) by striking “AMOUNT.—The amount” and  
9 inserting “AMOUNT.—

10 “(I) IN GENERAL.—The  
11 amount”, and

12 (2) by adding at the end the following new sub-  
13 clause:

14 “(II) INCREASE.—In the case of  
15 taxable years beginning after Decem-  
16 ber 31, 2022, the amount in subclause  
17 (I) shall be increased by \$250,000.”.

18 (b) ALLOWANCE OF CREDIT.—

19 (1) IN GENERAL.—Paragraph (1) of section  
20 3111(f) is amended—

21 (A) by striking “for a taxable year, there  
22 shall be allowed” and inserting “for a taxable  
23 year—

24 “(A) there shall be allowed”,

1 (B) by striking “equal to the” and insert-  
2 ing “equal to so much of the”,

3 (C) by striking the period at the end and  
4 inserting “as does not exceed the limitation of  
5 subclause (I) of section 41(h)(4)(B)(i) (applied  
6 without regard to subclause (II) thereof), and”,  
7 and

8 (D) by adding at the end the following new  
9 subparagraph:

10 “(B) there shall be allowed as a credit  
11 against the tax imposed by subsection (b) for  
12 the first calendar quarter which begins after the  
13 date on which the taxpayer files the return  
14 specified in section 41(h)(4)(A)(ii) an amount  
15 equal to so much of the payroll tax credit por-  
16 tion determined under section 41(h)(2) as is  
17 not allowed as a credit under subparagraph  
18 (A).”.

19 (2) LIMITATION.—Paragraph (2) of section  
20 3111(f) is amended—

21 (A) by striking “paragraph (1)” and in-  
22 serting “paragraph (1)(A)”, and

23 (B) by inserting “, and the credit allowed  
24 by paragraph (1)(B) shall not exceed the tax

1 imposed by subsection (b) for any calendar  
2 quarter,” after “calendar quarter”.

3 (3) CARRYOVER.—Paragraph (3) of section  
4 3111(f) is amended by striking “the credit” and in-  
5 serting “any credit”.

6 (4) DEDUCTION ALLOWED.—Paragraph (4) of  
7 section 3111(f) is amended—

8 (A) by striking “credit” and inserting  
9 “credits”, and

10 (B) by striking “subsection (a)” and in-  
11 serting “subsection (a) or (b)”.

12 (c) AGGREGATION RULES.—Clause (ii) of section  
13 41(h)(5)(B) is amended by striking “the \$250,000  
14 amount” and inserting “each of the \$250,000 amounts”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2022.

18 **SEC. 13903. TAX TREATMENT OF CERTAIN ASSISTANCE TO**  
19 **FARMERS, ETC.**

20 For purposes of the Internal Revenue Code of 1986,  
21 in the case of any payment described in section 1006(e)  
22 of the American Rescue Plan Act of 2021 (as amended  
23 by section 22007 of this Act) or section 22006 of this  
24 Act—

1           (1) such payment shall not be included in the  
2 gross income of the person on whose behalf, or to  
3 whom, such payment is made,

4           (2) no deduction shall be denied, no tax at-  
5 tribute shall be reduced, and no basis increase shall  
6 be denied, by reason of the exclusion from gross in-  
7 come provided by paragraph (1), and

8           (3) in the case of a partnership or S corpora-  
9 tion on whose behalf, or to whom, such a payment  
10 is made—

11           (A) any amount excluded from income by  
12 reason of paragraph (1) shall be treated as tax  
13 exempt income for purposes of sections 705 and  
14 1366 of such Code, and

15           (B) except as provided by the Secretary of  
16 the Treasury (or the Secretary's delegate), any  
17 increase in the adjusted basis of a partner's in-  
18 terest in a partnership under section 705 of  
19 such Code with respect to any amount described  
20 in subparagraph (A) shall equal the partner's  
21 distributive share of deductions resulting from  
22 interest that is part of such payment and the  
23 partner's share, as determined under section  
24 752 of such Code, of principal that is part of  
25 such payment.

1 **TITLE II—COMMITTEE ON AGRI-**  
2 **CULTURE, NUTRITION, AND**  
3 **FORESTRY**

4 **Subtitle A—General Provisions**

5 **SEC. 20001. DEFINITION OF SECRETARY.**

6 In this title, the term “Secretary” means the Sec-  
7 retary of Agriculture.

8 **Subtitle B—Conservation**

9 **SEC. 21001. ADDITIONAL AGRICULTURAL CONSERVATION**  
10 **INVESTMENTS.**

11 (a) APPROPRIATIONS.—In addition to amounts other-  
12 wise available (and subject to subsection (b)), there are  
13 appropriated to the Secretary, out of any money in the  
14 Treasury not otherwise appropriated, to remain available  
15 until September 30, 2031 (subject to the condition that  
16 no such funds may be disbursed after September 30,  
17 2031)—

18 (1) to carry out, using the facilities and au-  
19 thorities of the Commodity Credit Corporation, the  
20 environmental quality incentives program under sub-  
21 chapter A of chapter 4 of subtitle D of title XII of  
22 the Food Security Act of 1985 (16 U.S.C. 3839aa  
23 through 3839aa–8)—

24 (A)(i) \$250,000,000 for fiscal year 2023;

25 (ii) \$1,750,000,000 for fiscal year 2024;

1 (iii) \$3,000,000,000 for fiscal year 2025;

2 and

3 (iv) \$3,450,000,000 for fiscal year 2026;

4 and

5 (B) subject to the conditions on the use of  
6 the funds that—

7 (i) section 1240B(f)(1) of the Food  
8 Security Act of 1985 (16 U.S.C. 3839aa–  
9 2(f)(1)) shall not apply;

10 (ii) section 1240H(c)(2) of the Food  
11 Security Act of 1985 (16 U.S.C. 3839aa–  
12 8(c)(2)) shall be applied—

13 (I) by substituting  
14 “\$50,000,000” for “\$25,000,000”;  
15 and

16 (II) with the Secretary  
17 prioritizing proposals that utilize diet  
18 and feed management to reduce en-  
19 teric methane emissions from  
20 ruminants; and

21 (iii) the funds shall be available for 1  
22 or more agricultural conservation practices  
23 or enhancements that the Secretary deter-  
24 mines directly improve soil carbon, reduce  
25 nitrogen losses, or reduce, capture, avoid,

1 or sequester carbon dioxide, methane, or  
2 nitrous oxide emissions, associated with ag-  
3 ricultural production;

4 (2) to carry out, using the facilities and au-  
5 thorities of the Commodity Credit Corporation, the  
6 conservation stewardship program under subchapter  
7 B of that chapter (16 U.S.C. 3839aa–21 through  
8 3839aa–25)—

9 (A)(i) \$250,000,000 for fiscal year 2023;

10 (ii) \$500,000,000 for fiscal year 2024;

11 (iii) \$1,000,000,000 for fiscal year 2025;

12 and

13 (iv) \$1,500,000,000 for fiscal year 2026;

14 and

15 (B) subject to the condition on the use of  
16 the funds that the funds shall only be available  
17 for 1 or more agricultural conservation prac-  
18 tices, enhancements, or bundles that the Sec-  
19 retary determines directly improve soil carbon,  
20 reduce nitrogen losses, or reduce, capture,  
21 avoid, or sequester carbon dioxide, methane, or  
22 nitrous oxide emissions, associated with agricul-  
23 tural production;

24 (3) to carry out, using the facilities and au-  
25 thorities of the Commodity Credit Corporation, the

1 agricultural conservation easement program under  
2 subtitle H of title XII of that Act (16 U.S.C. 3865  
3 through 3865d) for easements or interests in land  
4 that will most reduce, capture, avoid, or sequester  
5 carbon dioxide, methane, or nitrous oxide emissions  
6 associated with land eligible for the program—

7 (A) \$100,000,000 for fiscal year 2023;

8 (B) \$200,000,000 for fiscal year 2024;

9 (C) \$500,000,000 for fiscal year 2025; and

10 (D) \$600,000,000 for fiscal year 2026;

11 and

12 (4) to carry out, using the facilities and au-  
13 thorities of the Commodity Credit Corporation, the  
14 regional conservation partnership program under  
15 subtitle I of title XII of that Act (16 U.S.C. 3871  
16 through 3871f)—

17 (A)(i) \$250,000,000 for fiscal year 2023;

18 (ii) \$800,000,000 for fiscal year 2024;

19 (iii) \$1,500,000,000 for fiscal year 2025;

20 and

21 (iv) \$2,400,000,000 for fiscal year 2026;

22 and

23 (B) subject to the conditions on the use of  
24 the funds that—



1 (i) section 1271C(d)(2)(B) of the  
2 Food Security Act of 1985 (16 U.S.C.  
3 3871c(d)(2)(B)) shall not apply; and

4 (ii) the Secretary shall prioritize part-  
5 nership agreements under section  
6 1271C(d) of the Food Security Act of  
7 1985 (16 U.S.C. 3871c(d)) that support  
8 the implementation of conservation  
9 projects that assist agricultural producers  
10 and nonindustrial private forestland own-  
11 ers in directly improving soil carbon, re-  
12 ducing nitrogen losses, or reducing, cap-  
13 turing, avoiding, or sequestering carbon di-  
14 oxide, methane, or nitrous oxide emissions,  
15 associated with agricultural production.

16 (b) CONDITIONS.—The funds made available under  
17 subsection (a) are subject to the conditions that the Sec-  
18 retary shall not—

19 (1) enter into any agreement—

20 (A) that is for a term extending beyond  
21 September 30, 2031; or

22 (B) under which any payment could be  
23 outlaid or funds disbursed after September 30,  
24 2031; or

1           (2) use any other funds available to the Sec-  
2           retary to satisfy obligations initially made under this  
3           section.

4           (c) CONFORMING AMENDMENTS.—

5           (1) Section 1240B of the Food Security Act of  
6           1985 (16 U.S.C. 3839aa-2) is amended—

7           (A) in subsection (a), by striking “2023”  
8           and inserting “2031”; and

9           (B) in subsection (f)(2)(B)—

10           (i) in the subparagraph heading, by  
11           striking “2023” and inserting “2031”; and

12           (ii) by striking “2023” and inserting  
13           “2031”.

14           (2) Section 1240H of the Food Security Act of  
15           1985 (16 U.S.C. 3839aa-8) is amended by striking  
16           “2023” each place it appears and inserting “2031”.

17           (3) Section 1240J(a) of the Food Security Act  
18           of 1985 (16 U.S.C. 3839aa-22(a)) is amended, in  
19           the matter preceding paragraph (1), by striking  
20           “2023” and inserting “2031”.

21           (4) Section 1240L(h)(2)(A) of the Food Secu-  
22           rity Act of 1985 (16 U.S.C. 3839aa-24(h)(2)(A)) is  
23           amended by striking “2023” and inserting “2031”.

24           (5) Section 1241 of the Food Security Act of  
25           1985 (16 U.S.C. 3841) is amended—

1 (A) in subsection (a)—

2 (i) in the matter preceding paragraph  
3 (1), by striking “2023” and inserting  
4 “2031”;

5 (ii) in paragraph (2)(F), by striking  
6 “2023” and inserting “2031”; and

7 (iii) in paragraph (3), by striking “fis-  
8 cal year 2023” each place it appears and  
9 inserting “each of fiscal years 2023  
10 through 2031”;

11 (B) in subsection (b), by striking “2023”  
12 and inserting “2031”; and

13 (C) in subsection (h)—

14 (i) in paragraph (1)(B), in the sub-  
15 paragraph heading, by striking “2023” and  
16 inserting “2031”; and

17 (ii) by striking “2023” each place it  
18 appears and inserting “2031”.

19 (6) Section 1244(n)(3)(A) of the Food Security  
20 Act of 1985 (16 U.S.C. 3844(n)(3)(A)) is amended  
21 by striking “2023” and inserting “2031”.

22 (7) Section 1271D(a) of the Food Security Act  
23 of 1985 (16 U.S.C. 3871d(a)) is amended by strik-  
24 ing “2023” and inserting “2031”.

1 **SEC. 21002. CONSERVATION TECHNICAL ASSISTANCE.**

2 (a) APPROPRIATIONS.—In addition to amounts other-  
3 wise available (and subject to subsection (b)), there are  
4 appropriated to the Secretary for fiscal year 2022, out of  
5 any money in the Treasury not otherwise appropriated,  
6 to remain available until September 30, 2031 (subject to  
7 the condition that no such funds may be disbursed after  
8 September 30, 2031)—

9 (1) \$1,000,000,000 to provide conservation  
10 technical assistance through the Natural Resources  
11 Conservation Service; and

12 (2) \$300,000,000 to carry out a program to  
13 quantify carbon sequestration and carbon dioxide,  
14 methane, and nitrous oxide emissions, through which  
15 the Natural Resources Conservation Service shall  
16 collect field-based data to assess the carbon seques-  
17 tration and reduction in carbon dioxide, methane,  
18 and nitrous oxide emissions outcomes associated  
19 with activities carried out pursuant to this section  
20 and use the data to monitor and track those carbon  
21 sequestration and emissions trends through the  
22 Greenhouse Gas Inventory and Assessment Program  
23 of the Department of Agriculture.

24 (b) CONDITIONS.—The funds made available under  
25 this section are subject to the conditions that the Sec-  
26 retary shall not—

1 (1) enter into any agreement—

2 (A) that is for a term extending beyond  
3 September 30, 2031; or

4 (B) under which any payment could be  
5 outlaid or funds disbursed after September 30,  
6 2031;

7 (2) use any other funds available to the Sec-  
8 retary to satisfy obligations initially made under this  
9 section; or

10 (3) interpret this section to authorize funds of  
11 the Commodity Credit Corporation for activities  
12 under this section if such funds are not expressly  
13 authorized or currently expended for such purposes.

14 (c) ADMINISTRATIVE COSTS.—In addition to  
15 amounts otherwise available, there is appropriated to the  
16 Secretary for fiscal year 2022, out of any money in the  
17 Treasury not otherwise appropriated, \$100,000,000, to re-  
18 main available until September 30, 2028, for administra-  
19 tive costs of the agencies and offices of the Department  
20 of Agriculture for costs related to implementing this sec-  
21 tion.

1       **Subtitle C—Rural Development**  
2                   **and Agricultural Credit**

3       **SEC. 22001. ADDITIONAL FUNDING FOR ELECTRIC LOANS**  
4                   **FOR RENEWABLE ENERGY.**

5           Section 9003 of the Farm Security and Rural Invest-  
6       ment Act of 2002 (7 U.S.C. 8103) is amended by adding  
7       at the end the following:

8           “(h) ADDITIONAL FUNDING FOR ELECTRIC LOANS  
9       FOR RENEWABLE ENERGY.—

10           “(1) APPROPRIATIONS.—Notwithstanding sub-  
11       sections (a) through (e), and (g), in addition to  
12       amounts otherwise available, there is appropriated to  
13       the Secretary for fiscal year 2022, out of any money  
14       in the Treasury not otherwise appropriated,  
15       \$1,000,000,000, to remain available until September  
16       30, 2031, for the cost of loans under section 317 of  
17       the Rural Electrification Act of 1936 (7 U.S.C.  
18       940g), including for projects that store electricity  
19       that support the types of eligible projects under that  
20       section, which shall be forgiven in an amount that  
21       is not greater than 50 percent of the loan based on  
22       how the borrower and the project meets the terms  
23       and conditions for loan forgiveness consistent with  
24       the purposes of that section established by the Sec-  
25       retary, except as provided in paragraph (3).

1           “(2) LIMITATION.—The Secretary shall not  
2 enter into any loan agreement pursuant this sub-  
3 section that could result in disbursements after Sep-  
4 tember 30, 2031.

5           “(3) EXCEPTION.—The Secretary shall estab-  
6 lish criteria for waiving the 50 percent limitation de-  
7 scribed in paragraph (1).”.

8 **SEC. 22002. RURAL ENERGY FOR AMERICA PROGRAM.**

9           (a) APPROPRIATION.—In addition to amounts other-  
10 wise available, there is appropriated to the Secretary, out  
11 of any money in the Treasury not otherwise appropriated,  
12 for eligible projects under section 9007 of the Farm Secu-  
13 rity and Rural Investment Act of 2002 (7 U.S.C. 8107),  
14 and notwithstanding section 9007(c)(3)(A) of that Act,  
15 the amount of a grant shall not exceed 50 percent of the  
16 cost of the activity carried out using the grant funds—

17           (1) \$820,250,000 for fiscal year 2022, to re-  
18 main available until September 30, 2031; and

19           (2) \$180,276,500 for each of fiscal years 2023  
20 through 2027, to remain available until September  
21 30, 2031.

22           (b) UNDERUTILIZED RENEWABLE ENERGY TECH-  
23 NOLOGIES.—In addition to amounts otherwise available,  
24 there is appropriated to the Secretary, out of any money  
25 in the Treasury not otherwise appropriated, to provide

1 grants and loans guaranteed by the Secretary (including  
2 the costs of such loans) under the program described in  
3 subsection (a) relating to underutilized renewable energy  
4 technologies, and to provide technical assistance for apply-  
5 ing to the program described in subsection (a), including  
6 for underutilized renewable energy technologies, notwith-  
7 standing section 9007(c)(3)(A) of the Farm Security and  
8 Rural Investment Act of 2002 (7 U.S.C. 8107(c)(3)(A)),  
9 the amount of a grant shall not exceed 50 percent of the  
10 cost of the activity carried out using the grant funds, and  
11 to the extent the following amounts remain available at  
12 the end of each fiscal year, the Secretary shall use such  
13 amounts in accordance with subsection (a)—

14 (1) \$144,750,000 for fiscal year 2022, to re-  
15 main available until September 30, 2031; and

16 (2) \$31,813,500 for each of fiscal years 2023  
17 through 2027, to remain available until September  
18 30, 2031.

19 (c) LIMITATION.—The Secretary shall not enter into,  
20 pursuant to this section—

21 (1) any loan agreement that may result in a  
22 disbursement after September 30, 2031; or

23 (2) any grant agreement that may result in any  
24 outlay after September 30, 2031.



1 **SEC. 22003. BIOFUEL INFRASTRUCTURE AND AGRI-**  
2 **CULTURE PRODUCT MARKET EXPANSION.**

3 Section 9003 of the Farm Security and Rural Invest-  
4 ment Act of 2002 (7 U.S.C. 8103) (as amended by section  
5 22001) is amended by adding at the end the following:

6 “(i) BIOFUEL INFRASTRUCTURE AND AGRICULTURE  
7 PRODUCT MARKET EXPANSION.—

8 “(1) APPROPRIATION.—Notwithstanding sub-  
9 sections (a) through (e) and subsection (g), in addi-  
10 tion to amounts otherwise available, there is appro-  
11 priated to the Secretary for fiscal year 2022, out of  
12 any money in the Treasury not otherwise appro-  
13 priated, \$500,000,000, to remain available until  
14 September 30, 2031, to carry out this subsection.

15 “(2) USE OF FUNDS.—The Secretary shall use  
16 the amounts made available by paragraph (1) to  
17 provide grants, for which the Federal share shall be  
18 not more than 75 percent of the total cost of car-  
19 rying out a project for which the grant is provided,  
20 on a competitive basis, to increase the sale and use  
21 of agricultural commodity-based fuels through infra-  
22 structure improvements for blending, storing, sup-  
23 plying, or distributing biofuels, except for transpor-  
24 tation infrastructure not on location where such  
25 biofuels are blended, stored, supplied, or distrib-  
26 uted—

1           “(A) by installing, retrofitting, or other-  
2           wise upgrading fuel dispensers or pumps and  
3           related equipment, storage tank system compo-  
4           nents, and other infrastructure required at a lo-  
5           cation related to dispensing certain biofuel  
6           blends to ensure the increased sales of fuels  
7           with high levels of commodity-based ethanol  
8           and biodiesel that are at or greater than the  
9           levels required in the Notice of Funding Avail-  
10          ability for the Higher Blends Infrastructure In-  
11          centive Program for Fiscal Year 2020, pub-  
12          lished in the Federal Register (85 Fed. Reg.  
13          26656), as determined by the Secretary; and

14           “(B) by building and retrofitting home  
15          heating oil distribution centers or equivalent en-  
16          tities and distribution systems for ethanol and  
17          biodiesel blends.”.

18 **SEC. 22004. USDA ASSISTANCE FOR RURAL ELECTRIC CO-**  
19 **OPERATIVES.**

20          Section 9003 of the Farm Security and Rural Invest-  
21          ment Act of 2002 (7 U.S.C. 8103) (as amended by section  
22          22003) is amended by adding at the end the following:

23          “(j) USDA ASSISTANCE FOR RURAL ELECTRIC CO-  
24          OPERATIVES.—

1           “(1) APPROPRIATION.—Notwithstanding sub-  
2 sections (a) through (e) and (g), in addition to  
3 amounts otherwise available, there is appropriated to  
4 the Secretary for fiscal year 2022, out of any money  
5 in the Treasury not otherwise appropriated,  
6 \$9,700,000,000, to remain available until September  
7 30, 2031, for the long-term resiliency, reliability,  
8 and affordability of rural electric systems by pro-  
9 viding to an eligible entity (defined as an electric co-  
10 operative described in section 501(c)(12) or  
11 1381(a)(2) of the Internal Revenue Code of 1986  
12 and is or has been a Rural Utilities Service electric  
13 loan borrower pursuant to the Rural Electrification  
14 Act of 1936 or serving a predominantly rural area  
15 or a wholly or jointly owned subsidiary of such elec-  
16 tric cooperative) loans, modifications of loans, the  
17 cost of loans and modifications, and other financial  
18 assistance to achieve the greatest reduction in car-  
19 bon dioxide, methane, and nitrous oxide emissions  
20 associated with rural electric systems through the  
21 purchase of renewable energy, renewable energy sys-  
22 tems, zero-emission systems, and carbon capture and  
23 storage systems, to deploy such systems, or to make  
24 energy efficiency improvements to electric generation

1 and transmission systems of the eligible entity after  
2 the date of enactment of this subsection.

3 “(2) LIMITATION.—No eligible entity may re-  
4 ceive an amount equal to more than 10 percent of  
5 the total amount made available by this subsection.

6 “(3) REQUIREMENT.—The amount of a grant  
7 under this subsection shall be not more than 25 per-  
8 cent of the total project costs of the eligible entity  
9 carrying out a project using a grant under this sub-  
10 section.

11 “(4) PROHIBITION.—Nothing in this subsection  
12 shall be interpreted to authorize funds of the Com-  
13 modity Credit Corporation for activities under this  
14 subsection if such funds are not expressly authorized  
15 or currently expended for such purposes.

16 “(5) DISBURSEMENTS.—The Secretary shall  
17 not enter into, pursuant to this subsection—

18 “(A) any loan agreement that may result  
19 in a disbursement after September 30, 2031; or

20 “(B) any grant agreement that may result  
21 in any outlay after September 30, 2031.”.

22 **SEC. 22005. ADDITIONAL USDA RURAL DEVELOPMENT AD-**  
23 **MINISTRATIVE FUNDS.**

24 In addition to amounts otherwise available, there is  
25 appropriated to the Secretary for fiscal year 2022, out of

1 any money in the Treasury not otherwise appropriated,  
2 \$100,000,000, to remain available until September 30,  
3 2031, for administrative costs and salaries and expenses  
4 for the Rural Development mission area and administra-  
5 tive costs of the agencies and offices of the Department  
6 for costs related to implementing this subtitle.

7 **SEC. 22006. FARM LOAN IMMEDIATE RELIEF FOR BOR-**  
8 **ROWERS WITH AT-RISK AGRICULTURAL OP-**  
9 **ERATIONS.**

10 In addition to amounts otherwise available, there is  
11 appropriated to the Secretary for fiscal year 2022, out of  
12 amounts in the Treasury not otherwise appropriated,  
13 \$3,100,000,000, to remain available until September 30,  
14 2031, to provide payments to, for the cost of loans or loan  
15 modifications for, or to carry out section 331(b)(4) of the  
16 Consolidated Farm and Rural Development Act (7 U.S.C.  
17 1981(b)(4)) with respect to distressed borrowers of direct  
18 or guaranteed loans administered by the Farm Service  
19 Agency under subtitle A, B, or C of that Act (7 U.S.C.  
20 1922 through 1970). In carrying out this section, the Sec-  
21 retary shall provide relief to those borrowers whose agri-  
22 cultural operations are at financial risk as expeditiously  
23 as possible, as determined by the Secretary.

1 **SEC. 22007. USDA ASSISTANCE AND SUPPORT FOR UNDER-**  
2 **SERVED FARMERS, RANCHERS, AND FOR-**  
3 **ESTERS.**

4 Section 1006 of the American Rescue Plan Act of  
5 2021 (7 U.S.C. 2279 note; Public Law 117–2) is amended  
6 to read as follows:

7 **“SEC. 1006. USDA ASSISTANCE AND SUPPORT FOR UNDER-**  
8 **SERVED FARMERS, RANCHERS, FORESTERS.**

9 “(a) **TECHNICAL AND OTHER ASSISTANCE.**—In addi-  
10 tion to amounts otherwise available, there is appropriated  
11 to the Secretary of Agriculture for fiscal year 2022, to  
12 remain available until September 30, 2031, out of any  
13 money in the Treasury not otherwise appropriated,  
14 \$125,000,000 to provide outreach, mediation, financial  
15 training, capacity building training, cooperative develop-  
16 ment and agricultural credit training and support, and  
17 other technical assistance on issues concerning food, agri-  
18 culture, agricultural credit, agricultural extension, rural  
19 development, or nutrition to underserved farmers, ranch-  
20 ers, or forest landowners, including veterans, limited re-  
21 source producers, beginning farmers and ranchers, and  
22 farmers, ranchers, and forest landowners living in high  
23 poverty areas.

24 “(b) **LAND LOSS ASSISTANCE.**—In addition to  
25 amounts otherwise available, there is appropriated to the  
26 Secretary of Agriculture for fiscal year 2022, to remain

1 available until September 30, 2031, out of any money in  
2 the Treasury not otherwise appropriated, \$250,000,000 to  
3 provide grants and loans to eligible entities, as determined  
4 by the Secretary, to improve land access (including heirs'  
5 property and fractionated land issues) for underserved  
6 farmers, ranchers, and forest landowners, including vet-  
7 erans, limited resource producers, beginning farmers and  
8 ranchers, and farmers, ranchers, and forest landowners  
9 living in high poverty areas.

10       “(c) EQUITY COMMISSIONS.—In addition to amounts  
11 otherwise available, there is appropriated to the Secretary  
12 of Agriculture for fiscal year 2022, to remain available  
13 until September 30, 2031, out of any money in the Treas-  
14 ury not otherwise appropriated, \$10,000,000 to fund the  
15 activities of one or more equity commissions that will ad-  
16 dress racial equity issues within the Department of Agri-  
17 culture and the programs of the Department of Agri-  
18 culture.

19       “(d) RESEARCH, EDUCATION, AND EXTENSION.—In  
20 addition to amounts otherwise available, there is appro-  
21 priated to the Secretary of Agriculture for fiscal year  
22 2022, to remain available until September 30, 2031, out  
23 of any money in the Treasury not otherwise appropriated,  
24 \$250,000,000 to support and supplement agricultural re-  
25 search, education, and extension, as well as scholarships

1 and programs that provide internships and pathways to  
2 agricultural sector or Federal employment, for 1890 Insti-  
3 tutions (as defined in section 2 of the Agricultural, Re-  
4 search, Extension, and Education Reform Act of 1998 (7  
5 U.S.C. 7601)), 1994 Institutions (as defined in section  
6 532 of the Equity in Educational Land-Grant Status Act  
7 of 1994 (7 U.S.C. 301 note; Public Law 103–382)), Alas-  
8 ka Native serving institutions and Native Hawaiian serv-  
9 ing institutions eligible to receive grants under subsections  
10 (a) and (b), respectively, of section 1419B of the National  
11 Agricultural Research, Extension, and Teaching Policy  
12 Act of 1977 (7 U.S.C. 3156), Hispanic-serving institu-  
13 tions eligible to receive grants under section 1455 of the  
14 National Agricultural Research, Extension, and Teaching  
15 Policy Act of 1977 (7 U.S.C. 3241), and the insular area  
16 institutions of higher education located in the territories  
17 of the United States, as referred to in section 1489 of  
18 the National Agricultural Research, Extension, and  
19 Teaching Policy Act of 1977 (7 U.S.C. 3361).

20 “(e) DISCRIMINATION FINANCIAL ASSISTANCE.—In  
21 addition to amounts otherwise available, there is appro-  
22 priated to the Secretary of Agriculture for fiscal year  
23 2022, to remain available until September 30, 2031, out  
24 of any money in the Treasury not otherwise appropriated,  
25 \$2,200,000,000 for a program to provide financial assist-



1 ance, including the cost of any financial assistance, to  
2 farmers, ranchers, or forest landowners determined to  
3 have experienced discrimination prior to January 1, 2021,  
4 in Department of Agriculture farm lending programs,  
5 under which the amount of financial assistance provided  
6 to a recipient may be not more than \$500,000, as deter-  
7 mined to be appropriate based on any consequences expe-  
8 rienced from the discrimination, which program shall be  
9 administered through 1 or more qualified nongovern-  
10 mental entities selected by the Secretary subject to stand-  
11 ards set and enforced by the Secretary.

12 “(f) ADMINISTRATIVE COSTS.—In addition to  
13 amounts otherwise available, there is appropriated to the  
14 Secretary of Agriculture for fiscal year 2022, to remain  
15 available until September 30, 2031, out of any money in  
16 the Treasury not otherwise appropriated, \$24,000,000 for  
17 administrative costs, including training employees, of the  
18 agencies and offices of the Department of Agriculture to  
19 carry out this section.

20 “(g) LIMITATION.—The funds made available under  
21 this section are subject to the condition that the Secretary  
22 shall not—

23 “(1) enter into any agreement under which any  
24 payment could be outlaid or funds disbursed after  
25 September 30, 2031; or

1           “(2) use any other funds available to the Sec-  
2           retary to satisfy obligations initially made under this  
3           section.”.

4   **SEC. 22008. REPEAL OF FARM LOAN ASSISTANCE.**

5           Section 1005 of the American Rescue Plan Act of  
6   2021 (7 U.S.C. 1921 note; Public Law 117–2) is repealed.

7                           **Subtitle D—Forestry**

8   **SEC. 23001. NATIONAL FOREST SYSTEM RESTORATION AND**  
9                           **FUELS REDUCTION PROJECTS.**

10          (a) APPROPRIATIONS.—In addition to amounts other-  
11         wise available, there are appropriated to the Secretary for  
12         fiscal year 2022, out of any money in the Treasury not  
13         otherwise appropriated, to remain available until Sep-  
14         tember 30, 2031—

15                 (1) \$1,800,000,000 for hazardous fuels reduc-  
16                 tion projects on National Forest System land within  
17                 the wildland-urban interface;

18                 (2) \$200,000,000 for vegetation management  
19                 projects on National Forest System land carried out  
20                 in accordance with a plan developed under section  
21                 303(d)(1) or 304(a)(3) of the Healthy Forests Res-  
22                 toration Act of 2003 (16 U.S.C. 6542(d)(1) or  
23                 6543(a)(3));

24                 (3) \$100,000,000 to provide for environmental  
25                 reviews by the Chief of the Forest Service in satis-

1       fying the obligations of the Chief of the Forest Serv-  
2       ice under the National Environmental Policy Act of  
3       1969 (42 U.S.C. 4321 through 4370m-12); and

4           (4) \$50,000,000 for the protection of old-  
5       growth forests on National Forest System land and  
6       to complete an inventory of old-growth forests and  
7       mature forests within the National Forest System.

8       (b) RESTRICTIONS.—None of the funds made avail-  
9       able by paragraph (1) or (2) of subsection (a) may be used  
10      for any activity—

11           (1) conducted in a wilderness area or wilderness  
12      study area;

13           (2) that includes the construction of a perma-  
14      nent road or motorized trail;

15           (3) that includes the construction of a tem-  
16      porary road, except in the case of a temporary road  
17      that is decommissioned by the Secretary not later  
18      than 3 years after the earlier of—

19           (A) the date on which the temporary road  
20      is no longer needed; and

21           (B) the date on which the project for  
22      which the temporary road was constructed is  
23      completed;

24           (4) inconsistent with the applicable land man-  
25      agement plan;

1           (5) inconsistent with the prohibitions of the rule  
2 of the Forest Service entitled “Special Areas;  
3 Roadless Area Conservation” (66 Fed. Reg. 3244  
4 (January 12, 2001)), as modified by subparts C and  
5 D of part 294 of title 36, Code of Federal Regula-  
6 tions; or

7           (6) carried out on any land that is not National  
8 Forest System land, including other forested land on  
9 Federal, State, Tribal, or private land.

10       (c) LIMITATIONS.—Nothing in this section shall be  
11 interpreted to authorize funds of the Commodity Credit  
12 Corporation for activities under this section if such funds  
13 are not expressly authorized or currently expended for  
14 such purposes.

15       (d) COST-SHARING WAIVER.—

16           (1) IN GENERAL.—The non-Federal cost-share  
17 requirement of a project described in paragraph (2)  
18 may be waived at the discretion of the Secretary.

19           (2) PROJECT DESCRIBED.—A project referred  
20 to in paragraph (1) is a project that—

21               (A) is carried out using funds made avail-  
22 able under this section;

23               (B) requires a partnership agreement, in-  
24 cluding a cooperative agreement or mutual in-  
25 terest agreement; and

1 (C) is subject to a non-Federal cost-share  
2 requirement.

3 (e) DEFINITIONS.—In this section:

4 (1) DECOMMISSION.—The term “decommis-  
5 sion” means, with respect to a road—

6 (A) reestablishing native vegetation on the  
7 road;

8 (B) restoring any natural drainage, water-  
9 shed function, or other ecological processes that  
10 were disrupted or adversely impacted by the  
11 road by removing or hydrologically dis-  
12 connecting the road prism and reestablishing  
13 stable slope contours; and

14 (C) effectively blocking the road to vehic-  
15 ular traffic, where feasible.

16 (2) ECOLOGICAL INTEGRITY.—The term “eco-  
17 logical integrity” has the meaning given the term in  
18 section 219.19 of title 36, Code of Federal Regula-  
19 tions (as in effect on the date of enactment of this  
20 Act).

21 (3) HAZARDOUS FUELS REDUCTION  
22 PROJECT.—The term “hazardous fuels reduction  
23 project” means an activity, including the use of pre-  
24 scribed fire, to protect structures and communities

1 from wildfire that is carried out on National Forest  
2 System land.

3 (4) RESTORATION.—The term “restoration”  
4 has the meaning given the term in section 219.19 of  
5 title 36, Code of Federal Regulations (as in effect on  
6 the date of enactment of this Act).

7 (5) VEGETATION MANAGEMENT PROJECT.—The  
8 term “vegetation management project” means an ac-  
9 tivity carried out on National Forest System land to  
10 enhance the ecological integrity and achieve the res-  
11 toration of a forest ecosystem through the removal  
12 of vegetation, the use of prescribed fire, the restora-  
13 tion of aquatic habitat, or the decommissioning of an  
14 unauthorized, temporary, or system road.

15 (6) WILDLAND-URBAN INTERFACE.—The term  
16 “wildland-urban interface” has the meaning given  
17 the term in section 101 of the Healthy Forests Res-  
18 toration Act of 2003 (16 U.S.C. 6511).

19 **SEC. 23002. COMPETITIVE GRANTS FOR NON-FEDERAL FOR-**  
20 **EST LANDOWNERS.**

21 (a) APPROPRIATIONS.—In addition to amounts other-  
22 wise available, there are appropriated to the Secretary for  
23 fiscal year 2022, out of any money in the Treasury not  
24 otherwise appropriated, to remain available until Sep-  
25 tember 30, 2031—

1           (1) \$150,000,000 for the competitive grant pro-  
2           gram under section 13A of the Cooperative Forestry  
3           Assistance Act of 1978 (16 U.S.C. 2109a) for pro-  
4           viding through that program a cost share to carry  
5           out climate mitigation or forest resilience practices  
6           in the case of underserved forest landowners, subject  
7           to the condition that subsection (h) of that section  
8           shall not apply;

9           (2) \$150,000,000 for the competitive grant pro-  
10          gram under section 13A of the Cooperative Forestry  
11          Assistance Act of 1978 (16 U.S.C. 2109a) for pro-  
12          viding through that program grants to support the  
13          participation of underserved forest landowners in  
14          emerging private markets for climate mitigation or  
15          forest resilience, subject to the condition that sub-  
16          section (h) of that section shall not apply;

17          (3) \$100,000,000 for the competitive grant pro-  
18          gram under section 13A of the Cooperative Forestry  
19          Assistance Act of 1978 (16 U.S.C. 2109a) for pro-  
20          viding through that program grants to support the  
21          participation of forest landowners who own less than  
22          2,500 acres of forest land in emerging private mar-  
23          kets for climate mitigation or forest resilience, sub-  
24          ject to the condition that subsection (h) of that sec-  
25          tion shall not apply;

1           (4) \$50,000,000 for the competitive grant pro-  
2           gram under section 13A of the Cooperative Forestry  
3           Assistance Act of 1978 (16 U.S.C. 2109a) to pro-  
4           vide grants to states and other eligible entities to  
5           provide payments to owners of private forest land  
6           for implementation of forestry practices on private  
7           forest land, that are determined by the Secretary,  
8           based on the best available science, to provide meas-  
9           urable increases in carbon sequestration and storage  
10          beyond customary practices on comparable land,  
11          subject to the conditions that—

12                 (A) those payments shall not preclude  
13                 landowners from participation in other public  
14                 and private sector financial incentive programs;  
15                 and

16                 (B) subsection (h) of that section shall not  
17                 apply; and

18           (5) \$100,000,000 to provide grants under the  
19           wood innovation grant program under section 8643  
20           of the Agriculture Improvement Act of 2018 (7  
21           U.S.C. 7655d), including for the construction of new  
22           facilities that advance the purposes of the program  
23           and for the hauling of material removed to reduce  
24           hazardous fuels to locations where that material can  
25           be utilized, subject to the conditions that—



1 (A) the amount of such a grant shall be  
2 not more than \$5,000,000; and

3 (B) notwithstanding subsection (d) of that  
4 section, a recipient of such a grant shall provide  
5 funds equal to not less than 50 percent of the  
6 amount received under the grant, to be derived  
7 from non-Federal sources.

8 (b) **COST-SHARING REQUIREMENT.**—Any partnership  
9 agreements, including cooperative agreements and mutual  
10 interest agreements, using funds made available under  
11 this section shall be subject to a non-Federal cost-share  
12 requirement of not less than 20 percent of the project cost,  
13 which may be waived at the discretion of the Secretary.

14 (c) **LIMITATIONS.**—Nothing in this section shall be  
15 interpreted to authorize funds of the Commodity Credit  
16 Corporation for activities under this section if such funds  
17 are not expressly authorized or currently expended for  
18 such purposes.

19 **SEC. 23003. STATE AND PRIVATE FORESTRY CONSERVA-**  
20 **TION PROGRAMS.**

21 (a) **APPROPRIATIONS.**—In addition to amounts other-  
22 wise available, there are appropriated to the Secretary for  
23 fiscal year 2022, out of any money in the Treasury not  
24 otherwise appropriated, to remain available until Sep-  
25 tember 30, 2031—

1           (1) \$700,000,000 to provide competitive grants  
2           to States through the Forest Legacy Program estab-  
3           lished under section 7 of the Cooperative Forestry  
4           Assistance Act of 1978 (16 U.S.C. 2103c) for  
5           projects for the acquisition of land and interests in  
6           land; and

7           (2) \$1,500,000,000 to provide multiyear, pro-  
8           grammatic, competitive grants to a State agency, a  
9           local governmental entity, an agency or govern-  
10          mental entity of the District of Columbia, an agency  
11          or governmental entity of an insular area (as defined  
12          in section 1404 of the National Agricultural Re-  
13          search, Extension, and Teaching Policy Act of 1977  
14          (7 U.S.C. 3103)), an Indian Tribe, or a nonprofit  
15          organization through the Urban and Community  
16          Forestry Assistance program established under sec-  
17          tion 9(c) of the Cooperative Forestry Assistance Act  
18          of 1978 (16 U.S.C. 2105(c)) for tree planting and  
19          related activities.

20          (b) WAIVER.—Any non-Federal cost-share require-  
21          ment otherwise applicable to projects carried out under  
22          this section may be waived at the discretion of the Sec-  
23          retary.

1 **SEC. 23004. LIMITATION.**

2 The funds made available under this subtitle are sub-  
3 ject to the condition that the Secretary shall not—

4 (1) enter into any agreement—

5 (A) that is for a term extending beyond  
6 September 30, 2031; or

7 (B) under which any payment could be  
8 outlaid or funds disbursed after September 30,  
9 2031; or

10 (2) use any other funds available to the Sec-  
11 retary to satisfy obligations initially made under this  
12 subtitle.

13 **SEC. 23005. ADMINISTRATIVE COSTS.**

14 In addition to amounts otherwise available, there is  
15 appropriated to the Secretary for fiscal year 2022, out of  
16 any money in the Treasury not otherwise appropriated,  
17 \$100,000,000 to remain available until September 30,  
18 2031, for administrative costs of the agencies and offices  
19 of the Department of Agriculture for costs related to im-  
20 plementing this subtitle.

1 **TITLE III—COMMITTEE ON**  
2 **BANKING, HOUSING, AND**  
3 **URBAN AFFAIRS**

4 **SEC. 30001. ENHANCED USE OF DEFENSE PRODUCTION ACT**  
5 **OF 1950.**

6 In addition to amounts otherwise available, there is  
7 appropriated for fiscal year 2022, out of any money in  
8 the Treasury not otherwise appropriated, \$500,000,000,  
9 to remain available until September 30, 2024, to carry out  
10 the Defense Production Act of 1950 (50 U.S.C. 4501 et  
11 seq.).

12 **SEC. 30002. IMPROVING ENERGY EFFICIENCY OR WATER**  
13 **EFFICIENCY OR CLIMATE RESILIENCE OF AF-**  
14 **FORDABLE HOUSING.**

15 (a) APPROPRIATION.—In addition to amounts other-  
16 wise available, there is appropriated to the Secretary of  
17 Housing and Urban Development (in this section referred  
18 to as the “Secretary”) for fiscal year 2022, out of any  
19 money in the Treasury not otherwise appropriated—

20 (1) \$837,500,000, to remain available until  
21 September 30, 2028, for the cost of providing direct  
22 loans, the costs of modifying such loans, and for  
23 grants, as provided for and subject to terms and  
24 conditions in subsection (b), including to subsidize  
25 gross obligations for the principal amount of such

1 loans, not to exceed \$4,000,000,000, to fund  
2 projects that improve energy or water efficiency, en-  
3 hance indoor air quality or sustainability, implement  
4 the use of zero-emission electricity generation, low-  
5 emission building materials or processes, energy  
6 storage, or building electrification strategies, or ad-  
7 dress climate resilience, of an eligible property;

8 (2) \$60,000,000, to remain available until Sep-  
9 tember 30, 2030, for the costs to the Secretary for  
10 information technology, research and evaluation, and  
11 administering and overseeing the implementation of  
12 this section;

13 (3) \$60,000,000, to remain available until Sep-  
14 tember 30, 2029, for expenses of contracts or coop-  
15 erative agreements administered by the Secretary;  
16 and

17 (4) \$42,500,000, to remain available until Sep-  
18 tember 30, 2028, for energy and water  
19 benchmarking of properties eligible to receive grants  
20 or loans under this section, regardless of whether  
21 they actually received such grants or loans, along  
22 with associated data analysis and evaluation at the  
23 property and portfolio level, and the development of  
24 information technology systems necessary for the  
25 collection, evaluation, and analysis of such data.

1 (b) LOAN AND GRANT TERMS AND CONDITIONS.—  
2 Amounts made available under this section shall be for  
3 direct loans, grants, and direct loans that can be converted  
4 to grants to eligible recipients that agree to an extended  
5 period of affordability for the property.

6 (c) DEFINITIONS.—As used in this section—

7 (1) the term “eligible recipient” means any  
8 owner or sponsor of an eligible property; and

9 (2) the term “eligible property” means a prop-  
10 erty assisted pursuant to—

11 (A) section 202 of the Housing Act of  
12 1959 (12 U.S.C. 1701q);

13 (B) section 202 of the Housing Act of  
14 1959 (former 12 U.S.C. 1701q), as such section  
15 existed before the enactment of the Cranston-  
16 Gonzalez National Affordable Housing Act;

17 (C) section 811 of the Cranston-Gonzalez  
18 National Affordable Housing Act (42 U.S.C.  
19 8013);

20 (D) section 8(b) of the United States  
21 Housing Act of 1937 (42 U.S.C. 1437f(b));

22 (E) section 236 of the National Housing  
23 Act (12 U.S.C. 1715z-1); or

1 (F) a Housing Assistance Payments con-  
2 tract for Project-Based Rental Assistance in fis-  
3 cal year 2021.

4 (d) WAIVER.—The Secretary may waive or specify al-  
5 ternative requirements for any provision of subsection (c)  
6 or (bb) of section 8 of the United States Housing Act of  
7 1937 (42 U.S.C. 1437f(c), 1437f(bb)) upon a finding that  
8 the waiver or alternative requirement is necessary to facili-  
9 tate the use of amounts made available under this section.

10 (e) IMPLEMENTATION.—The Secretary shall have the  
11 authority to establish by notice any requirements that the  
12 Secretary determines are necessary for timely and effec-  
13 tive implementation of the program and expenditure of  
14 funds appropriated, which requirements shall take effect  
15 upon issuance.

16 **TITLE IV—COMMITTEE ON COM-**  
17 **MERCE, SCIENCE, AND**  
18 **TRANSPORTATION**

19 **SEC. 40001. INVESTING IN COASTAL COMMUNITIES AND**  
20 **CLIMATE RESILIENCE.**

21 (a) IN GENERAL.—In addition to amounts otherwise  
22 available, there is appropriated to the National Oceanic  
23 and Atmospheric Administration for fiscal year 2022, out  
24 of any money in the Treasury not otherwise appropriated,  
25 \$2,600,000,000, to remain available until September 30,

1 2026, to provide funding through direct expenditure, con-  
2 tracts, grants, cooperative agreements, or technical assist-  
3 ance to coastal states (as defined in paragraph (4) of sec-  
4 tion 304 of the Coastal Zone Management Act of 1972  
5 (16 U.S.C. 1453(4))), the District of Columbia, Tribal  
6 Governments, nonprofit organizations, local governments,  
7 and institutions of higher education (as defined in sub-  
8 section (a) of section 101 of the Higher Education Act  
9 of 1965 (20 U.S.C. 1001(a))), for the conservation, res-  
10 toration, and protection of coastal and marine habitats,  
11 resources, Pacific salmon and other marine fisheries, to  
12 enable coastal communities to prepare for extreme storms  
13 and other changing climate conditions, and for projects  
14 that support natural resources that sustain coastal and  
15 marine resource dependent communities, marine fishery  
16 and marine mammal stock assessments, and for related  
17 administrative expenses.

18 (b) TRIBAL GOVERNMENT DEFINED.—In this sec-  
19 tion, the term “Tribal Government” means the recognized  
20 governing body of any Indian or Alaska Native tribe,  
21 band, nation, pueblo, village, community, component band,  
22 or component reservation, individually identified (includ-  
23 ing parenthetically) in the list published most recently as  
24 of the date of enactment of this subsection pursuant to



1 section 104 of the Federally Recognized Indian Tribe List  
2 Act of 1994 (25 U.S.C. 5131).

3 **SEC. 40002. FACILITIES OF THE NATIONAL OCEANIC AND**  
4 **ATMOSPHERIC ADMINISTRATION AND NA-**  
5 **TIONAL MARINE SANCTUARIES.**

6 (a) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-  
7 ISTRATION FACILITIES.—In addition to amounts other-  
8 wise available, there is appropriated to the National Oce-  
9 anic and Atmospheric Administration for fiscal year 2022,  
10 out of any money in the Treasury not otherwise appro-  
11 priated, \$150,000,000, to remain available until Sep-  
12 tember 30, 2026, for the construction of new facilities, fa-  
13 cilities in need of replacement, piers, marine operations  
14 facilities, and fisheries laboratories.

15 (b) NATIONAL MARINE SANCTUARIES FACILITIES.—  
16 In addition to amounts otherwise available, there is appro-  
17 priated to the National Oceanic and Atmospheric Adminis-  
18 tration for fiscal year 2022, out of any money in the  
19 Treasury not otherwise appropriated, \$50,000,000, to re-  
20 main available until September 30, 2026, for the construc-  
21 tion of facilities to support the National Marine Sanctuary  
22 System established under subsection (c) of section 301 of  
23 the National Marine Sanctuaries Act (16 U.S.C. 1431(c)).

1 **SEC. 40003. NOAA EFFICIENT AND EFFECTIVE REVIEWS.**

2 In addition to amounts otherwise available, there is  
3 appropriated to the National Oceanic and Atmospheric  
4 Administration for fiscal year 2022, out of any money in  
5 the Treasury not otherwise appropriated, \$20,000,000, to  
6 remain available until September 30, 2026, to conduct  
7 more efficient, accurate, and timely reviews for planning,  
8 permitting and approval processes through the hiring and  
9 training of personnel, and the purchase of technical and  
10 scientific services and new equipment, and to improve  
11 agency transparency, accountability, and public engage-  
12 ment.

13 **SEC. 40004. OCEANIC AND ATMOSPHERIC RESEARCH AND**  
14 **FORECASTING FOR WEATHER AND CLIMATE.**

15 (a) FORECASTING AND RESEARCH.—In addition to  
16 amounts otherwise available, there is appropriated to the  
17 National Oceanic and Atmospheric Administration for fis-  
18 cal year 2022, out of any money in the Treasury not other-  
19 wise appropriated, \$150,000,000, to remain available until  
20 September 30, 2026, to accelerate advances and improve-  
21 ments in research, observation systems, modeling, fore-  
22 casting, assessments, and dissemination of information to  
23 the public as it pertains to ocean and atmospheric proc-  
24 esses related to weather, coasts, oceans, and climate, and  
25 to carry out section 102(a) of the Weather Research and

1 Forecasting Innovation Act of 2017 (15 U.S.C. 8512(a)),  
2 and for related administrative expenses.

3 (b) RESEARCH GRANTS AND SCIENCE INFORMATION,  
4 PRODUCTS, AND SERVICES.—In addition to amounts oth-  
5 erwise available, there are appropriated to the National  
6 Oceanic and Atmospheric Administration for fiscal year  
7 2022, out of any money in the Treasury not otherwise ap-  
8 propriated, to remain available until September 30, 2026,  
9 \$50,000,000 for competitive grants to fund climate re-  
10 search as it relates to weather, ocean, coastal, and atmos-  
11 pheric processes and conditions, and impacts to marine  
12 species and coastal habitat, and for related administrative  
13 expenses.

14 **SEC. 40005. COMPUTING CAPACITY AND RESEARCH FOR**  
15 **WEATHER, OCEANS, AND CLIMATE.**

16 In addition to amounts otherwise available, there is  
17 appropriated to the National Oceanic and Atmospheric  
18 Administration for fiscal year 2022, out of any money in  
19 the Treasury not otherwise appropriated, \$190,000,000,  
20 to remain available until September 30, 2026, for the pro-  
21 curement of additional high-performance computing, data  
22 processing capacity, data management, and storage assets,  
23 to carry out section 204(a)(2) of the High-Performance  
24 Computing Act of 1991 (15 U.S.C. 5524(a)(2)), and for  
25 transaction agreements authorized under section

1 301(d)(1)(A) of the Weather Research and Forecasting  
2 Innovation Act of 2017 (15 U.S.C. 8531(d)(1)(A)), and  
3 for related administrative expenses.

4 **SEC. 40006. ACQUISITION OF HURRICANE FORECASTING**  
5 **AIRCRAFT.**

6 In addition to amounts otherwise available, there is  
7 appropriated to the National Oceanic and Atmospheric  
8 Administration for fiscal year 2022, out of any money in  
9 the Treasury not otherwise appropriated, \$100,000,000,  
10 to remain available until September 30, 2026, for the ac-  
11 quisition of hurricane hunter aircraft under section 413(a)  
12 of the Weather Research and Forecasting Innovation Act  
13 of 2017 (15 U.S.C. 8549(a)).

14 **SEC. 40007. ALTERNATIVE FUEL AND LOW-EMISSION AVIA-**  
15 **TION TECHNOLOGY PROGRAM.**

16 (a) APPROPRIATION AND ESTABLISHMENT.—For  
17 purposes of establishing a competitive grant program for  
18 eligible entities to carry out projects located in the United  
19 States that produce, transport, blend, or store sustainable  
20 aviation fuel, or develop, demonstrate, or apply low-emis-  
21 sion aviation technologies, in addition to amounts other-  
22 wise available, there are appropriated to the Secretary for  
23 fiscal year 2022, out of any money in the Treasury not  
24 otherwise appropriated, to remain available until Sep-  
25 tember 30, 2026—

1           (1) \$244,530,000 for projects relating to the  
2           production, transportation, blending, or storage of  
3           sustainable aviation fuel;

4           (2) \$46,530,000 for projects relating to low-  
5           emission aviation technologies; and

6           (3) \$5,940,000 to fund the award of grants  
7           under this section, and oversight of the program, by  
8           the Secretary.

9           (b) CONSIDERATIONS.—In carrying out subsection  
10          (a), the Secretary shall consider, with respect to a pro-  
11          posed project—

12           (1) the capacity for the eligible entity to in-  
13           crease the domestic production and deployment of  
14           sustainable aviation fuel or the use of low-emission  
15           aviation technologies among the United States com-  
16           mercial aviation and aerospace industry;

17           (2) the projected greenhouse gas emissions  
18           from such project, including emissions resulting  
19           from the development of the project, and the poten-  
20           tial the project has to reduce or displace, on a  
21           lifecycle basis, United States greenhouse gas emis-  
22           sions associated with air travel;

23           (3) the capacity to create new jobs and develop  
24           supply chain partnerships in the United States;

1           (4) for projects related to the production of sus-  
2           tainable aviation fuel, the projected lifecycle green-  
3           house gas emissions benefits from the proposed  
4           project, which shall include feedstock and fuel pro-  
5           duction and potential direct and indirect greenhouse  
6           gas emissions (including resulting from changes in  
7           land use); and

8           (5) the benefits of ensuring a diversity of feed-  
9           stocks for sustainable aviation fuel, including the use  
10          of waste carbon oxides and direct air capture.

11          (c) COST SHARE.—The Federal share of the cost of  
12          a project carried out using grant funds under subsection  
13          (a) shall be 75 percent of the total proposed cost of the  
14          project, except that such Federal share shall increase to  
15          90 percent of the total proposed cost of the project if the  
16          eligible entity is a small hub airport or nonhub airport,  
17          as such terms are defined in section 47102 of title 49,  
18          United States Code.

19          (d) FUEL EMISSIONS REDUCTION TEST.—For pur-  
20          poses of clause (ii) of subsection (e)(7)(E), the Secretary  
21          shall, not later than 2 years after the date of enactment  
22          of this section, adopt at least 1 methodology for testing  
23          lifecycle greenhouse gas emissions that meets the require-  
24          ments of such clause.

25          (e) DEFINITIONS.—In this section:

1           (1) ELIGIBLE ENTITY.—The term “eligible enti-  
2           ty” means—

3                   (A) a State or local government, including  
4                   the District of Columbia, other than an airport  
5                   sponsor;

6                   (B) an air carrier;

7                   (C) an airport sponsor;

8                   (D) an accredited institution of higher edu-  
9                   cation;

10                  (E) a research institution;

11                  (F) a person or entity engaged in the pro-  
12                  duction, transportation, blending, or storage of  
13                  sustainable aviation fuel in the United States or  
14                  feedstocks in the United States that could be  
15                  used to produce sustainable aviation fuel;

16                  (G) a person or entity engaged in the de-  
17                  velopment, demonstration, or application of low-  
18                  emission aviation technologies; or

19                  (H) nonprofit entities or nonprofit con-  
20                  sortia with experience in sustainable aviation  
21                  fuels, low-emission aviation technologies, or  
22                  other clean transportation research programs.

23           (2) FEEDSTOCK.—The term “feedstock” means  
24           sources of hydrogen and carbon not originating from  
25           unrefined or refined petrochemicals.

1           (3) INDUCED LAND-USE CHANGE VALUES.—

2           The term “induced land-use change values” means  
3           the greenhouse gas emissions resulting from the con-  
4           version of land to the production of feedstocks and  
5           from the conversion of other land due to the dis-  
6           placement of crops or animals for which the original  
7           land was previously used.

8           (4) LIFECYCLE GREENHOUSE GAS EMIS-

9           SIONS.—The term “lifecycle greenhouse gas emis-  
10          sions” means the combined greenhouse gas emis-  
11          sions from feedstock production, collection of feed-  
12          stock, transportation of feedstock to fuel production  
13          facilities, conversion of feedstock to fuel, transpor-  
14          tation and distribution of fuel, and fuel combustion  
15          in an aircraft engine, as well as from induced land-  
16          use change values.

17          (5) LOW-EMISSION AVIATION TECHNOLOGIES.—

18          The term “low-emission aviation technologies”  
19          means technologies, produced in the United States,  
20          that significantly—

21                   (A) improve aircraft fuel efficiency;

22                   (B) increase utilization of sustainable avia-  
23                   tion fuel; or

24                   (C) reduce greenhouse gas emissions pro-  
25                   duced during operation of civil aircraft.



1           (6) SECRETARY.—The term “Secretary” means  
2 the Secretary of Transportation.

3           (7) SUSTAINABLE AVIATION FUEL.—The term  
4 “sustainable aviation fuel” means liquid fuel, pro-  
5 duced in the United States, that—

6                   (A) consists of synthesized hydrocarbons;

7                   (B) meets the requirements of—

8                           (i) ASTM International Standard  
9 D7566; or

10                           (ii) the co-processing provisions of  
11 ASTM International Standard D1655,  
12 Annex A1 (or such successor standard);

13                   (C) is derived from biomass (in a similar  
14 manner as such term is defined in section  
15 45K(c)(3) of the Internal Revenue Code of  
16 1986), waste streams, renewable energy  
17 sources, or gaseous carbon oxides;

18                   (D) is not derived from palm fatty acid  
19 distillates; and

20                   (E) achieves at least a 50 percent lifecycle  
21 greenhouse gas emissions reduction in compari-  
22 son with petroleum-based jet fuel, as deter-  
23 mined by a test that shows—

24                           (i) the fuel production pathway  
25 achieves at least a 50 percent reduction of

1 the aggregate attributional core lifecycle  
2 emissions and the induced land-use change  
3 values under a lifecycle methodology for  
4 sustainable aviation fuels similar to that  
5 adopted by the International Civil Aviation  
6 Organization with the agreement of the  
7 United States; or

8 (ii) the fuel production pathway  
9 achieves at least a 50 percent reduction of  
10 the aggregate attributional core lifecycle  
11 greenhouse gas emissions values and the  
12 induced land-use change values under an-  
13 other methodology that the Secretary de-  
14 termines is—

15 (I) reflective of the latest sci-  
16 entific understanding of lifecycle  
17 greenhouse gas emissions; and

18 (II) as stringent as the require-  
19 ment under clause (i).

1 **TITLE V—COMMITTEE ON EN-**  
2 **ERGY AND NATURAL RE-**  
3 **SOURCES**

4 **Subtitle A—Energy**

5 **PART 1—GENERAL PROVISIONS**

6 **SEC. 50111. DEFINITIONS.**

7 In this subtitle:

8 (1) GREENHOUSE GAS.—The term “greenhouse  
9 gas” has the meaning given the term in section  
10 1610(a) of the Energy Policy Act of 1992 (42  
11 U.S.C. 13389(a)).

12 (2) SECRETARY.—The term “Secretary” means  
13 the Secretary of Energy.

14 (3) STATE.—The term “State” means a State,  
15 the District of Columbia, and a United States Insu-  
16 lar Area (as that term is defined in section 50211).

17 (4) STATE ENERGY OFFICE.—The term “State  
18 energy office” has the meaning given the term in  
19 section 124(a) of the Energy Policy Act of 2005 (42  
20 U.S.C. 15821(a)).

21 (5) STATE ENERGY PROGRAM.—The term  
22 “State Energy Program” means the State Energy  
23 Program established pursuant to part D of title III  
24 of the Energy Policy and Conservation Act (42  
25 U.S.C. 6321 through 6326).

1           **PART 2—RESIDENTIAL EFFICIENCY AND**  
2                           **ELECTRIFICATION REBATES**

3   **SEC. 50121. HOME ENERGY PERFORMANCE-BASED, WHOLE-**  
4                           **HOUSE REBATES.**

5           (a) APPROPRIATION.—

6                   (1) IN GENERAL.—In addition to amounts oth-  
7           erwise available, there is appropriated to the Sec-  
8           retary for fiscal year 2022, out of any money in the  
9           Treasury not otherwise appropriated,  
10           \$4,300,000,000, to remain available through Sep-  
11           tember 30, 2031, to carry out a program to award  
12           grants to State energy offices to develop and imple-  
13           ment a HOMES rebate program.

14                   (2) ALLOCATION OF FUNDS.—

15                           (A) IN GENERAL.—The Secretary shall re-  
16           serve funds made available under paragraph (1)  
17           for each State energy office—

18                                   (i) in accordance with the allocation  
19                                   formula for the State Energy Program in  
20                                   effect on January 1, 2022; and

21                                   (ii) to be distributed to a State energy  
22                                   office if the application of the State energy  
23                                   office under subsection (b) is approved.

24                           (B) ADDITIONAL FUNDS.—Not earlier  
25           than 2 years after the date of enactment of this  
26           Act, any money reserved under subparagraph

1 (A) but not distributed under clause (ii) of that  
2 subparagraph shall be redistributed to the State  
3 energy offices operating a HOMES rebate pro-  
4 gram using a grant received under this section  
5 in proportion to the amount distributed to those  
6 State energy offices under subparagraph  
7 (A)(ii).

8 (3) ADMINISTRATIVE EXPENSES.—Of the funds  
9 made available under paragraph (1), the Secretary  
10 shall use not more than 3 percent for—

11 (A) administrative purposes; and

12 (B) providing technical assistance relating  
13 to activities carried out under this section.

14 (b) APPLICATION.—A State energy office seeking a  
15 grant under this section shall submit to the Secretary an  
16 application that includes a plan to implement a HOMES  
17 rebate program, including a plan—

18 (1) to use procedures, as approved by the Sec-  
19 retary, for determining the reductions in home en-  
20 ergy use resulting from the implementation of a  
21 home energy efficiency retrofit that are calibrated to  
22 historical energy usage for a home consistent with  
23 BPI 2400, for purposes of modeled performance  
24 home rebates;

1           (2) to use open-source advanced measurement  
2           and verification software, as approved by the Sec-  
3           retary, for determining and documenting the month-  
4           ly and hourly (if available) weather-normalized en-  
5           ergy use of a home before and after the implementa-  
6           tion of a home energy efficiency retrofit, for pur-  
7           poses of measured performance home rebates;

8           (3) to value savings based on time, location, or  
9           greenhouse gas emissions;

10          (4) for quality monitoring to ensure that each  
11          home energy efficiency retrofit for which a rebate is  
12          provided is documented in a certificate that—

13                 (A) is provided by the contractor and cer-  
14                 tified by a third party to the homeowner; and

15                 (B) details the work performed, the equip-  
16                 ment and materials installed, and the projected  
17                 energy savings or energy generation to support  
18                 accurate valuation of the retrofit;

19          (5) to provide a contractor performing a home  
20          energy efficiency retrofit or an aggregator who has  
21          the right to claim a rebate \$200 for each home lo-  
22          cated in a disadvantaged community that receives a  
23          home energy efficiency retrofit for which a rebate is  
24          provided under the program; and

1           (6) to ensure that a homeowner or aggregator  
2 does not receive a rebate for the same upgrade  
3 through both a HOMES rebate program and any  
4 other Federal grant or rebate program, pursuant to  
5 subsection (c)(7).

6           (c) HOMES REBATE PROGRAM.—

7           (1) IN GENERAL.—A HOMES rebate program  
8 carried out by a State energy office receiving a grant  
9 pursuant to this section shall provide rebates to  
10 homeowners and aggregators for whole-house energy  
11 saving retrofits begun on or after the date of enact-  
12 ment of this Act and completed by not later than  
13 September 30, 2031.

14           (2) AMOUNT OF REBATE.—Subject to para-  
15 graph (3), under a HOMES rebate program, the  
16 amount of a rebate shall not exceed—

17           (A) for individuals and aggregators car-  
18 rying out energy efficiency upgrades of single-  
19 family homes—

20           (i) in the case of a retrofit that  
21 achieves modeled energy system savings of  
22 not less than 20 percent but less than 35  
23 percent, the lesser of—

24           (I) \$2,000; and

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1 (II) 50 percent of the project  
2 cost;

3 (ii) in the case of a retrofit that  
4 achieves modeled energy system savings of  
5 not less than 35 percent, the lesser of—

6 (I) \$4,000; and

7 (II) 50 percent of the project  
8 cost; and

9 (iii) for measured energy savings, in  
10 the case of a home or portfolio of homes  
11 that achieves energy savings of not less  
12 than 15 percent—

13 (I) a payment rate per kilowatt  
14 hour saved, or kilowatt hour-equa-  
15 lent saved, equal to \$2,000 for a 20  
16 percent reduction of energy use for  
17 the average home in the State; or

18 (II) 50 percent of the project  
19 cost;

20 (B) for multifamily building owners and  
21 aggregators carrying out energy efficiency up-  
22 grades of multifamily buildings—

23 (i) in the case of a retrofit that  
24 achieves modeled energy system savings of  
25 not less than 20 percent but less than 35



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1 percent, \$2,000 per dwelling unit, with a  
2 maximum of \$200,000 per multifamily  
3 building;

4 (ii) in the case of a retrofit that  
5 achieves modeled energy system savings of  
6 not less than 35 percent, \$4,000 per dwell-  
7 ing unit, with a maximum of \$400,000 per  
8 multifamily building; or

9 (iii) for measured energy savings, in  
10 the case of a multifamily building or port-  
11 folio of multifamily buildings that achieves  
12 energy savings of not less than 15 per-  
13 cent—

14 (I) a payment rate per kilowatt  
15 hour saved, or kilowatt hour-equiva-  
16 lent saved, equal to \$2,000 for a 20  
17 percent reduction of energy use per  
18 dwelling unit for the average multi-  
19 family building in the State; or

20 (II) 50 percent of the project  
21 cost; and

22 (C) for individuals and aggregators car-  
23 rying out energy efficiency upgrades of a single-  
24 family home occupied by a low- or moderate-in-  
25 come household or a multifamily building not

1 less than 50 percent of the dwelling units of  
2 which are occupied by low- or moderate-income  
3 households—

4 (i) in the case of a retrofit that  
5 achieves modeled energy system savings of  
6 not less than 20 percent but less than 35  
7 percent, the lesser of—

8 (I) \$4,000 per single-family home  
9 or dwelling unit; and

10 (II) 80 percent of the project  
11 cost;

12 (ii) in the case of a retrofit that  
13 achieves modeled energy system savings of  
14 not less than 35 percent, the lesser of—

15 (I) \$8,000 per single-family home  
16 or dwelling unit; and

17 (II) 80 percent of the project  
18 cost; and

19 (iii) for measured energy savings, in  
20 the case of a single-family home, multi-  
21 family building, or portfolio of single-fam-  
22 ily homes or multifamily buildings that  
23 achieves energy savings of not less than 15  
24 percent—

1 (I) a payment rate per kilowatt  
2 hour saved, or kilowatt hour-equa-  
3 lent saved, equal to \$4,000 for a 20  
4 percent reduction of energy use per  
5 single-family home or dwelling unit, as  
6 applicable, for the average single-fam-  
7 ily home or multifamily building in  
8 the State; or

9 (II) 80 percent of the project  
10 cost.

11 (3) REBATES TO LOW- OR MODERATE-INCOME  
12 HOUSEHOLDS.—On approval from the Secretary,  
13 notwithstanding paragraph (2), a State energy office  
14 carrying out a HOMES rebate program using a  
15 grant awarded pursuant to this section may increase  
16 rebate amounts for low- or moderate-income house-  
17 holds.

18 (4) USE OF FUNDS.—A State energy office that  
19 receives a grant pursuant to this section may use  
20 not more than 20 percent of the grant amount for  
21 planning, administration, or technical assistance re-  
22 lated to a HOMES rebate program.

23 (5) DATA ACCESS GUIDELINES.—The Secretary  
24 shall develop and publish guidelines for States relat-

1 ing to residential electric and natural gas energy  
2 data sharing.

3 (6) EXEMPTION.—Activities carried out by a  
4 State energy office using a grant awarded pursuant  
5 to this section shall not be subject to the expenditure  
6 prohibitions and limitations described in section  
7 420.18 of title 10, Code of Federal Regulations.

8 (7) PROHIBITION ON COMBINING REBATES.—A  
9 rebate provided by a State energy office under a  
10 HOMES rebate program may not be combined with  
11 any other Federal grant or rebate, including a re-  
12 bate provided under a high-efficiency electric home  
13 rebate program (as defined in section 50122(d)), for  
14 the same single upgrade.

15 (d) DEFINITIONS.—In this section:

16 (1) DISADVANTAGED COMMUNITY.—The term  
17 “disadvantaged community” means a community  
18 that the Secretary determines, based on appropriate  
19 data, indices, and screening tools, is economically,  
20 socially, or environmentally disadvantaged.

21 (2) HOMES REBATE PROGRAM.—The term  
22 “HOMES rebate program” means a Home Owner  
23 Managing Energy Savings rebate program estab-  
24 lished by a State energy office as part of an ap-

1 proved State energy conservation plan under the  
2 State Energy Program.

3 (3) LOW- OR MODERATE-INCOME HOUSE-  
4 HOLD.—The term “low- or moderate-income house-  
5 hold” means an individual or family the total annual  
6 income of which is less than 80 percent of the me-  
7 dian income of the area in which the individual or  
8 family resides, as reported by the Department of  
9 Housing and Urban Development, including an indi-  
10 vidual or family that has demonstrated eligibility for  
11 another Federal program with income restrictions  
12 equal to or below 80 percent of area median income.

13 **SEC. 50122. HIGH-EFFICIENCY ELECTRIC HOME REBATE**  
14 **PROGRAM.**

15 (a) APPROPRIATIONS.—

16 (1) FUNDS TO STATE ENERGY OFFICES AND IN-  
17 DIAN TRIBES.—In addition to amounts otherwise  
18 available, there is appropriated to the Secretary for  
19 fiscal year 2022, out of any money in the Treasury  
20 not otherwise appropriated, to carry out a pro-  
21 gram—

22 (A) to award grants to State energy offices  
23 to develop and implement a high-efficiency elec-  
24 tric home rebate program in accordance with

1 subsection (c), \$4,275,000,000, to remain avail-  
2 able through September 30, 2031; and

3 (B) to award grants to Indian Tribes to  
4 develop and implement a high-efficiency electric  
5 home rebate program in accordance with sub-  
6 section (c), \$225,000,000, to remain available  
7 through September 30, 2031.

8 (2) ALLOCATION OF FUNDS.—

9 (A) STATE ENERGY OFFICES.—The Sec-  
10 retary shall reserve funds made available under  
11 paragraph (1)(A) for each State energy office—

12 (i) in accordance with the allocation  
13 formula for the State Energy Program in  
14 effect on January 1, 2022; and

15 (ii) to be distributed to a State energy  
16 office if the application of the State energy  
17 office under subsection (b) is approved.

18 (B) INDIAN TRIBES.—The Secretary shall  
19 reserve funds made available under paragraph  
20 (1)(B)—

21 (i) in a manner determined appro-  
22 priate by the Secretary; and

23 (ii) to be distributed to an Indian  
24 Tribe if the application of the Indian Tribe  
25 under subsection (b) is approved.

1 (C) ADDITIONAL FUNDS.—Not earlier than  
2 2 years after the date of enactment of this Act,  
3 any money reserved under—

4 (i) subparagraph (A) but not distrib-  
5 uted under clause (ii) of that subparagraph  
6 shall be redistributed to the State energy  
7 offices operating a high-efficiency electric  
8 home rebate program in proportion to the  
9 amount distributed to those State energy  
10 offices under that clause; and

11 (ii) subparagraph (B) but not distrib-  
12 uted under clause (ii) of that subparagraph  
13 shall be redistributed to the Indian Tribes  
14 operating a high-efficiency electric home  
15 rebate program in proportion to the  
16 amount distributed to those Indian Tribes  
17 under that clause.

18 (3) ADMINISTRATIVE EXPENSES.—Of the funds  
19 made available under paragraph (1), the Secretary  
20 shall use not more than 3 percent for—

21 (A) administrative purposes; and

22 (B) providing technical assistance relating  
23 to activities carried out under this section.

24 (b) APPLICATION.—A State energy office or Indian  
25 Tribe seeking a grant under the program shall submit to

1 the Secretary an application that includes a plan to imple-  
2 ment a high-efficiency electric home rebate program, in-  
3 cluding—

4 (1) a plan to verify the income eligibility of eli-  
5 gible entities seeking a rebate for a qualified elec-  
6 trification project;

7 (2) a plan to allow rebates for qualified elec-  
8 trification projects at the point of sale in a manner  
9 that ensures that the income eligibility of an eligible  
10 entity seeking a rebate may be verified at the point  
11 of sale;

12 (3) a plan to ensure that an eligible entity does  
13 not receive a rebate for the same qualified elec-  
14 trification project through both a high-efficiency  
15 electric home rebate program and any other Federal  
16 grant or rebate program, pursuant to subsection  
17 (c)(8); and

18 (4) any additional information that the Sec-  
19 retary may require.

20 (c) HIGH-EFFICIENCY ELECTRIC HOME REBATE  
21 PROGRAM.—

22 (1) IN GENERAL.—Under the program, the Sec-  
23 retary shall award grants to State energy offices and  
24 Indian Tribes to establish a high-efficiency electric  
25 home rebate program under which rebates shall be



1 provided to eligible entities for qualified electrifica-  
2 tion projects.

3 (2) GUIDELINES.—The Secretary shall pre-  
4 scribe guidelines for high-efficiency electric home re-  
5 bate programs, including guidelines for providing  
6 point of sale rebates in a manner consistent with the  
7 income eligibility requirements under this section.

8 (3) AMOUNT OF REBATE.—

9 (A) APPLIANCE UPGRADES.—The amount  
10 of a rebate provided under a high-efficiency  
11 electric home rebate program for the purchase  
12 of an appliance under a qualified electrification  
13 project shall be—

14 (i) not more than \$1,750 for a heat  
15 pump water heater;

16 (ii) not more than \$8,000 for a heat  
17 pump for space heating or cooling; and

18 (iii) not more than \$840 for—

19 (I) an electric stove, cooktop,  
20 range, or oven; or

21 (II) an electric heat pump clothes  
22 dryer.

23 (B) NONAPPLIANCE UPGRADES.—The  
24 amount of a rebate provided under a high-effi-  
25 ciency electric home rebate program for the

1 purchase of a nonappliance upgrade under a  
2 qualified electrification project shall be—

3 (i) not more than \$4,000 for an elec-  
4 tric load service center upgrade;

5 (ii) not more than \$1,600 for insula-  
6 tion, air sealing, and ventilation; and

7 (iii) not more than \$2,500 for electric  
8 wiring.

9 (C) MAXIMUM REBATE.—An eligible entity  
10 receiving multiple rebates under this section  
11 may receive not more than a total of \$14,000  
12 in rebates.

13 (4) LIMITATIONS.—A rebate provided using  
14 funding under this section shall not exceed—

15 (A) in the case of an eligible entity de-  
16 scribed in subsection (d)(1)(A)—

17 (i) 50 percent of the cost of the quali-  
18 fied electrification project for a household  
19 the annual income of which is not less than  
20 80 percent and not greater than 150 per-  
21 cent of the area median income; and

22 (ii) 100 percent of the cost of the  
23 qualified electrification project for a house-  
24 hold the annual income of which is less

1           than 80 percent of the area median in-  
2           come;

3           (B) in the case of an eligible entity de-  
4           scribed in subsection (d)(1)(B)—

5                   (i) 50 percent of the cost of the quali-  
6                   fied electrification project for a multifamily  
7                   building not less than 50 percent of the  
8                   residents of which are households the an-  
9                   nual income of which is not less than 80  
10                  percent and not greater than 150 percent  
11                  of the area median income; and

12                   (ii) 100 percent of the cost of the  
13                   qualified electrification project for a multi-  
14                   family building not less than 50 percent of  
15                   the residents of which are households the  
16                   annual income of which is less than 80  
17                   percent of the area median income; or

18           (C) in the case of an eligible entity de-  
19           scribed in subsection (d)(1)(C)—

20                   (i) 50 percent of the cost of the quali-  
21                   fied electrification project for a house-  
22                   hold—

23                   (I) on behalf of which the eligible  
24                   entity is working; and

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1 (II) the annual income of which  
2 is not less than 80 percent and not  
3 greater than 150 percent of the area  
4 median income; and

5 (ii) 100 percent of the cost of the  
6 qualified electrification project for a house-  
7 hold—

8 (I) on behalf of which the eligible  
9 entity is working; and

10 (II) the annual income of which  
11 is less than 80 percent of the area  
12 median income.

13 (5) AMOUNT FOR INSTALLATION OF UP-  
14 GRADES.—

15 (A) IN GENERAL.—In the case of an eligi-  
16 ble entity described in subsection (d)(1)(C) that  
17 receives a rebate under the program and per-  
18 forms the installation of the applicable qualified  
19 electrification project, a State energy office or  
20 Indian Tribe shall provide to that eligible enti-  
21 ty, in addition to the rebate, an amount that—

22 (i) does not exceed \$500; and

23 (ii) is commensurate with the scale of  
24 the upgrades installed as part of the quali-

1                   fied electrification project, as determined  
2                   by the Secretary.

3                   (B) TREATMENT.—An amount received  
4                   under subparagraph (A) by an eligible entity  
5                   described in that subparagraph shall not be  
6                   subject to the requirement under paragraph  
7                   (6).

8                   (6) REQUIREMENT.—An eligible entity de-  
9                   scribed in subparagraph (C) of subsection (d)(1)  
10                  shall discount the amount of a rebate received for a  
11                  qualified electrification project from any amount  
12                  charged by that eligible entity to the eligible entity  
13                  described in subparagraph (A) or (B) of that sub-  
14                  section on behalf of which the qualified electrifica-  
15                  tion project is carried out.

16                  (7) EXEMPTION.—Activities carried out by a  
17                  State energy office using a grant provided under the  
18                  program shall not be subject to the expenditure pro-  
19                  hibitions and limitations described in section 420.18  
20                  of title 10, Code of Federal Regulations.

21                  (8) PROHIBITION ON COMBINING REBATES.—A  
22                  rebate provided by a State energy office or Indian  
23                  Tribe under a high-efficiency electric home rebate  
24                  program may not be combined with any other Fed-  
25                  eral grant or rebate, including a rebate provided

1 under a HOMES rebate program (as defined in sec-  
2 tion 50121(d)), for the same qualified electrification  
3 project.

4 (9) ADMINISTRATIVE COSTS.—A State energy  
5 office or Indian Tribe that receives a grant under  
6 the program shall use not more than 20 percent of  
7 the grant amount for planning, administration, or  
8 technical assistance relating to a high-efficiency elec-  
9 tric home rebate program.

10 (d) DEFINITIONS.—In this section:

11 (1) ELIGIBLE ENTITY.—The term “eligible enti-  
12 ty” means—

13 (A) a low- or moderate-income household;

14 (B) an individual or entity that owns a  
15 multifamily building not less than 50 percent of  
16 the residents of which are low- or moderate-in-  
17 come households; and

18 (C) a governmental, commercial, or non-  
19 profit entity, as determined by the Secretary,  
20 carrying out a qualified electrification project  
21 on behalf of an entity described in subpara-  
22 graph (A) or (B).

23 (2) HIGH-EFFICIENCY ELECTRIC HOME REBATE  
24 PROGRAM.—The term “high-efficiency electric home  
25 rebate program” means a rebate program carried

1 out by a State energy office or Indian Tribe pursu-  
2 ant to subsection (c) using a grant received under  
3 the program.

4 (3) INDIAN TRIBE.—The term “Indian Tribe”  
5 has the meaning given the term in section 4 of the  
6 Indian Self-Determination and Education Assistance  
7 Act (25 U.S.C. 5304).

8 (4) LOW- OR MODERATE-INCOME HOUSE-  
9 HOLD.—The term “low- or moderate-income house-  
10 hold” means an individual or family the total annual  
11 income of which is less than 150 percent of the me-  
12 dian income of the area in which the individual or  
13 family resides, as reported by the Department of  
14 Housing and Urban Development, including an indi-  
15 vidual or family that has demonstrated eligibility for  
16 another Federal program with income restrictions  
17 equal to or below 150 percent of area median in-  
18 come.

19 (5) PROGRAM.—The term “program” means  
20 the program carried out by the Secretary under sub-  
21 section (a)(1).

22 (6) QUALIFIED ELECTRIFICATION PROJECT.—

23 (A) IN GENERAL.—The term “qualified  
24 electrification project” means a project that—

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1 (i) includes the purchase and installa-  
2 tion of—

3 (I) an electric heat pump water  
4 heater;

5 (II) an electric heat pump for  
6 space heating and cooling;

7 (III) an electric stove, cooktop,  
8 range, or oven;

9 (IV) an electric heat pump  
10 clothes dryer;

11 (V) an electric load service cen-  
12 ter;

13 (VI) insulation;

14 (VII) air sealing and materials to  
15 improve ventilation; or

16 (VIII) electric wiring;

17 (ii) with respect to any appliance de-  
18 scribed in clause (i), the purchase of which  
19 is carried out—

20 (I) as part of new construction;

21 (II) to replace a nonelectric ap-  
22 pliance; or

23 (III) as a first-time purchase  
24 with respect to that appliance; and



1 (iii) is carried out at, or relating to, a  
2 single-family home or multifamily building,  
3 as applicable and defined by the Secretary.

4 (B) EXCLUSIONS.—The term “qualified  
5 electrification project” does not include any  
6 project with respect to which the appliance, sys-  
7 tem, equipment, infrastructure, component, or  
8 other item described in subclauses (I) through  
9 (VIII) of subparagraph (A)(i) is not certified  
10 under the Energy Star program established by  
11 section 324A of the Energy Policy and Con-  
12 servation Act (42 U.S.C. 6294a), if applicable.

13 **SEC. 50123. STATE-BASED HOME ENERGY EFFICIENCY CON-**  
14 **TRACTOR TRAINING GRANTS.**

15 (a) APPROPRIATION.—In addition to amounts other-  
16 wise available, there is appropriated to the Secretary for  
17 fiscal year 2022, out of any money in the Treasury not  
18 otherwise appropriated, \$200,000,000, to remain available  
19 through September 30, 2031, to carry out a program to  
20 provide financial assistance to States to develop and imple-  
21 ment a State program described in section 362(d)(13) of  
22 the Energy Policy and Conservation Act (42 U.S.C.  
23 6322(d)(13)), which shall provide training and education  
24 to contractors involved in the installation of home energy  
25 efficiency and electrification improvements, including im-

1 improvements eligible for rebates under a HOMES rebate  
2 program (as defined in section 50121(d)) or a high-effi-  
3 ciency electric home rebate program (as defined in section  
4 50122(d)), as part of an approved State energy conserva-  
5 tion plan under the State Energy Program.

6 (b) USE OF FUNDS.—A State may use amounts re-  
7 ceived under subsection (a)—

8 (1) to reduce the cost of training contractor  
9 employees;

10 (2) to provide testing and certification of con-  
11 tractors trained and educated under a State pro-  
12 gram developed and implemented pursuant to sub-  
13 section (a); and

14 (3) to partner with nonprofit organizations to  
15 develop and implement a State program pursuant to  
16 subsection (a).

17 (c) ADMINISTRATIVE EXPENSES.—Of the amounts  
18 received by a State under subsection (a), a State shall use  
19 not more than 10 percent for administrative expenses as-  
20 sociated with developing and implementing a State pro-  
21 gram pursuant to that subsection.

1                   **PART 3—BUILDING EFFICIENCY AND**  
2                                   **RESILIENCE**  
3   **SEC. 50131. ASSISTANCE FOR LATEST AND ZERO BUILDING**  
4                                   **ENERGY CODE ADOPTION.**

5           (a) APPROPRIATION.—In addition to amounts other-  
6 wise available, there is appropriated to the Secretary for  
7 fiscal year 2022, out of any money in the Treasury not  
8 otherwise appropriated—

9                   (1) \$330,000,000, to remain available through  
10           September 30, 2029, to carry out activities under  
11           part D of title III of the Energy Policy and Con-  
12           servation Act (42 U.S.C. 6321 through 6326) in ac-  
13           cordance with subsection (b); and

14                   (2) \$670,000,000, to remain available through  
15           September 30, 2029, to carry out activities under  
16           part D of title III of the Energy Policy and Con-  
17           servation Act (42 U.S.C. 6321 through 6326) in ac-  
18           cordance with subsection (c).

19           (b) LATEST BUILDING ENERGY CODE.—The Sec-  
20 retary shall use funds made available under subsection  
21 (a)(1) for grants to assist States, and units of local gov-  
22 ernment that have authority to adopt building codes—

23                   (1) to adopt—

24                                   (A) a building energy code (or codes) for  
25           residential buildings that meets or exceeds the  
26           2021 International Energy Conservation Code,

1 or achieves equivalent or greater energy sav-  
2 ings;

3 (B) a building energy code (or codes) for  
4 commercial buildings that meets or exceeds the  
5 ANSI/ASHRAE/IES Standard 90.1–2019, or  
6 achieves equivalent or greater energy savings;  
7 or

8 (C) any combination of building energy  
9 codes described in subparagraph (A) or (B);  
10 and

11 (2) to implement a plan for the jurisdiction to  
12 achieve full compliance with any building energy  
13 code adopted under paragraph (1) in new and ren-  
14 ovated residential or commercial buildings, as appli-  
15 cable, which plan shall include active training and  
16 enforcement programs and measurement of the rate  
17 of compliance each year.

18 (c) ZERO ENERGY CODE.—The Secretary shall use  
19 funds made available under subsection (a)(2) for grants  
20 to assist States, and units of local government that have  
21 authority to adopt building codes—

22 (1) to adopt a building energy code (or codes)  
23 for residential and commercial buildings that meets  
24 or exceeds the zero energy provisions in the 2021

1 International Energy Conservation Code or an equiv-  
2 alent stretch code; and

3 (2) to implement a plan for the jurisdiction to  
4 achieve full compliance with any building energy  
5 code adopted under paragraph (1) in new and ren-  
6 ovated residential and commercial buildings, which  
7 plan shall include active training and enforcement  
8 programs and measurement of the rate of compli-  
9 ance each year.

10 (d) STATE MATCH.—The State cost share require-  
11 ment under the item relating to “Department of Energy—  
12 Energy Conservation” in title II of the Department of the  
13 Interior and Related Agencies Appropriations Act, 1985  
14 (42 U.S.C. 6323a; 98 Stat. 1861), shall not apply to as-  
15 sistance provided under this section.

16 (e) ADMINISTRATIVE COSTS.—Of the amounts made  
17 available under this section, the Secretary shall reserve not  
18 more than 5 percent for administrative costs necessary to  
19 carry out this section.

## 20 **PART 4—DOE LOAN AND GRANT PROGRAMS**

### 21 **SEC. 50141. FUNDING FOR DEPARTMENT OF ENERGY LOAN** 22 **PROGRAMS OFFICE.**

23 (a) COMMITMENT AUTHORITY.—In addition to com-  
24 mitment authority otherwise available and previously pro-  
25 vided, the Secretary may make commitments to guarantee

1 loans for eligible projects under section 1703 of the En-  
2 ergy Policy Act of 2005 (42 U.S.C. 16513), up to a total  
3 principal amount of \$40,000,000,000, to remain available  
4 through September 30, 2026.

5 (b) APPROPRIATION.—In addition to amounts other-  
6 wise available and previously provided, there is appro-  
7 priated to the Secretary for fiscal year 2022, out of any  
8 money in the Treasury not otherwise appropriated,  
9 \$3,600,000,000, to remain available through September  
10 30, 2026, for the costs of guarantees made under section  
11 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513),  
12 using the loan guarantee authority provided under sub-  
13 section (a) of this section.

14 (c) ADMINISTRATIVE EXPENSES.—Of the amount  
15 made available under subsection (b), the Secretary shall  
16 reserve not more than 3 percent for administrative ex-  
17 penses to carry out title XVII of the Energy Policy Act  
18 of 2005 and for carrying out section 1702(h)(3) of such  
19 Act (42 U.S.C. 16512(h)(3)).

20 (d) LIMITATIONS.—

21 (1) CERTIFICATION.—None of the amounts  
22 made available under this section for loan guaran-  
23 tees shall be available for any project unless the  
24 President has certified in advance in writing that the

1 loan guarantee and the project comply with the pro-  
2 visions under this section.

3 (2) DENIAL OF DOUBLE BENEFIT.—Except as  
4 provided in paragraph (3), none of the amounts  
5 made available under this section for loan guaran-  
6 tees shall be available for commitments to guarantee  
7 loans for any projects under which funds, personnel,  
8 or property (tangible or intangible) of any Federal  
9 agency, instrumentality, personnel, or affiliated enti-  
10 ty are expected to be used (directly or indirectly)  
11 through acquisitions, contracts, demonstrations, ex-  
12 changes, grants, incentives, leases, procurements,  
13 sales, other transaction authority, or other arrange-  
14 ments to support the project or to obtain goods or  
15 services from the project.

16 (3) EXCEPTION.—Paragraph (2) shall not pre-  
17 clude the use of the loan guarantee authority pro-  
18 vided under this section for commitments to guar-  
19 antee loans for—

20 (A) projects benefitting from otherwise al-  
21 lowable Federal tax benefits;

22 (B) projects benefitting from being located  
23 on Federal land pursuant to a lease or right-of-  
24 way agreement for which all consideration for  
25 all uses is—

- 1 (i) paid exclusively in cash;
- 2 (ii) deposited in the Treasury as off-
- 3 setting receipts; and
- 4 (iii) equal to the fair market value;
- 5 (C) projects benefitting from the Federal
- 6 insurance program under section 170 of the
- 7 Atomic Energy Act of 1954 (42 U.S.C. 2210);
- 8 or
- 9 (D) electric generation projects using
- 10 transmission facilities owned or operated by a
- 11 Federal Power Marketing Administration or the
- 12 Tennessee Valley Authority that have been au-
- 13 thorized, approved, and financed independent of
- 14 the project receiving the guarantee.
- 15 (e) GUARANTEE.—Section 1701(4)(A) of the Energy
- 16 Policy Act of 2005 (42 U.S.C. 16511(4)(A)) is amended
- 17 by inserting “, except that a loan guarantee may guar-
- 18 antee any debt obligation of a non-Federal borrower to
- 19 any Eligible Lender (as defined in section 609.2 of title
- 20 10, Code of Federal Regulations)” before the period at
- 21 the end.
- 22 (f) SOURCE OF PAYMENTS.—Section 1702(b) of the
- 23 Energy Policy Act of 2005 (42 U.S.C. 16512(b)(2)) is
- 24 amended by adding at the end the following:



1           “(3) SOURCE OF PAYMENTS.—The source of a  
2           payment received from a borrower under subpara-  
3           graph (A) or (B) of paragraph (2) may not be a  
4           loan or other debt obligation that is made or guaran-  
5           teed by the Federal Government.”.

6   **SEC. 50142. ADVANCED TECHNOLOGY VEHICLE MANUFAC-**  
7                           **TURING.**

8           (a) APPROPRIATION.—In addition to amounts other-  
9           wise available, there is appropriated to the Secretary for  
10          fiscal year 2022, out of any money in the Treasury not  
11          otherwise appropriated, \$3,000,000,000, to remain avail-  
12          able through September 30, 2028, for the costs of pro-  
13          viding direct loans under section 136(d) of the Energy  
14          Independence and Security Act of 2007 (42 U.S.C.  
15          17013(d)): *Provided*, That funds appropriated by this sec-  
16          tion may be used for the costs of providing direct loans  
17          for reequipping, expanding, or establishing a manufac-  
18          turing facility in the United States to produce, or for engi-  
19          neering integration performed in the United States of, ad-  
20          vanced technology vehicles described in subparagraph (C),  
21          (D), (E), or (F) of section 136(a)(1) of such Act (42  
22          U.S.C. 17013(a)(1)) only if such advanced technology ve-  
23          hicles emit, under any possible operational mode or condi-  
24          tion, low or zero exhaust emissions of greenhouse gases.

1 (b) ADMINISTRATIVE COSTS.—The Secretary shall  
2 reserve not more than \$25,000,000 of amounts made  
3 available under subsection (a) for administrative costs of  
4 providing loans as described in subsection (a).

5 (c) ELIMINATION OF LOAN PROGRAM CAP.—Section  
6 136(d)(1) of the Energy Independence and Security Act  
7 of 2007 (42 U.S.C. 17013(d)(1)) is amended by striking  
8 “a total of not more than \$25,000,000,000 in”.

9 **SEC. 50143. DOMESTIC MANUFACTURING CONVERSION**  
10 **GRANTS.**

11 (a) APPROPRIATION.—In addition to amounts other-  
12 wise available, there is appropriated to the Secretary for  
13 fiscal year 2022, out of any money in the Treasury not  
14 otherwise appropriated, \$2,000,000,000, to remain avail-  
15 able through September 30, 2031, to provide grants for  
16 domestic production of efficient hybrid, plug-in electric hy-  
17 brid, plug-in electric drive, and hydrogen fuel cell electric  
18 vehicles, in accordance with section 712 of the Energy Pol-  
19 icy Act of 2005 (42 U.S.C. 16062).

20 (b) COST SHARE.—The Secretary shall require a re-  
21 cipient of a grant provided under subsection (a) to provide  
22 not less than 50 percent of the cost of the project carried  
23 out using the grant.

24 (c) ADMINISTRATIVE COSTS.—The Secretary shall  
25 reserve not more than 3 percent of amounts made avail-

1 able under subsection (a) for administrative costs of mak-  
2 ing grants described in such subsection (a) pursuant to  
3 section 712 of the Energy Policy Act of 2005 (42 U.S.C.  
4 16062).

5 **SEC. 50144. ENERGY INFRASTRUCTURE REINVESTMENT FI-**  
6 **NANCING.**

7 (a) APPROPRIATION.—In addition to amounts other-  
8 wise available, there is appropriated to the Secretary for  
9 fiscal year 2022, out of any money in the Treasury not  
10 otherwise appropriated, \$5,000,000,000, to remain avail-  
11 able through September 30, 2026, to carry out activities  
12 under section 1706 of the Energy Policy Act of 2005.

13 (b) COMMITMENT AUTHORITY.—The Secretary may  
14 make, through September 30, 2026, commitments to  
15 guarantee loans for projects under section 1706 of the En-  
16 ergy Policy Act of 2005 the total principal amount of  
17 which is not greater than \$250,000,000,000, subject to  
18 the limitations that apply to loan guarantees under section  
19 50141(d).

20 (c) ENERGY INFRASTRUCTURE REINVESTMENT FI-  
21 NANCING.—Title XVII of the Energy Policy Act of 2005  
22 is amended by inserting after section 1705 (42 U.S.C.  
23 16516) the following:

1 **“SEC. 1706. ENERGY INFRASTRUCTURE REINVESTMENT FI-**  
2 **NANCING.**

3 “(a) IN GENERAL.—Notwithstanding section 1703,  
4 the Secretary may make guarantees, including refi-  
5 nancing, under this section only for projects that—

6 “(1) retool, repower, repurpose, or replace en-  
7 ergy infrastructure that has ceased operations; or

8 “(2) enable operating energy infrastructure to  
9 avoid, reduce, utilize, or sequester air pollutants or  
10 anthropogenic emissions of greenhouse gases.

11 “(b) INCLUSION.—A project under subsection (a)  
12 may include the remediation of environmental damage as-  
13 sociated with energy infrastructure.

14 “(c) REQUIREMENT.—A project under subsection  
15 (a)(1) that involves electricity generation through the use  
16 of fossil fuels shall be required to have controls or tech-  
17 nologies to avoid, reduce, utilize, or sequester air pollut-  
18 ants and anthropogenic emissions of greenhouse gases.

19 “(d) APPLICATION.—To apply for a guarantee under  
20 this section, an applicant shall submit to the Secretary an  
21 application at such time, in such manner, and containing  
22 such information as the Secretary may require, includ-  
23 ing—

24 “(1) a detailed plan describing the proposed  
25 project;

1           “(2) an analysis of how the proposed project  
2 will engage with and affect associated communities;  
3 and

4           “(3) in the case of an applicant that is an elec-  
5 tric utility, an assurance that the electric utility  
6 shall pass on any financial benefit from the guar-  
7 antee made under this section to the customers of,  
8 or associated communities served by, the electric  
9 utility.

10          “(e) TERM.—Notwithstanding section 1702(f), the  
11 term of an obligation shall require full repayment over a  
12 period not to exceed 30 years.

13          “(f) DEFINITION OF ENERGY INFRASTRUCTURE.—In  
14 this section, the term ‘energy infrastructure’ means a fa-  
15 cility, and associated equipment, used for—

16           “(1) the generation or transmission of electric  
17 energy; or

18           “(2) the production, processing, and delivery of  
19 fossil fuels, fuels derived from petroleum, or petro-  
20 chemical feedstocks.”.

21          “(d) CONFORMING AMENDMENT.—Section 1702(o)(3)  
22 of the Energy Policy Act of 2005 (42 U.S.C. 16512(o)(3))  
23 is amended by inserting “and projects described in section  
24 1706(a)” before the period at the end.

1 **SEC. 50145. TRIBAL ENERGY LOAN GUARANTEE PROGRAM.**

2 (a) APPROPRIATION.—In addition to amounts other-  
3 wise available, there is appropriated to the Secretary for  
4 fiscal year 2022, out of any money in the Treasury not  
5 otherwise appropriated, \$75,000,000, to remain available  
6 through September 30, 2028, to carry out section 2602(c)  
7 of the Energy Policy Act of 1992 (25 U.S.C. 3502(c)),  
8 subject to the limitations that apply to loan guarantees  
9 under section 50141(d).

10 (b) DEPARTMENT OF ENERGY TRIBAL ENERGY  
11 LOAN GUARANTEE PROGRAM.—Section 2602(c) of the  
12 Energy Policy Act of 1992 (25 U.S.C. 3502(c)) is amend-  
13 ed—

14 (1) in paragraph (1), by striking “) for an  
15 amount equal to not more than 90 percent of” and  
16 inserting “, except that a loan guarantee may guar-  
17 antee any debt obligation of a non-Federal borrower  
18 to any Eligible Lender (as defined in section 609.2  
19 of title 10, Code of Federal Regulations)) for”; and

20 (2) in paragraph (4), by striking  
21 “\$2,000,000,000” and inserting “\$20,000,000,000”.

22 **PART 5—ELECTRIC TRANSMISSION**

23 **SEC. 50151. TRANSMISSION FACILITY FINANCING.**

24 (a) APPROPRIATION.—In addition to amounts other-  
25 wise available, there is appropriated to the Secretary for  
26 fiscal year 2022, out of any money in the Treasury not

1 otherwise appropriated, \$2,000,000,000, to remain avail-  
2 able through September 30, 2030, to carry out this sec-  
3 tion: *Provided*, That the Secretary shall not enter into any  
4 loan agreement pursuant to this section that could result  
5 in disbursements after September 30, 2031.

6 (b) USE OF FUNDS.—The Secretary shall use the  
7 amounts made available by subsection (a) to carry out a  
8 program to pay the costs of direct loans to non-Federal  
9 borrowers, subject to the limitations that apply to loan  
10 guarantees under section 50141(d) and under such terms  
11 and conditions as the Secretary determines to be appro-  
12 priate, for the construction or modification of electric  
13 transmission facilities designated by the Secretary to be  
14 necessary in the national interest under section 216(a) of  
15 the Federal Power Act (16 U.S.C. 824p(a)).

16 (c) LOANS.—A direct loan provided under this sec-  
17 tion—

18 (1) shall have a term that does not exceed the  
19 lesser of—

20 (A) 90 percent of the projected useful life,  
21 in years, of the eligible transmission facility;  
22 and

23 (B) 30 years;

24 (2) shall not exceed 80 percent of the project  
25 costs; and





1 with respect to a covered transmission project, any  
2 of the following activities:

3 (A) Studies and analyses of the impacts of  
4 the covered transmission project.

5 (B) Examination of up to 3 alternate  
6 siting corridors within which the covered trans-  
7 mission project feasibly could be sited.

8 (C) Participation by the siting authority in  
9 regulatory proceedings or negotiations in an-  
10 other jurisdiction, or under the auspices of a  
11 Transmission Organization (as defined in sec-  
12 tion 3 of the Federal Power Act (16 U.S.C.  
13 796)) that is also considering the siting or per-  
14 mitting of the covered transmission project.

15 (D) Participation by the siting authority in  
16 regulatory proceedings at the Federal Energy  
17 Regulatory Commission or a State regulatory  
18 commission for determining applicable rates  
19 and cost allocation for the covered transmission  
20 project.

21 (E) Other measures and actions that may  
22 improve the chances of, and shorten the time  
23 required for, approval by the siting authority of  
24 the application relating to the siting or permit-

1           ting of the covered transmission project, as the  
2           Secretary determines appropriate.

3           (2) ECONOMIC DEVELOPMENT.—The Secretary  
4           may make a grant under this section to a siting au-  
5           thority, or other State, local, or Tribal governmental  
6           entity, for economic development activities for com-  
7           munities that may be affected by the construction  
8           and operation of a covered transmission project, pro-  
9           vided that the Secretary shall not enter into any  
10          grant agreement pursuant to this section that could  
11          result in any outlays after September 30, 2031.

12          (c) CONDITIONS.—

13           (1) FINAL DECISION ON APPLICATION.—In  
14           order to receive a grant for an activity described in  
15           subsection (b)(1), the Secretary shall require a siting  
16           authority to agree, in writing, to reach a final deci-  
17           sion on the application relating to the siting or per-  
18           mitting of the applicable covered transmission  
19           project not later than 2 years after the date on  
20           which such grant is provided, unless the Secretary  
21           authorizes an extension for good cause.

22           (2) FEDERAL SHARE.—The Federal share of  
23           the cost of an activity described in subparagraph (C)  
24           or (D) of subsection (b)(1) shall not exceed 50 per-  
25           cent.

1           (3) ECONOMIC DEVELOPMENT.—The Secretary  
2           may only disburse grant funds for economic develop-  
3           ment activities under subsection (b)(2)—

4                   (A) to a siting authority upon approval by  
5           the siting authority of the applicable covered  
6           transmission project; and

7                   (B) to any other State, local, or Tribal  
8           governmental entity upon commencement of  
9           construction of the applicable covered trans-  
10          mission project in the area under the jurisdic-  
11          tion of the entity.

12          (d) RETURNING FUNDS.—If a siting authority that  
13          receives a grant for an activity described in subsection  
14          (b)(1) fails to use all grant funds within 2 years of receipt,  
15          the siting authority shall return to the Secretary any such  
16          unused funds.

17          (e) DEFINITIONS.—In this section:

18                  (1) COVERED TRANSMISSION PROJECT.—The  
19                  term “covered transmission project” means a high-  
20                  voltage interstate or offshore electricity transmission  
21                  line—

22                          (A) that is proposed to be constructed and  
23                  to operate—

1 (i) at a minimum of 275 kilovolts of  
2 either alternating-current or direct-current  
3 electric energy by an entity; or

4 (ii) offshore and at a minimum of 200  
5 kilovolts of either alternating-current or di-  
6 rect-current electric energy by an entity;  
7 and

8 (B) for which such entity has applied, or  
9 informed a siting authority of such entity's in-  
10 tent to apply, for regulatory approval.

11 (2) SITING AUTHORITY.—The term “siting au-  
12 thority” means a State, local, or Tribal govern-  
13 mental entity with authority to make a final deter-  
14 mination regarding the siting, permitting, or regu-  
15 latory status of a covered transmission project that  
16 is proposed to be located in an area under the juris-  
17 diction of the entity.

18 **SEC. 50153. INTERREGIONAL AND OFFSHORE WIND ELEC-**  
19 **TRICITY TRANSMISSION PLANNING, MOD-**  
20 **ELING, AND ANALYSIS.**

21 (a) APPROPRIATION.—In addition to amounts other-  
22 wise available, there is appropriated to the Secretary for  
23 fiscal year 2022, out of any money in the Treasury not  
24 otherwise appropriated, \$100,000,000, to remain available  
25 through September 30, 2031, to carry out this section.

1 (b) USE OF FUNDS.—The Secretary shall use  
2 amounts made available under subsection (a)—

3 (1) to pay expenses associated with convening  
4 relevant stakeholders to address the development of  
5 interregional electricity transmission and trans-  
6 mission of electricity that is generated by offshore  
7 wind; and

8 (2) to conduct planning, modeling, and analysis  
9 regarding interregional electricity transmission and  
10 transmission of electricity that is generated by off-  
11 shore wind, taking into account the local, regional,  
12 and national economic, reliability, resilience, secu-  
13 rity, public policy, and environmental benefits of  
14 interregional electricity transmission and trans-  
15 mission of electricity that is generated by offshore  
16 wind, including planning, modeling, and analysis, as  
17 the Secretary determines appropriate, pertaining  
18 to—

19 (A) clean energy integration into the elec-  
20 tric grid, including the identification of renew-  
21 able energy zones;

22 (B) the effects of changes in weather due  
23 to climate change on the reliability and resil-  
24 ience of the electric grid;

1 (C) cost allocation methodologies that fa-  
2 cilitate the expansion of the bulk power system;

3 (D) the benefits of coordination between  
4 generator interconnection processes and trans-  
5 mission planning processes;

6 (E) the effect of increased electrification  
7 on the electric grid;

8 (F) power flow modeling;

9 (G) the benefits of increased interconnec-  
10 tions or interties between or among the West-  
11 ern Interconnection, the Eastern Interconnec-  
12 tion, the Electric Reliability Council of Texas,  
13 and other interconnections, as applicable;

14 (H) the cooptimization of transmission and  
15 generation, including variable energy resources,  
16 energy storage, and demand-side management;

17 (I) the opportunities for use of nontrans-  
18 mission alternatives, energy storage, and grid-  
19 enhancing technologies;

20 (J) economic development opportunities for  
21 communities arising from development of inter-  
22 regional electricity transmission and trans-  
23 mission of electricity that is generated by off-  
24 shore wind;

1 (K) evaluation of existing rights-of-way  
2 and the need for additional transmission cor-  
3 ridors; and

4 (L) a planned national transmission grid,  
5 which would include a networked transmission  
6 system to optimize the existing grid for inter-  
7 connection of offshore wind farms.

8 **PART 6—INDUSTRIAL**

9 **SEC. 50161. ADVANCED INDUSTRIAL FACILITIES DEPLOY-**  
10 **MENT PROGRAM.**

11 (a) OFFICE OF CLEAN ENERGY DEMONSTRA-  
12 TIONS.—In addition to amounts otherwise available, there  
13 is appropriated to the Secretary, acting through the Office  
14 of Clean Energy Demonstrations, for fiscal year 2022, out  
15 of any money in the Treasury not otherwise appropriated,  
16 \$5,812,000,000, to remain available through September  
17 30, 2026, to carry out this section.

18 (b) FINANCIAL ASSISTANCE.—The Secretary shall  
19 use funds appropriated by subsection (a) to provide finan-  
20 cial assistance, on a competitive basis, to eligible entities  
21 to carry out projects for—

22 (1) the purchase and installation, or implemen-  
23 tation, of advanced industrial technology at an eligi-  
24 ble facility;

1           (2) retrofits, upgrades to, or operational im-  
2           provements at an eligible facility to install or imple-  
3           ment advanced industrial technology; or

4           (3) engineering studies and other work needed  
5           to prepare an eligible facility for activities described  
6           in paragraph (1) or (2).

7           (c) APPLICATION.—To be eligible to receive financial  
8           assistance under subsection (b), an eligible entity shall  
9           submit to the Secretary an application at such time, in  
10          such manner, and containing such information as the Sec-  
11          retary may require, including the expected greenhouse gas  
12          emissions reductions to be achieved by carrying out the  
13          project.

14          (d) PRIORITY.—In providing financial assistance  
15          under subsection (b), the Secretary shall give priority con-  
16          sideration to projects on the basis of, as determined by  
17          the Secretary—

18                 (1) the expected greenhouse gas emissions re-  
19                 ductions to be achieved by carrying out the project;

20                 (2) the extent to which the project would pro-  
21                 vide the greatest benefit for the greatest number of  
22                 people within the area in which the eligible facility  
23                 is located; and



1           (3) whether the eligible entity participates or  
2           would participate in a partnership with purchasers  
3           of the output of the eligible facility.

4           (e) COST SHARE.—The Secretary shall require an eli-  
5           gible entity to provide not less than 50 percent of the cost  
6           of a project carried out pursuant to this section.

7           (f) ADMINISTRATIVE COSTS.—The Secretary shall re-  
8           serve not more than \$300,000,000 of amounts made avail-  
9           able under subsection (a) for administrative costs of car-  
10          rying out this section.

11          (g) DEFINITIONS.—In this section:

12           (1) ADVANCED INDUSTRIAL TECHNOLOGY.—  
13           The term “advanced industrial technology” means a  
14           technology directly involved in an industrial process,  
15           as described in any of paragraphs (1) through (6)  
16           of section 454(c) of the Energy Independence and  
17           Security Act of 2007 (42 U.S.C. 17113(c)), and de-  
18           signed to accelerate greenhouse gas emissions reduc-  
19           tion progress to net-zero at an eligible facility, as de-  
20           termined by the Secretary.

21           (2) ELIGIBLE ENTITY.—The term “eligible enti-  
22           ty” means the owner or operator of an eligible facil-  
23           ity.

24           (3) ELIGIBLE FACILITY.—The term “eligible fa-  
25           cility” means a domestic, non-Federal, nonpower in-

1 industrial or manufacturing facility engaged in energy-  
2 intensive industrial processes, including production  
3 processes for iron, steel, steel mill products, alu-  
4 minum, cement, concrete, glass, pulp, paper, indus-  
5 trial ceramics, chemicals, and other energy intensive  
6 industrial processes, as determined by the Secretary.

7 (4) FINANCIAL ASSISTANCE.—The term “finan-  
8 cial assistance” means a grant, rebate, direct loan,  
9 or cooperative agreement.

## 10 **PART 7—OTHER ENERGY MATTERS**

### 11 **SEC. 50171. DEPARTMENT OF ENERGY OVERSIGHT.**

12 In addition to amounts otherwise available, there is  
13 appropriated to the Secretary for fiscal year 2022, out of  
14 any money in the Treasury not otherwise appropriated,  
15 \$20,000,000, to remain available through September 30,  
16 2031, for oversight by the Department of Energy Office  
17 of Inspector General of the Department of Energy activi-  
18 ties for which funding is appropriated in this subtitle.

### 19 **SEC. 50172. NATIONAL LABORATORY INFRASTRUCTURE.**

20 (a) OFFICE OF SCIENCE.—In addition to amounts  
21 otherwise available, there is appropriated to the Secretary,  
22 acting through the Director of the Office of Science, for  
23 fiscal year 2022, out of any money in the Treasury not  
24 otherwise appropriated, to remain available through Sep-  
25 tember 30, 2027—

1           (1) \$133,240,000 to carry out activities for  
2 science laboratory infrastructure projects;

3           (2) \$303,656,000 to carry out activities for  
4 high energy physics construction and major items of  
5 equipment projects;

6           (3) \$280,000,000 to carry out activities for fu-  
7 sion energy science construction and major items of  
8 equipment projects;

9           (4) \$217,000,000 to carry out activities for nu-  
10 clear physics construction and major items of equip-  
11 ment projects;

12           (5) \$163,791,000 to carry out activities for ad-  
13 vanced scientific computing research facilities;

14           (6) \$294,500,000 to carry out activities for  
15 basic energy sciences projects; and

16           (7) \$157,813,000 to carry out activities for iso-  
17 tope research and development facilities.

18       (b) OFFICE OF FOSSIL ENERGY AND CARBON MAN-  
19 AGEMENT.—In addition to amounts otherwise available,  
20 there is appropriated to the Secretary for fiscal year 2022,  
21 out of any money in the Treasury not otherwise appro-  
22 priated, \$150,000,000, to remain available through Sep-  
23 tember 30, 2027, to carry out activities for infrastructure  
24 and general plant projects carried out by the Office of  
25 Fossil Energy and Carbon Management.

1           (c) OFFICE OF NUCLEAR ENERGY.—In addition to  
2 amounts otherwise available, there is appropriated to the  
3 Secretary for fiscal year 2022, out of any money in the  
4 Treasury not otherwise appropriated, \$150,000,000, to re-  
5 main available through September 30, 2027, to carry out  
6 activities for infrastructure and general plant projects car-  
7 ried out by the Office of Nuclear Energy.

8           (d) OFFICE OF ENERGY EFFICIENCY AND RENEW-  
9 ABLE ENERGY.—In addition to amounts otherwise avail-  
10 able, there is appropriated to the Secretary for fiscal year  
11 2022, out of any money in the Treasury not otherwise ap-  
12 propriated, \$150,000,000, to remain available through  
13 September 30, 2027, to carry out activities for infrastruc-  
14 ture and general plant projects carried out by the Office  
15 of Energy Efficiency and Renewable Energy.

16 **SEC. 50173. AVAILABILITY OF HIGH-ASSAY LOW-ENRICHED**  
17 **URANIUM.**

18           (a) APPROPRIATIONS.—In addition to amounts other-  
19 wise available, there is appropriated to the Secretary of  
20 for fiscal year 2022, out of any money in the Treasury  
21 not otherwise appropriated, to remain available through  
22 September 30, 2026—

23                   (1) \$100,000,000 to carry out the program ele-  
24                   ments described in subparagraphs (A) through (C)

1 of section 2001(a)(2) of the Energy Act of 2020 (42  
2 U.S.C. 16281(a)(2));

3 (2) \$500,000,000 to carry out the program ele-  
4 ments described in subparagraphs (D) through (H)  
5 of that section; and

6 (3) \$100,000,000 to carry out activities to sup-  
7 port the availability of high-assay low-enriched ura-  
8 nium for civilian domestic research, development,  
9 demonstration, and commercial use under section  
10 2001 of the Energy Act of 2020 (42 U.S.C. 16281).

11 (b) **COMPETITIVE PROCEDURES.**—To the maximum  
12 extent practicable, the Department of Energy shall, in a  
13 manner consistent with section 989 of the Energy Policy  
14 Act of 2005 (42 U.S.C. 16353), use a competitive, merit-  
15 based review process in carrying out research, develop-  
16 ment, demonstration, and deployment activities under sec-  
17 tion 2001 of the Energy Act of 2020 (42 U.S.C. 16281).

18 (c) **ADMINISTRATIVE EXPENSES.**—The Secretary  
19 may use not more than 3 percent of the amounts appro-  
20 priated by subsection (a) for administrative purposes.

## 21 **Subtitle B—Natural Resources**

### 22 **PART 1—GENERAL PROVISIONS**

#### 23 **SEC. 50211. DEFINITIONS.**

24 In this subtitle:

1           (1) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (2) UNITED STATES INSULAR AREAS.—The  
4           term “United States Insular Areas” means Amer-  
5           ican Samoa, the Commonwealth of the Northern  
6           Mariana Islands, Guam, the Commonwealth of Puer-  
7           to Rico, and the United States Virgin Islands.

8   **PART 2—PUBLIC LANDS**

9           **SEC. 50221. NATIONAL PARKS AND PUBLIC LANDS CON-**  
10   **SERVATION AND RESILIENCE.**

11           In addition to amounts otherwise available, there is  
12           appropriated to the Secretary for fiscal year 2022, out of  
13           any money in the Treasury not otherwise appropriated,  
14           \$250,000,000, to remain available through September 30,  
15           2031, to carry out projects for the conservation, protec-  
16           tion, and resiliency of lands and resources administered  
17           by the National Park Service and Bureau of Land Man-  
18           agement. None of the funds provided under this section  
19           shall be subject to cost-share or matching requirements.

20           **SEC. 50222. NATIONAL PARKS AND PUBLIC LANDS CON-**  
21   **SERVATION AND ECOSYSTEM RESTORATION.**

22           In addition to amounts otherwise available, there is  
23           appropriated to the Secretary for fiscal year 2022, out of  
24           any money in the Treasury not otherwise appropriated,  
25           \$250,000,000, to remain available through September 30,

1 2031, to carry out conservation, ecosystem and habitat  
2 restoration projects on lands administered by the National  
3 Park Service and Bureau of Land Management. None of  
4 the funds provided under this section shall be subject to  
5 cost-share or matching requirements.

6 **SEC. 50223. NATIONAL PARK SERVICE EMPLOYEES.**

7 In addition to amounts otherwise available, there is  
8 appropriated to the Secretary for fiscal year 2022, out of  
9 any money in the Treasury not otherwise appropriated,  
10 \$500,000,000, to remain available through September 30,  
11 2030, to hire employees to serve in units of the National  
12 Park System or national historic or national scenic trails  
13 administered by the National Park Service.

14 **SEC. 50224. NATIONAL PARK SYSTEM DEFERRED MAINTENANCE.**

15  
16 In addition to amounts otherwise available, there is  
17 appropriated to the Secretary for fiscal year 2022, out of  
18 any money in the Treasury not otherwise appropriated,  
19 \$200,000,000, to remain available through September 30,  
20 2026, to carry out priority deferred maintenance projects,  
21 through direct expenditures or transfers, within the  
22 boundaries of the National Park System.

1                   **PART 3—DROUGHT RESPONSE AND**  
2                   **PREPAREDNESS**  
3 **SEC. 50231. BUREAU OF RECLAMATION DOMESTIC WATER**  
4                   **SUPPLY PROJECTS.**

5           In addition to amounts otherwise available, there is  
6 appropriated to the Secretary, acting through the Com-  
7 missioner of Reclamation, for fiscal year 2022, out of any  
8 money in the Treasury not otherwise appropriated,  
9 \$550,000,000, to remain available through September 30,  
10 2031, for grants, contracts, or financial assistance agree-  
11 ments for disadvantaged communities (identified accord-  
12 ing to criteria adopted by the Commissioner of Reclama-  
13 tion) in a manner as determined by the Commissioner of  
14 Reclamation for up to 100 percent of the cost of the plan-  
15 ning, design, or construction of water projects the primary  
16 purpose of which is to provide domestic water supplies to  
17 communities or households that do not have reliable access  
18 to domestic water supplies in a State or territory described  
19 in the first section of the Act of June 17, 1902 (43 U.S.C.  
20 391; 32 Stat. 388, chapter 1093).

21 **SEC. 50232. CANAL IMPROVEMENT PROJECTS.**

22           In addition to amounts otherwise available, there is  
23 appropriated to the Secretary, acting through the Com-  
24 missioner of Reclamation, for fiscal year 2022, out of any  
25 money in the Treasury not otherwise appropriated,  
26 \$25,000,000, to remain available through September 30,



1 2031, for the design, study, and implementation of  
2 projects (including pilot and demonstration projects) to  
3 cover water conveyance facilities with solar panels to gen-  
4 erate renewable energy in a manner as determined by the  
5 Secretary or for other solar projects associated with Bu-  
6 reau of Reclamation projects that increase water efficiency  
7 and assist in implementation of clean energy goals.

8 **SEC. 50233. DROUGHT MITIGATION IN THE RECLAMATION**  
9 **STATES.**

10 (a) DEFINITION OF RECLAMATION STATE.—In this  
11 section, the term “Reclamation State” means a State or  
12 territory described in the first section of the Act of June  
13 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391).

14 (b) APPROPRIATION.—In addition to amounts other-  
15 wise available, there is appropriated to the Secretary (act-  
16 ing through the Commissioner of Reclamation), for fiscal  
17 year 2022, out of any money in the Treasury not otherwise  
18 appropriated, \$4,000,000,000, to remain available  
19 through September 30, 2026, for grants, contracts, or fi-  
20 nancial assistance agreements, in accordance with the rec-  
21 lamation laws, to or with public entities and Indian Tribes,  
22 that provide for the conduct of the following activities to  
23 mitigate the impacts of drought in the Reclamation  
24 States, with priority given to the Colorado River Basin  
25 and other basins experiencing comparable levels of long-

1 term drought, to be implemented in compliance with appli-  
2 cable environmental law:

3 (1) Compensation for a temporary or multiyear  
4 voluntary reduction in diversion of water or con-  
5 sumptive water use.

6 (2) Voluntary system conservation projects that  
7 achieve verifiable reductions in use of or demand for  
8 water supplies or provide environmental benefits in  
9 the Lower Basin or Upper Basin of the Colorado  
10 River.

11 (3) Ecosystem and habitat restoration projects  
12 to address issues directly caused by drought in a  
13 river basin or inland water body.

14 (c) REPORT.—Not later than 1 year after the date  
15 of enactment of this Act, and each year thereafter, the  
16 Secretary shall submit to Congress a report that describes  
17 any expenditures under this section.

18 **PART 4—INSULAR AFFAIRS**

19 **SEC. 50241. OFFICE OF INSULAR AFFAIRS CLIMATE**  
20 **CHANGE TECHNICAL ASSISTANCE.**

21 (a) IN GENERAL.—In addition to amounts otherwise  
22 available, there is appropriated to the Secretary, acting  
23 through the Office of Insular Affairs, for fiscal year 2022,  
24 out of any money in the Treasury not otherwise appro-  
25 priated, \$15,000,000, to remain available through Sep-

1 tember 30, 2026, to provide technical assistance for cli-  
2 mate change planning, mitigation, adaptation, and resil-  
3 ience to United States Insular Areas.

4 (b) ADMINISTRATIVE EXPENSES.—In addition to  
5 amounts otherwise available, there is appropriated to the  
6 Secretary, acting through the Office of Insular Affairs, for  
7 fiscal year 2022, out of any money in the Treasury not  
8 otherwise appropriated, \$900,000, to remain available  
9 through September 30, 2026, for necessary administrative  
10 expenses associated with carrying out this section.

11 **PART 5—OFFSHORE WIND**

12 **SEC. 50251. LEASING ON THE OUTER CONTINENTAL SHELF.**

13 (a) LEASING AUTHORIZED.—The Secretary may  
14 grant leases, easements, and rights-of-way pursuant to  
15 section 8(p)(1)(C) of the Outer Continental Shelf Lands  
16 Act (43 U.S.C. 1337(p)(1)(C)) in an area withdrawn by—

17 (1) the Presidential memorandum entitled  
18 “Memorandum on the Withdrawal of Certain Areas  
19 of the United States Outer Continental Shelf from  
20 Leasing Disposition” and dated September 8, 2020;  
21 or

22 (2) the Presidential memorandum entitled  
23 “Presidential Determination on the Withdrawal of  
24 Certain Areas of the United States Outer Conti-

1       mental Shelf from Leasing Disposition” and dated  
2       September 25, 2020.

3       (b) OFFSHORE WIND FOR THE TERRITORIES.—

4             (1) APPLICATION OF OUTER CONTINENTAL  
5       SHELF LANDS ACT WITH RESPECT TO TERRITORIES  
6       OF THE UNITED STATES.—

7             (A) IN GENERAL.—Section 2 of the Outer  
8       Continental Shelf Lands Act (43 U.S.C. 1331)  
9       is amended—

10            (i) in subsection (a)—

11                    (I) by striking “means all” and  
12                    inserting the following: “means—  
13                    “(1) all”; and

14                    (II) in paragraph (1) (as so des-  
15                    ignated), by striking “control;” and  
16                    inserting the following: “control or  
17                    within the exclusive economic zone of  
18                    the United States and adjacent to any  
19                    territory of the United States; and”;  
20                    and

21                    (III) by adding at the end fol-  
22                    lowing:

23                    “(2) does not include any area conveyed by  
24       Congress to a territorial government for administra-  
25       tion;”;

1 (ii) in subsection (p), by striking  
2 “and” after the semicolon at the end;

3 (iii) in subsection (q), by striking the  
4 period at the end and inserting “; and”;  
5 and

6 (iv) by adding at the end the fol-  
7 lowing:

8 “(r) The term ‘State’ means—

9 “(1) each of the several States;

10 “(2) the Commonwealth of Puerto Rico;

11 “(3) Guam;

12 “(4) American Samoa;

13 “(5) the United States Virgin Islands; and

14 “(6) the Commonwealth of the Northern Mar-  
15 iana Islands.”.

16 (B) EXCLUSIONS.—Section 18 of the  
17 Outer Continental Shelf Lands Act (43 U.S.C.  
18 1344) is amended by adding at the end the fol-  
19 lowing:

20 “(i) APPLICATION.—This section shall  
21 not apply to the scheduling of any lease  
22 sale in an area of the outer Continental  
23 Shelf that is adjacent to the Common-  
24 wealth of Puerto Rico, Guam, American  
25 Samoa, the United States Virgin Islands,

1                   or the Commonwealth of the Northern  
2                   Mariana Islands.”.

3                   (2) WIND LEASE SALES FOR AREAS OF THE  
4                   OUTER CONTINENTAL SHELF.—The Outer Conti-  
5                   nental Shelf Lands Act (43 U.S.C. 1331 et seq.) is  
6                   amended by adding at the end the following:

7   **“SEC. 33. WIND LEASE SALES FOR AREAS OF THE OUTER**  
8                   **CONTINENTAL SHELF OFFSHORE OF TERRI-**  
9                   **TORIES OF THE UNITED STATES.**

10                  “(a) WIND LEASE SALES OFF COASTS OF TERRI-  
11                  TORIES OF THE UNITED STATES.—

12                   “(1) CALL FOR INFORMATION AND NOMINA-  
13                  TIONS.—

14                   “(A) IN GENERAL.—The Secretary shall  
15                  issue calls for information and nominations for  
16                  proposed wind lease sales for areas of the outer  
17                  Continental Shelf described in paragraph (2)  
18                  that are determined to be feasible.

19                   “(B) INITIAL CALL.—Not later than Sep-  
20                  tember 30, 2025, the Secretary shall issue an  
21                  initial call for information and nominations  
22                  under this paragraph.

23                   “(2) CONDITIONAL WIND LEASE SALES.—The  
24                  Secretary may conduct wind lease sales in each area  
25                  within the exclusive economic zone of the United

1 States adjacent to the Commonwealth of Puerto  
2 Rico, Guam, American Samoa, the United States  
3 Virgin Islands, or the Commonwealth of the North-  
4 ern Mariana Islands that meets each of the following  
5 criteria:

6 “(A) The Secretary has concluded that a  
7 wind lease sale in the area is feasible.

8 “(B) The Secretary has determined that  
9 there is sufficient interest in leasing the area.

10 “(C) The Secretary has consulted with the  
11 Governor of the territory regarding the suit-  
12 ability of the area for wind energy develop-  
13 ment.”.

14 **PART 6—FOSSIL FUEL RESOURCES**

15 **SEC. 50261. OFFSHORE OIL AND GAS ROYALTY RATE.**

16 Section 8(a)(1) of the Outer Continental Shelf Lands  
17 Act (43 U.S.C. 1337(a)(1)) is amended—

18 (1) in each of subparagraphs (A) and (C), by  
19 striking “not less than 12½ per centum” each place  
20 it appears and inserting “not less than 16⅔ per-  
21 cent, but not more than 18¾ percent, during the  
22 10-year period beginning on the date of enactment  
23 of the Act titled ‘An Act to provide for reconciliation  
24 pursuant to title II of S. Con. Res. 14’, and not less  
25 than 16⅔ percent thereafter.”;

1           (2) in subparagraph (F), by striking “no less  
2           than 12<sup>1</sup>/<sub>2</sub> per centum” and inserting “not less than  
3           16<sup>2</sup>/<sub>3</sub> percent, but not more than 18<sup>3</sup>/<sub>4</sub> percent, dur-  
4           ing the 10-year period beginning on the date of en-  
5           actment of the Act titled ‘An Act to provide for rec-  
6           onciliation pursuant to title II of S. Con. Res. 14’,  
7           and not less than 16<sup>2</sup>/<sub>3</sub> percent thereafter,”; and

8           (3) in subparagraph (H), by striking “no less  
9           than 12 and <sup>1</sup>/<sub>2</sub> per centum” and inserting “not less  
10          than 16<sup>2</sup>/<sub>3</sub> percent, but not more than 18<sup>3</sup>/<sub>4</sub> percent,  
11          during the 10-year period beginning on the date of  
12          enactment of the Act titled ‘An Act to provide for  
13          reconciliation pursuant to title II of S. Con. Res.  
14          14’, and not less than 16<sup>2</sup>/<sub>3</sub> percent thereafter,”.

15 **SEC. 50262. MINERAL LEASING ACT MODERNIZATION.**

16 (a) ONSHORE OIL AND GAS ROYALTY RATES.—

17 (1) LEASE OF OIL AND GAS LAND.—Section 17  
18 of the Mineral Leasing Act (30 U.S.C. 226) is  
19 amended—

20 (A) in subsection (b)(1)(A), in the fifth  
21 sentence—

22 (i) by striking “12.5” and inserting  
23 “16<sup>2</sup>/<sub>3</sub>”; and

24 (ii) by inserting “or, in the case of a  
25 lease issued during the 10-year period be-



1           ginning on the date of enactment of the  
2           Act titled ‘An Act to provide for reconcili-  
3           ation pursuant to title II of S. Con. Res.  
4           14’,  $16\frac{2}{3}$  percent in amount or value of  
5           the production removed or sold from the  
6           lease” before the period at the end; and

7           (B) by striking “ $12\frac{1}{2}$  per centum” each  
8           place it appears and inserting “ $16\frac{2}{3}$  percent”.

9           (2) CONDITIONS FOR REINSTATEMENT.—Sec-  
10          tion 31(e)(3) of the Mineral Leasing Act (30 U.S.C.  
11          188(e)(3)) is amended by striking “ $16\frac{2}{3}$ ” each place  
12          it appears and inserting “20”.

13          (b) OIL AND GAS MINIMUM BID.—Section 17(b) of  
14          the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

15               (1) in paragraph (1)(B), in the first sentence,  
16               by striking “\$2 per acre for a period of 2 years from  
17               the date of enactment of the Federal Onshore Oil  
18               and Gas Leasing Reform Act of 1987.” and insert-  
19               ing “\$10 per acre during the 10-year period begin-  
20               ning on the date of enactment of the Act titled ‘An  
21               Act to provide for reconciliation pursuant to title II  
22               of S. Con. Res. 14’.”; and

23               (2) in paragraph (2)(C), by striking “\$2 per  
24               acre” and inserting “\$10 per acre”.

25          (c) FOSSIL FUEL RENTAL RATES.—

1           (1) ANNUAL RENTALS.—Section 17(d) of the  
2 Mineral Leasing Act (30 U.S.C. 226(d)) is amended,  
3 in the first sentence, by striking “\$1.50 per acre”  
4 and all that follows through the period at the end  
5 and inserting “\$3 per acre per year during the 2-  
6 year period beginning on the date the lease begins  
7 for new leases, and after the end of that 2-year pe-  
8 riod, \$5 per acre per year for the following 6-year  
9 period, and not less than \$15 per acre per year  
10 thereafter, or, in the case of a lease issued during  
11 the 10-year period beginning on the date of enact-  
12 ment of the Act titled ‘An Act to provide for rec-  
13 onciliation pursuant to title II of S. Con. Res. 14’,  
14 \$3 per acre per year during the 2-year period begin-  
15 ning on the date the lease begins, and after the end  
16 of that 2-year period, \$5 per acre per year for the  
17 following 6-year period, and \$15 per acre per year  
18 thereafter.”.

19           (2) RENTALS IN REINSTATED LEASES.—Section  
20 31(e)(2) of the Mineral Leasing Act (30 U.S.C.  
21 188(e)(2)) is amended by striking “\$10” and insert-  
22 ing “\$20”.

23           (d) EXPRESSION OF INTEREST FEE.—Section 17 of  
24 the Mineral Leasing Act (30 U.S.C. 226) is amended by  
25 adding at the end the following:

1 “(q) FEE FOR EXPRESSION OF INTEREST.—

2 “(1) IN GENERAL.—The Secretary shall assess  
3 a nonrefundable fee against any person that, in ac-  
4 cordance with procedures established by the Sec-  
5 retary to carry out this subsection, submits an ex-  
6 pression of interest in leasing land available for dis-  
7 position under this section for exploration for, and  
8 development of, oil or gas.

9 “(2) AMOUNT OF FEE.—

10 “(A) IN GENERAL.—Subject to subpara-  
11 graph (B), the fee assessed under paragraph  
12 (1) shall be \$5 per acre of the area covered by  
13 the applicable expression of interest.

14 “(B) ADJUSTMENT OF FEE.—The Sec-  
15 retary shall, by regulation, not less frequently  
16 than every 4 years, adjust the amount of the  
17 fee under subparagraph (A) to reflect the  
18 change in inflation.”.

19 (e) ELIMINATION OF NONCOMPETITIVE LEASING.—

20 (1) IN GENERAL.—Section 17 of the Mineral  
21 Leasing Act (30 U.S.C. 226) is amended—

22 (A) in subsection (b)—

23 (i) in paragraph (1)(A)—

24 (I) in the first sentence, by strik-  
25 ing “paragraphs (2) and (3) of this

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1 subsection” and inserting “paragraph  
2 (2)”; and

3 (II) by striking the last sentence;

4 and

5 (ii) by striking paragraph (3);

6 (B) by striking subsection (c) and insert-  
7 ing the following:

8 “(c) ADDITIONAL ROUNDS OF COMPETITIVE BID-  
9 DING.—Land made available for leasing under subsection  
10 (b)(1) for which no bid is accepted or received, or the land  
11 for which a lease terminates, expires, is cancelled, or is  
12 relinquished, may be made available by the Secretary of  
13 the Interior for a new round of competitive bidding under  
14 that subsection.”; and

15 (C) by striking subsection (e) and inserting  
16 the following:

17 “(e) TERM OF LEASE.—

18 “(1) IN GENERAL.—Any lease issued under this  
19 section, including a lease for tar sand areas, shall be  
20 for a primary term of 10 years.

21 “(2) CONTINUATION OF LEASE.—A lease de-  
22 scribed in paragraph (1) shall continue after the pri-  
23 mary term of the lease for any period during which  
24 oil or gas is produced in paying quantities.

1           “(3) ADDITIONAL EXTENSIONS.—Any lease  
2 issued under this section for land on which, or for  
3 which under an approved cooperative or unit plan of  
4 development or operation, actual drilling operations  
5 were commenced and diligently prosecuted prior to  
6 the end of the primary term of the lease shall be ex-  
7 tended for 2 years and for any period thereafter dur-  
8 ing which oil or gas is produced in paying quan-  
9 tities.”.

10           (2) CONFORMING AMENDMENTS.—Section 31 of  
11 the Mineral Leasing Act (30 U.S.C. 188) is amend-  
12 ed—

13           (A) in subsection (d)(1), in the first sen-  
14 tence, by striking “or section 17(e) of this Act”;

15           (B) in subsection (e)—

16           (i) in paragraph (2)—

17           (I) by striking “either”; and

18           (II) by striking “or the inclu-  
19 sion” and all that follows through “,  
20 all”; and

21           (ii) in paragraph (3)—

22           (I) in subparagraph (A), by add-  
23 ing “and” after the semicolon;

24           (II) by striking subparagraph  
25 (B); and

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1 (III) by striking “(3)(A) pay-  
2 ment” and inserting the following:

3 “(3) payment”;

4 (C) in subsection (g)—

5 (i) in paragraph (1), by striking “as a  
6 competitive” and all that follows through  
7 “of this Act” and inserting “in the same  
8 manner as the original lease issued pursu-  
9 ant to section 17”;

10 (ii) by striking paragraph (2);

11 (iii) by redesignating paragraphs (3)  
12 and (4) as paragraphs (2) and (3), respec-  
13 tively; and

14 (iv) in paragraph (2) (as so redesign-  
15 ated), by striking “applicable to leases  
16 issued under subsection 17(c) of this Act  
17 (30 U.S.C. 226(c)) except,” and inserting  
18 “except”;

19 (D) in subsection (h), by striking “sub-  
20 sections (d) and (f) of this section” and insert-  
21 ing “subsection (d)”;

22 (E) in subsection (i), by striking “(i)(1) In  
23 acting” and all that follows through “of this  
24 section” in paragraph (2) and inserting the fol-  
25 lowing:

1                   “(i) ROYALTY REDUCTION IN REIN-  
2                   STATED LEASES.—In acting on a petition  
3                   for reinstatement pursuant to subsection  
4                   (d)”;  
5                   (F) by striking subsection (f); and  
6                   (G) by redesignating subsections (g)  
7                   through (j) as subsections (f) through (i), re-  
8                   spectively.

9   **SEC. 50263. ROYALTIES ON ALL EXTRACTED METHANE.**

10           (a) IN GENERAL.—For all leases issued after the  
11           date of enactment of this Act, except as provided in sub-  
12           section (b), royalties paid for gas produced from Federal  
13           land and on the outer Continental Shelf shall be assessed  
14           on all gas produced, including all gas that is consumed  
15           or lost by venting, flaring, or negligent releases through  
16           any equipment during upstream operations.

17           (b) EXCEPTION.—Subsection (a) shall not apply with  
18           respect to—

19                   (1) gas vented or flared for not longer than 48  
20                   hours in an emergency situation that poses a danger  
21                   to human health, safety, or the environment;

22                   (2) gas used or consumed within the area of the  
23                   lease, unit, or communitized area for the benefit of  
24                   the lease, unit, or communitized area; or

25                   (3) gas that is unavoidably lost.

1 **SEC. 50264. LEASE SALES UNDER THE 2017-2022 OUTER**  
2 **CONTINENTAL SHELF LEASING PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) LEASE SALE 257.—The term “Lease Sale  
5 257” means the lease sale numbered 257 that was  
6 approved in the Record of Decision described in the  
7 notice of availability of a record of decision issued on  
8 August 31, 2021, entitled “Gulf of Mexico, Outer  
9 Continental Shelf (OCS), Oil and Gas Lease Sale  
10 257” (86 Fed. Reg. 50160 (September 7, 2021)),  
11 and is the subject of the final notice of sale entitled  
12 “Gulf of Mexico Outer Continental Shelf Oil and  
13 Gas Lease Sale 257” (86 Fed. Reg. 54728 (October  
14 4, 2021)).

15 (2) LEASE SALE 258.—The term “Lease Sale  
16 258” means the lease sale numbered 258 described  
17 in the 2017–2022 Outer Continental Shelf Oil and  
18 Gas Leasing Proposed Final Program published on  
19 November 18, 2016, and approved by the Secretary  
20 in the Record of Decision issued on January 17,  
21 2017, described in the notice of availability entitled  
22 “Record of Decision for the 2017–2022 Outer Conti-  
23 nental Shelf Oil and Gas Leasing Program Final  
24 Programmatic Environmental Impact Statement;  
25 MMAA104000” (82 Fed. Reg. 6643 (January 19,  
26 2017)).



1           (3) LEASE SALE 259.—The term “Lease Sale  
2           259” means the lease sale numbered 259 described  
3           in the 2017–2022 Outer Continental Shelf Oil and  
4           Gas Leasing Proposed Final Program published on  
5           November 18, 2016, and approved by the Secretary  
6           in the Record of Decision issued on January 17,  
7           2017, described in the notice of availability entitled  
8           “Record of Decision for the 2017–2022 Outer Conti-  
9           nental Shelf Oil and Gas Leasing Program Final  
10          Programmatic Environmental Impact Statement;  
11          MMAA104000” (82 Fed. Reg. 6643 (January 19,  
12          2017)).

13          (4) LEASE SALE 261.—The term “Lease Sale  
14          261” means the lease sale numbered 261 described  
15          in the 2017–2022 Outer Continental Shelf Oil and  
16          Gas Leasing Proposed Final Program published on  
17          November 18, 2016, and approved by the Secretary  
18          in the Record of Decision issued on January 17,  
19          2017, described in the notice of availability entitled  
20          “Record of Decision for the 2017–2022 Outer Conti-  
21          nental Shelf Oil and Gas Leasing Program Final  
22          Programmatic Environmental Impact Statement;  
23          MMAA104000” (82 Fed. Reg. 6643 (January 19,  
24          2017)).

25          (b) LEASE SALE 257 REINSTATEMENT.—

1           (1) ACCEPTANCE OF BIDS.—Not later 30 days  
2 after the date of enactment of this Act, the Sec-  
3 retary shall, without modification or delay—

4           (A) accept the highest valid bid for each  
5 tract or bidding unit of Lease Sale 257 for  
6 which a valid bid was received on November 17,  
7 2021; and

8           (B) provide the appropriate lease form to  
9 the winning bidder to execute and return.

10          (2) LEASE ISSUANCE.—On receipt of an exe-  
11 cuted lease form under paragraph (1)(B) and pay-  
12 ment of the rental for the first year, the balance of  
13 the bonus bid (unless deferred), and any required  
14 bond or security from the high bidder, the Secretary  
15 shall promptly issue to the high bidder a fully exe-  
16 cuted lease, in accordance with—

17           (A) the regulations in effect on the date of  
18 Lease Sale 257; and

19           (B) the terms and conditions of the final  
20 notice of sale entitled “Gulf of Mexico Outer  
21 Continental Shelf Oil and Gas Lease Sale 257”  
22 (86 Fed. Reg. 54728 (October 4, 2021)).

23          (c) REQUIREMENT FOR LEASE SALE 258.—Notwith-  
24 standing the expiration of the 2017–2022 leasing pro-  
25 gram, not later than December 31, 2022, the Secretary

1 shall conduct Lease Sale 258 in accordance with the  
2 Record of Decision approved by the Secretary on January  
3 17, 2017, described in the notice of availability entitled  
4 “Record of Decision for the 2017–2022 Outer Continental  
5 Shelf Oil and Gas Leasing Program Final Programmatic  
6 Environmental Impact Statement; MMAA104000” issued  
7 on January 17, 2017 (82 Fed. Reg. 6643 (January 19,  
8 2017)).

9 (d) REQUIREMENT FOR LEASE SALE 259.—Notwith-  
10 standing the expiration of the 2017–2022 leasing pro-  
11 gram, not later than March 31, 2023, the Secretary shall  
12 conduct Lease Sale 259 in accordance with the Record of  
13 Decision approved by the Secretary on January 17, 2017,  
14 described in the notice of availability entitled “Record of  
15 Decision for the 2017–2022 Outer Continental Shelf Oil  
16 and Gas Leasing Program Final Programmatic Environ-  
17 mental Impact Statement; MMAA104000” issued on Jan-  
18 uary 17, 2017 (82 Fed. Reg. 6643 (January 19, 2017)).

19 (e) REQUIREMENT FOR LEASE SALE 261.—Notwith-  
20 standing the expiration of the 2017–2022 leasing pro-  
21 gram, not later than September 30, 2023, the Secretary  
22 shall conduct Lease Sale 261 in accordance with the  
23 Record of Decision approved by the Secretary on January  
24 17, 2017, described in the notice of availability entitled  
25 “Record of Decision for the 2017–2022 Outer Continental

1 Shelf Oil and Gas Leasing Program Final Programmatic  
2 Environmental Impact Statement; MMAA104000” issued  
3 on January 17, 2017 (82 Fed. Reg. 6643 (January 19,  
4 2017)).

5 **SEC. 50265. ENSURING ENERGY SECURITY.**

6 (a) DEFINITIONS.—In this section:

7 (1) FEDERAL LAND.—The term “Federal land”  
8 means public lands (as defined in section 103 of the  
9 Federal Land Policy and Management Act of 1976  
10 (43 U.S.C. 1702)).

11 (2) OFFSHORE LEASE SALE.—The term “off-  
12 shore lease sale” means an oil and gas lease sale—

13 (A) that is held by the Secretary in accord-  
14 ance with the Outer Continental Shelf Lands  
15 Act (43 U.S.C. 1331 et seq.); and

16 (B) that, if any acceptable bids have been  
17 received for any tract offered in the lease sale,  
18 results in the issuance of a lease.

19 (3) ONSHORE LEASE SALE.—The term “on-  
20 shore lease sale” means a quarterly oil and gas lease  
21 sale—

22 (A) that is held by the Secretary in accord-  
23 ance with section 17 of the Mineral Leasing Act  
24 (30 U.S.C. 226); and

1 (B) that, if any acceptable bids have been  
2 received for any parcel offered in the lease sale,  
3 results in the issuance of a lease.

4 (b) LIMITATION ON ISSUANCE OF CERTAIN LEASES  
5 OR RIGHTS-OF-WAY.—During the 10-year period begin-  
6 ning on the date of enactment of this Act—

7 (1) the Secretary may not issue a right-of-way  
8 for wind or solar energy development on Federal  
9 land unless—

10 (A) an onshore lease sale has been held  
11 during the 120-day period ending on the date  
12 of the issuance of the right-of-way for wind or  
13 solar energy development; and

14 (B) the sum total of acres offered for lease  
15 in onshore lease sales during the 1-year period  
16 ending on the date of the issuance of the right-  
17 of-way for wind or solar energy development is  
18 not less than the lesser of—

19 (i) 2,000,000 acres; and

20 (ii) 50 percent of the acreage for  
21 which expressions of interest have been  
22 submitted for lease sales during that pe-  
23 riod; and

24 (2) the Secretary may not issue a lease for off-  
25 shore wind development under section 8(p)(1)(C) of

1 the Outer Continental Shelf Lands Act (43 U.S.C.  
2 1337(p)(1)(C)) unless—

3 (A) an offshore lease sale has been held  
4 during the 1-year period ending on the date of  
5 the issuance of the lease for offshore wind de-  
6 velopment; and

7 (B) the sum total of acres offered for lease  
8 in offshore lease sales during the 1-year period  
9 ending on the date of the issuance of the lease  
10 for offshore wind development is not less than  
11 60,000,000 acres.

12 (c) SAVINGS.—Except as expressly provided in para-  
13 graphs (1) and (2) of subsection (b), nothing in this sec-  
14 tion supersedes, amends, or modifies existing law.

15 **PART 7—UNITED STATES GEOLOGICAL SURVEY**

16 **SEC. 50271. UNITED STATES GEOLOGICAL SURVEY 3D ELE-**  
17 **VATION PROGRAM.**

18 In addition to amounts otherwise available, there is  
19 appropriated to the Secretary, acting through the Director  
20 of the United States Geological Survey, for fiscal year  
21 2022, out of any money in the Treasury not otherwise ap-  
22 propriated, \$23,500,000, to remain available through Sep-  
23 tember 30, 2031, to produce, collect, disseminate, and use  
24 3D elevation data.

**1 PART 8—OTHER NATURAL RESOURCES MATTERS****2 SEC. 50281. DEPARTMENT OF THE INTERIOR OVERSIGHT.**

3 In addition to amounts otherwise available, there is  
4 appropriated to the Secretary for fiscal year 2022, out of  
5 any money in the Treasury not otherwise appropriated,  
6 \$10,000,000, to remain available through September 30,  
7 2031, for oversight by the Department of the Interior Of-  
8 fice of Inspector General of the Department of the Interior  
9 activities for which funding is appropriated in this subtitle.

**10 Subtitle C—Environmental**  
**11 Reviews****12 SEC. 50301. DEPARTMENT OF ENERGY.**

13 In addition to amounts otherwise available, there is  
14 appropriated to the Secretary of Energy for fiscal year  
15 2022, out of any money in the Treasury not otherwise ap-  
16 propriated, \$115,000,000, to remain available through  
17 September 30, 2031, to provide for the hiring and training  
18 of personnel, the development of programmatic environ-  
19 mental documents, the procurement of technical or sci-  
20 entific services for environmental reviews, the development  
21 of environmental data or information systems, stakeholder  
22 and community engagement, and the purchase of new  
23 equipment for environmental analysis to facilitate timely  
24 and efficient environmental reviews and authorizations.

1 **SEC. 50302. FEDERAL ENERGY REGULATORY COMMISSION.**

2 (a) IN GENERAL.—In addition to amounts otherwise  
3 available, there is appropriated to the Federal Energy  
4 Regulatory Commission for fiscal year 2022, out of any  
5 money in the Treasury not otherwise appropriated,  
6 \$100,000,000, to remain available through September 30,  
7 2031, to provide for the hiring and training of personnel,  
8 the development of programmatic environmental docu-  
9 ments, the procurement of technical or scientific services  
10 for environmental reviews, the development of environ-  
11 mental data or information systems, stakeholder and com-  
12 munity engagement, and the purchase of new equipment  
13 for environmental analysis to facilitate timely and efficient  
14 environmental reviews and authorizations.

15 (b) FEES AND CHARGES.—Section 3401(a) of the  
16 Omnibus Budget Reconciliation Act of 1986 (42 U.S.C.  
17 7178(a)) shall not apply to the costs incurred by the Fed-  
18 eral Energy Regulatory Commission in carrying out this  
19 section.

20 **SEC. 50303. DEPARTMENT OF THE INTERIOR.**

21 In addition to amounts otherwise available, there is  
22 appropriated to the Secretary of the Interior for fiscal year  
23 2022, out of any money in the Treasury not otherwise ap-  
24 propriated, \$150,000,000, to remain available through  
25 September 30, 2026, to provide for the hiring and training  
26 of personnel, the development of programmatic environ-



1 mental documents, the procurement of technical or sci-  
2 entific services for environmental reviews, the development  
3 of environmental data or information systems, stakeholder  
4 and community engagement, and the purchase of new  
5 equipment for environmental analysis to facilitate timely  
6 and efficient environmental reviews and authorizations by  
7 the National Park Service, the Bureau of Land Manage-  
8 ment, the Bureau of Ocean Energy Management, the Bu-  
9 reau of Reclamation, the Bureau of Safety and Environ-  
10 mental Enforcement, and the Office of Surface Mining  
11 Reclamation and Enforcement.

12 **TITLE VI—COMMITTEE ON ENVI-**  
13 **RONMENT AND PUBLIC**  
14 **WORKS**

15 **Subtitle A—Air Pollution**

16 **SEC. 60101. CLEAN HEAVY-DUTY VEHICLES.**

17 The Clean Air Act is amended by inserting after sec-  
18 tion 131 of such Act (42 U.S.C. 7431) the following:

19 **“SEC. 132. CLEAN HEAVY-DUTY VEHICLES.**

20 **“(a) APPROPRIATIONS.—**

21 **“(1) IN GENERAL.—**In addition to amounts  
22 otherwise available, there is appropriated to the Ad-  
23 ministrators for fiscal year 2022, out of any money  
24 in the Treasury not otherwise appropriated,

1       \$600,000,000, to remain available until September  
2       30, 2031, to carry out this section.

3           “(2) NONATTAINMENT AREAS.—In addition to  
4       amounts otherwise available, there is appropriated to  
5       the Administrator for fiscal year 2022, out of any  
6       money in the Treasury not otherwise appropriated,  
7       \$400,000,000, to remain available until September  
8       30, 2031, to make awards under this section to eligi-  
9       ble recipients and to eligible contractors that propose  
10      to replace eligible vehicles to serve 1 or more com-  
11      munities located in an air quality area designated  
12      pursuant to section 107 as nonattainment for any  
13      air pollutant.

14           “(3) RESERVATION.—Of the funds appro-  
15      priated by paragraph (1), the Administrator shall re-  
16      serve 3 percent for administrative costs necessary to  
17      carry out this section.

18           “(b) PROGRAM.—Beginning not later than 180 days  
19      after the date of enactment of this section, the Adminis-  
20      trator shall implement a program to make awards of  
21      grants and rebates to eligible recipients, and to make  
22      awards of contracts to eligible contractors for providing  
23      rebates, for up to 100 percent of costs for—

24           “(1) the incremental costs of replacing an eligi-  
25      ble vehicle that is not a zero-emission vehicle with a

1 zero-emission vehicle, as determined by the Adminis-  
2 trator based on the market value of the vehicles;

3 “(2) purchasing, installing, operating, and  
4 maintaining infrastructure needed to charge, fuel, or  
5 maintain zero-emission vehicles;

6 “(3) workforce development and training to  
7 support the maintenance, charging, fueling, and op-  
8 eration of zero-emission vehicles; and

9 “(4) planning and technical activities to support  
10 the adoption and deployment of zero-emission vehi-  
11 cles.

12 “(c) APPLICATIONS.—To seek an award under this  
13 section, an eligible recipient or eligible contractor shall  
14 submit to the Administrator an application at such time,  
15 in such manner, and containing such information as the  
16 Administrator shall prescribe.

17 “(d) DEFINITIONS.—For purposes of this section:

18 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-  
19 ble contractor’ means a contractor that has the ca-  
20 pacity—

21 “(A) to sell, lease, license, or contract for  
22 service zero-emission vehicles, or charging or  
23 other equipment needed to charge, fuel, or  
24 maintain zero-emission vehicles, to individuals

1 or entities that own, lease, license, or contract  
2 for service an eligible vehicle; or

3 “(B) to arrange financing for such a sale,  
4 lease, license, or contract for service.

5 “(2) ELIGIBLE RECIPIENT.—The term ‘eligible  
6 recipient’ means—

7 “(A) a State;

8 “(B) a municipality;

9 “(C) an Indian tribe; or

10 “(D) a nonprofit school transportation as-  
11 sociation.

12 “(3) ELIGIBLE VEHICLE.—The term ‘eligible  
13 vehicle’ means a Class 6 or Class 7 heavy-duty vehi-  
14 cle as defined in section 1037.801 of title 40, Code  
15 of Federal Regulations (as in effect on the date of  
16 enactment of this section).

17 “(4) GREENHOUSE GAS.—The term ‘greenhouse  
18 gas’ means the air pollutants carbon dioxide,  
19 hydrofluorocarbons, methane, nitrous oxide,  
20 perfluorocarbons, and sulfur hexafluoride.

21 “(5) ZERO-EMISSION VEHICLE.—The term  
22 ‘zero-emission vehicle’ means a vehicle that has a  
23 drivetrain that produces, under any possible oper-  
24 ational mode or condition, zero exhaust emissions  
25 of—

1           “(A) any air pollutant that is listed pursu-  
2           ant to section 108(a) (or any precursor to such  
3           an air pollutant); and

4           “(B) any greenhouse gas.”.

5 **SEC. 60102. GRANTS TO REDUCE AIR POLLUTION AT PORTS.**

6           The Clean Air Act is amended by inserting after sec-  
7           tion 132 of such Act, as added by section 60101 of this  
8           Act, the following:

9 **“SEC. 133. GRANTS TO REDUCE AIR POLLUTION AT PORTS.**

10           “(a) APPROPRIATIONS.—

11           “(1) GENERAL ASSISTANCE.—In addition to  
12           amounts otherwise available, there is appropriated to  
13           the Administrator for fiscal year 2022, out of any  
14           money in the Treasury not otherwise appropriated,  
15           \$2,250,000,000, to remain available until September  
16           30, 2027, to award rebates and grants to eligible re-  
17           cipients on a competitive basis—

18           “(A) to purchase or install zero-emission  
19           port equipment or technology for use at, or to  
20           directly serve, one or more ports;

21           “(B) to conduct any relevant planning or  
22           permitting in connection with the purchase or  
23           installation of such zero-emission port equip-  
24           ment or technology; and

1                   “(C) to develop qualified climate action  
2                   plans.

3                   “(2) NONATTAINMENT AREAS.—In addition to  
4                   amounts otherwise available, there is appropriated to  
5                   the Administrator for fiscal year 2022, out of any  
6                   money in the Treasury not otherwise appropriated,  
7                   \$750,000,000, to remain available until September  
8                   30, 2027, to award rebates and grants to eligible re-  
9                   cipients to carry out activities described in para-  
10                  graph (1) with respect to ports located in air quality  
11                  areas designated pursuant to section 107 as non-  
12                  attainment for an air pollutant.

13                  “(b) LIMITATION.—Funds awarded under this sec-  
14                  tion shall not be used by any recipient or subrecipient to  
15                  purchase or install zero-emission port equipment or tech-  
16                  nology that will not be located at, or directly serve, the  
17                  one or more ports involved.

18                  “(c) ADMINISTRATION OF FUNDS.—Of the funds  
19                  made available by this section, the Administrator shall re-  
20                  serve 2 percent for administrative costs necessary to carry  
21                  out this section.

22                  “(d) DEFINITIONS.—In this section:

23                         “(1) ELIGIBLE RECIPIENT.—The term ‘eligible  
24                         recipient’ means—

25                                 “(A) a port authority;

1           “(B) a State, regional, local, or Tribal  
2           agency that has jurisdiction over a port author-  
3           ity or a port;

4           “(C) an air pollution control agency; or

5           “(D) a private entity that—

6           “(i) applies for a grant under this sec-  
7           tion in partnership with an entity de-  
8           scribed in any of subparagraphs (A)  
9           through (C); and

10           “(ii) owns, operates, or uses the facili-  
11           ties, cargo-handling equipment, transpor-  
12           tation equipment, or related technology of  
13           a port.

14           “(2) GREENHOUSE GAS.—The term ‘greenhouse  
15           gas’ means the air pollutants carbon dioxide,  
16           hydrofluorocarbons, methane, nitrous oxide,  
17           perfluorocarbons, and sulfur hexafluoride.

18           “(3) QUALIFIED CLIMATE ACTION PLAN.—The  
19           term ‘qualified climate action plan’ means a detailed  
20           and strategic plan that—

21           “(A) establishes goals, implementation  
22           strategies, and accounting and inventory prac-  
23           tices to reduce emissions at one or more ports  
24           of—

25           “(i) greenhouse gases;

1                   “(ii) an air pollutant that is listed  
2                   pursuant to section 108(a) (or any pre-  
3                   cursor to such an air pollutant); and

4                   “(iii) hazardous air pollutants;  
5                   “(B) includes a strategy to collaborate  
6                   with, communicate with, and address potential  
7                   effects on low-income and disadvantaged near-  
8                   port communities and other stakeholders that  
9                   may be affected by implementation of the plan;  
10                  and

11                  “(C) describes how an eligible recipient has  
12                  implemented or will implement measures to in-  
13                  crease the resilience of the one or more ports  
14                  involved.

15                  “(4) ZERO-EMISSION PORT EQUIPMENT OR  
16                  TECHNOLOGY.—The term ‘zero-emission port equip-  
17                  ment or technology’ means human-operated equip-  
18                  ment or human-maintained technology that—

19                  “(A) produces zero emissions of any air  
20                  pollutant that is listed pursuant to section  
21                  108(a) (or any precursor to such an air pollut-  
22                  ant) and any greenhouse gas other than water  
23                  vapor; or



1           “(B) captures 100 percent of the emissions  
2           described in subparagraph (A) that are pro-  
3           duced by an ocean-going vessel at berth.”.

4 **SEC. 60103. GREENHOUSE GAS REDUCTION FUND.**

5           The Clean Air Act is amended by inserting after sec-  
6 tion 133 of such Act, as added by section 60102 of this  
7 Act, the following:

8 **“SEC. 134. GREENHOUSE GAS REDUCTION FUND.**

9           “(a) APPROPRIATIONS.—

10           “(1) ZERO-EMISSION TECHNOLOGIES.—In addi-  
11 tion to amounts otherwise available, there is appro-  
12 priated to the Administrator for fiscal year 2022,  
13 out of any money in the Treasury not otherwise ap-  
14 propriated, \$7,000,000,000, to remain available  
15 until September 30, 2024, to make grants, on a  
16 competitive basis and beginning not later than 180  
17 calendar days after the date of enactment of this  
18 section, to States, municipalities, Tribal govern-  
19 ments, and eligible recipients for the purposes of  
20 providing grants, loans, or other forms of financial  
21 assistance, as well as technical assistance, to enable  
22 low-income and disadvantaged communities to de-  
23 ploy or benefit from zero-emission technologies, in-  
24 cluding distributed technologies on residential roof-  
25 tops, and to carry out other greenhouse gas emission

1 reduction activities, as determined appropriate by  
2 the Administrator in accordance with this section.

3 “(2) GENERAL ASSISTANCE.—In addition to  
4 amounts otherwise available, there is appropriated to  
5 the Administrator for fiscal year 2022, out of any  
6 money in the Treasury not otherwise appropriated,  
7 \$11,970,000,000, to remain available until Sep-  
8 tember 30, 2024, to make grants, on a competitive  
9 basis and beginning not later than 180 calendar  
10 days after the date of enactment of this section, to  
11 eligible recipients for the purposes of providing fi-  
12 nancial assistance and technical assistance in ac-  
13 cordance with subsection (b).

14 “(3) LOW-INCOME AND DISADVANTAGED COM-  
15 MUNITIES.—In addition to amounts otherwise avail-  
16 able, there is appropriated to the Administrator for  
17 fiscal year 2022, out of any money in the Treasury  
18 not otherwise appropriated, \$8,000,000,000, to re-  
19 main available until September 30, 2024, to make  
20 grants, on a competitive basis and beginning not  
21 later than 180 calendar days after the date of enact-  
22 ment of this section, to eligible recipients for the  
23 purposes of providing financial assistance and tech-  
24 nical assistance in low-income and disadvantaged  
25 communities in accordance with subsection (b).

1           “(4) ADMINISTRATIVE COSTS.—In addition to  
2 amounts otherwise available, there is appropriated to  
3 the Administrator for fiscal year 2022, out of any  
4 money in the Treasury not otherwise appropriated,  
5 \$30,000,000, to remain available until September  
6 30, 2031, for the administrative costs necessary to  
7 carry out activities under this section.

8           “(b) USE OF FUNDS.—An eligible recipient that re-  
9 ceives a grant pursuant to subsection (a) shall use the  
10 grant in accordance with the following:

11           “(1) DIRECT INVESTMENT.—The eligible recipi-  
12 ent shall—

13           “(A) provide financial assistance to quali-  
14 fied projects at the national, regional, State,  
15 and local levels;

16           “(B) prioritize investment in qualified  
17 projects that would otherwise lack access to fi-  
18 nancing; and

19           “(C) retain, manage, recycle, and monetize  
20 all repayments and other revenue received from  
21 fees, interest, repaid loans, and all other types  
22 of financial assistance provided using grant  
23 funds under this section to ensure continued  
24 operability.



1           “(2) GREENHOUSE GAS.—The term ‘greenhouse  
2           gas’ means the air pollutants carbon dioxide,  
3           hydrofluorocarbons, methane, nitrous oxide,  
4           perfluorocarbons, and sulfur hexafluoride.

5           “(3) QUALIFIED PROJECT.—The term ‘qualified  
6           project’ includes any project, activity, or technology  
7           that—

8                   “(A) reduces or avoids greenhouse gas  
9                   emissions and other forms of air pollution in  
10                  partnership with, and by leveraging investment  
11                  from, the private sector; or

12                   “(B) assists communities in the efforts of  
13                   those communities to reduce or avoid green-  
14                   house gas emissions and other forms of air pol-  
15                   lution.

16           “(4) ZERO-EMISSION TECHNOLOGY.—The term  
17           ‘zero-emission technology’ means any technology  
18           that produces zero emissions of—

19                   “(A) any air pollutant that is listed pursu-  
20                   ant to section 108(a) (or any precursor to such  
21                   an air pollutant); and

22                   “(B) any greenhouse gas.”.

23 **SEC. 60104. DIESEL EMISSIONS REDUCTIONS.**

24           (a) GOODS MOVEMENT.—In addition to amounts oth-  
25           erwise available, there is appropriated to the Adminis-

1 trator of the Environmental Protection Agency for fiscal  
2 year 2022, out of any money in the Treasury not otherwise  
3 appropriated, \$60,000,000, to remain available until Sep-  
4 tember 30, 2031, for grants, rebates, and loans under sec-  
5 tion 792 of the Energy Policy Act of 2005 (42 U.S.C.  
6 16132) to identify and reduce diesel emissions resulting  
7 from goods movement facilities, and vehicles servicing  
8 goods movement facilities, in low-income and disadvan-  
9 taged communities to address the health impacts of such  
10 emissions on such communities.

11 (b) ADMINISTRATIVE COSTS.—The Administrator of  
12 the Environmental Protection Agency shall reserve 2 per-  
13 cent of the amounts made available under this section for  
14 the administrative costs necessary to carry out activities  
15 pursuant to this section.

16 **SEC. 60105. FUNDING TO ADDRESS AIR POLLUTION.**

17 (a) FENCELINE AIR MONITORING AND SCREENING  
18 AIR MONITORING.—In addition to amounts otherwise  
19 available, there is appropriated to the Administrator of the  
20 Environmental Protection Agency for fiscal year 2022, out  
21 of any money in the Treasury not otherwise appropriated,  
22 \$117,500,000, to remain available until September 30,  
23 2031, for grants and other activities authorized under sub-  
24 sections (a) through (c) of section 103 and section 105  
25 of the Clean Air Act (42 U.S.C. 7403(a)–(c), 7405) to

1 deploy, integrate, support, and maintain fenceline air  
2 monitoring, screening air monitoring, national air toxics  
3 trend stations, and other air toxics and community moni-  
4 toring.

5 (b) MULTIPOLLUTANT MONITORING STATIONS.—In  
6 addition to amounts otherwise available, there is appro-  
7 priated to the Administrator of the Environmental Protec-  
8 tion Agency for fiscal year 2022, out of any money in the  
9 Treasury not otherwise appropriated, \$50,000,000, to re-  
10 main available until September 30, 2031, for grants and  
11 other activities authorized under subsections (a) through  
12 (c) of section 103 and section 105 of the Clean Air Act  
13 (42 U.S.C. 7403(a)–(c), 7405)—

14 (1) to expand the national ambient air quality  
15 monitoring network with new multipollutant moni-  
16 toring stations; and

17 (2) to replace, repair, operate, and maintain ex-  
18 isting monitors.

19 (c) AIR QUALITY SENSORS IN LOW-INCOME AND DIS-  
20 ADVANTAGED COMMUNITIES.—In addition to amounts  
21 otherwise available, there is appropriated to the Adminis-  
22 trator of the Environmental Protection Agency for fiscal  
23 year 2022, out of any money in the Treasury not otherwise  
24 appropriated, \$3,000,000, to remain available until Sep-  
25 tember 30, 2031, for grants and other activities author-

1 ized under subsections (a) through (c) of section 103 and  
2 section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c),  
3 7405) to deploy, integrate, and operate air quality sensors  
4 in low-income and disadvantaged communities.

5 (d) EMISSIONS FROM WOOD HEATERS.—In addition  
6 to amounts otherwise available, there is appropriated to  
7 the Administrator of the Environmental Protection Agen-  
8 cy for fiscal year 2022, out of any money in the Treasury  
9 not otherwise appropriated, \$15,000,000, to remain avail-  
10 able until September 30, 2031, for grants and other activi-  
11 ties authorized under subsections (a) through (c) of sec-  
12 tion 103 and section 105 of the Clean Air Act (42 U.S.C.  
13 7403(a)–(c), 7405) for testing and other agency activities  
14 to address emissions from wood heaters.

15 (e) METHANE MONITORING.—In addition to amounts  
16 otherwise available, there is appropriated to the Adminis-  
17 trator of the Environmental Protection Agency for fiscal  
18 year 2022, out of any money in the Treasury not otherwise  
19 appropriated, \$20,000,000, to remain available until Sep-  
20 tember 30, 2031, for grants and other activities author-  
21 ized under subsections (a) through (c) of section 103 and  
22 section 105 of the Clean Air Act (42 U.S.C. 7403(a)–(c),  
23 7405) for monitoring emissions of methane.

24 (f) CLEAN AIR ACT GRANTS.—In addition to  
25 amounts otherwise available, there is appropriated to the



1 Administrator of the Environmental Protection Agency for  
2 fiscal year 2022, out of any money in the Treasury not  
3 otherwise appropriated, \$25,000,000, to remain available  
4 until September 30, 2031, for grants and other activities  
5 authorized under subsections (a) through (c) of section  
6 103 and section 105 of the Clean Air Act (42 U.S.C.  
7 7403(a)–(c), 7405).

8 (g) OTHER ACTIVITIES.—In addition to amounts oth-  
9 erwise available, there is appropriated to the Adminis-  
10 trator of the Environmental Protection Agency for fiscal  
11 year 2022, out of any money in the Treasury not otherwise  
12 appropriated, \$45,000,000, to remain available until Sep-  
13 tember 30, 2031, to carry out, with respect to greenhouse  
14 gases, sections 111, 115, 165, 177, 202, 211, 213, and  
15 231 of the Clean Air Act (42 U.S.C. 7411, 7415, 7475,  
16 7507, 7521, 7545, 7547, and 7571).

17 (h) GREENHOUSE GAS AND ZERO-EMISSION STAND-  
18 ARDS FOR MOBILE SOURCES.—In addition to amounts  
19 otherwise available, there is appropriated to the Adminis-  
20 trator of the Environmental Protection Agency for fiscal  
21 year 2022, out of any money in the Treasury not otherwise  
22 appropriated, \$5,000,000, to remain available until Sep-  
23 tember 30, 2031, to provide grants to States to adopt and  
24 implement greenhouse gas and zero-emission standards

1 for mobile sources pursuant to section 177 of the Clean  
2 Air Act (42 U.S.C. 7507).

3 (i) DEFINITION OF GREENHOUSE GAS.—In this sec-  
4 tion, the term “greenhouse gas” means the air pollutants  
5 carbon dioxide, hydrofluorocarbons, methane, nitrous  
6 oxide, perfluorocarbons, and sulfur hexafluoride.

7 **SEC. 60106. FUNDING TO ADDRESS AIR POLLUTION AT**  
8 **SCHOOLS.**

9 (a) IN GENERAL.—In addition to amounts otherwise  
10 available, there is appropriated to the Administrator of the  
11 Environmental Protection Agency for fiscal year 2022, out  
12 of any money in the Treasury not otherwise appropriated,  
13 \$37,500,000, to remain available until September 30,  
14 2031, for grants and other activities to monitor and re-  
15 duce greenhouse gas emissions and other air pollutants at  
16 schools in low-income and disadvantaged communities  
17 under subsections (a) through (c) of section 103 of the  
18 Clean Air Act (42 U.S.C. 7403(a)–(c)) and section 105  
19 of that Act (42 U.S.C. 7405).

20 (b) TECHNICAL ASSISTANCE.—In addition to  
21 amounts otherwise available, there is appropriated to the  
22 Administrator of the Environmental Protection Agency for  
23 fiscal year 2022, out of any money in the Treasury not  
24 otherwise appropriated, \$12,500,000, to remain available  
25 until September 30, 2031, for providing technical assist-

1   ance to schools in low-income and disadvantaged commu-  
2   nities under subsections (a) through (c) of section 103 of  
3   the Clean Air Act (42 U.S.C. 7403(a)–(c)) and section  
4   105 of that Act (42 U.S.C. 7405)—

5           (1) to address environmental issues;

6           (2) to develop school environmental quality  
7   plans that include standards for school building, de-  
8   sign, construction, and renovation; and

9           (3) to identify and mitigate ongoing air pollu-  
10   tion hazards.

11   (c) DEFINITION OF GREENHOUSE GAS.—In this sec-  
12   tion, the term “greenhouse gas” means the air pollutants  
13   carbon dioxide, hydrofluorocarbons, methane, nitrous  
14   oxide, perfluorocarbons, and sulfur hexafluoride.

15   **SEC. 60107. LOW EMISSIONS ELECTRICITY PROGRAM.**

16   The Clean Air Act is amended by inserting after sec-  
17   tion 134 of such Act, as added by section 60103 of this  
18   Act, the following:

19   **“SEC. 135. LOW EMISSIONS ELECTRICITY PROGRAM.**

20   “(a) APPROPRIATION.—In addition to amounts oth-  
21   erwise available, there is appropriated to the Adminis-  
22   trator for fiscal year 2022, out of any money in the Treas-  
23   ury not otherwise appropriated, to remain available until  
24   September 30, 2031—

1           “(1) \$17,000,000 for consumer-related edu-  
2           cation and partnerships with respect to reductions in  
3           greenhouse gas emissions that result from domestic  
4           electricity generation and use;

5           “(2) \$17,000,000 for education, technical as-  
6           sistance, and partnerships within low-income and  
7           disadvantaged communities with respect to reduc-  
8           tions in greenhouse gas emissions that result from  
9           domestic electricity generation and use;

10           “(3) \$17,000,000 for industry-related outreach,  
11           technical assistance, and partnerships with respect  
12           to reductions in greenhouse gas emissions that result  
13           from domestic electricity generation and use;

14           “(4) \$17,000,000 for outreach and technical as-  
15           sistance to, and partnerships with, State, Tribal,  
16           and local governments with respect to reductions in  
17           greenhouse gas emissions that result from domestic  
18           electricity generation and use;

19           “(5) \$1,000,000 to assess, not later than 1 year  
20           after the date of enactment of this section, the re-  
21           ductions in greenhouse gas emissions that result  
22           from changes in domestic electricity generation and  
23           use that are anticipated to occur on an annual basis  
24           through fiscal year 2031; and

1           “(6) \$18,000,000 to ensure that reductions in  
2           greenhouse gas emissions are achieved through use  
3           of the existing authorities of this Act, incorporating  
4           the assessment under paragraph (5).

5           “(b) ADMINISTRATION OF FUNDS.—Of the amounts  
6           made available under subsection (a), the Administrator  
7           shall reserve 2 percent for the administrative costs nec-  
8           essary to carry out activities pursuant to that subsection.

9           “(c) DEFINITION OF GREENHOUSE GAS.—In this  
10          section, the term ‘greenhouse gas’ means the air pollut-  
11          ants carbon dioxide, hydrofluorocarbons, methane, nitrous  
12          oxide, perfluorocarbons, and sulfur hexafluoride.”.

13       **SEC. 60108. FUNDING FOR SECTION 211(O) OF THE CLEAN**  
14                               **AIR ACT.**

15          (a) TEST AND PROTOCOL DEVELOPMENT.—In addi-  
16          tion to amounts otherwise available, there is appropriated  
17          to the Administrator of the Environmental Protection  
18          Agency for fiscal year 2022, out of any money in the  
19          Treasury not otherwise appropriated, \$5,000,000, to re-  
20          main available until September 30, 2031, to carry out sec-  
21          tion 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) with  
22          respect to—

23               (1) the development and establishment of tests  
24               and protocols regarding the environmental and pub-  
25               lic health effects of a fuel or fuel additive;

1           (2) internal and extramural data collection and  
2 analyses to regularly update applicable regulations,  
3 guidance, and procedures for determining lifecycle  
4 greenhouse gas emissions of a fuel; and

5           (3) the review, analysis, and evaluation of the  
6 impacts of all transportation fuels, including fuel  
7 lifecycle implications, on the general public and on  
8 low-income and disadvantaged communities.

9           (b) INVESTMENTS IN ADVANCED BIOFUELS.—In ad-  
10 dition to amounts otherwise available, there is appro-  
11 priated to the Administrator of the Environmental Protec-  
12 tion Agency for fiscal year 2022, out of any money in the  
13 Treasury not otherwise appropriated, \$10,000,000, to re-  
14 main available until September 30, 2031, for new grants  
15 to industry and other related activities under section  
16 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) to sup-  
17 port investments in advanced biofuels.

18           (c) DEFINITION OF GREENHOUSE GAS.—In this sec-  
19 tion, the term “greenhouse gas” means the air pollutants  
20 carbon dioxide, hydrofluorocarbons, methane, nitrous  
21 oxide, perfluorocarbons, and sulfur hexafluoride.

22 **SEC. 60109. FUNDING FOR IMPLEMENTATION OF THE**  
23 **AMERICAN INNOVATION AND MANUFAC-**  
24 **TURING ACT.**

25           (a) APPROPRIATIONS.—

1           (1) IN GENERAL.—In addition to amounts oth-  
2           erwise available, there is appropriated to the Admin-  
3           istrator of the Environmental Protection Agency for  
4           fiscal year 2022, out of any money in the Treasury  
5           not otherwise appropriated, \$20,000,000, to remain  
6           available until September 30, 2026, to carry out  
7           subsections (a) through (i) and subsection (k) of sec-  
8           tion 103 of division S of Public Law 116–260 (42  
9           U.S.C. 7675).

10           (2) IMPLEMENTATION AND COMPLIANCE  
11           TOOLS.—In addition to amounts otherwise available,  
12           there is appropriated to the Administrator of the  
13           Environmental Protection Agency for fiscal year  
14           2022, out of any money in the Treasury not other-  
15           wise appropriated, \$3,500,000, to remain available  
16           until September 30, 2026, to deploy new implemen-  
17           tation and compliance tools to carry out subsections  
18           (a) through (i) and subsection (k) of section 103 of  
19           division S of Public Law 116–260 (42 U.S.C. 7675).

20           (3) COMPETITIVE GRANTS.—In addition to  
21           amounts otherwise available, there is appropriated to  
22           the Administrator of the Environmental Protection  
23           Agency for fiscal year 2022, out of any money in the  
24           Treasury not otherwise appropriated, \$15,000,000,  
25           to remain available until September 30, 2026, for

1 competitive grants for reclaim and innovative de-  
2 struction technologies under subsections (a) through  
3 (i) and subsection (k) of section 103 of division S  
4 of Public Law 116–260 (42 U.S.C. 7675).

5 (b) ADMINISTRATION OF FUNDS.—Of the funds  
6 made available pursuant to subsection (a)(3), the Admin-  
7 istrator of the Environmental Protection Agency shall re-  
8 serve 5 percent for administrative costs necessary to carry  
9 out activities pursuant to such subsection.

10 **SEC. 60110. FUNDING FOR ENFORCEMENT TECHNOLOGY**  
11 **AND PUBLIC INFORMATION.**

12 (a) COMPLIANCE MONITORING.—In addition to  
13 amounts otherwise available, there is appropriated to the  
14 Administrator of the Environmental Protection Agency for  
15 fiscal year 2022, out of any money in the Treasury not  
16 otherwise appropriated, \$18,000,000, to remain available  
17 until September 30, 2031, to update the Integrated Com-  
18 pliance Information System of the Environmental Protec-  
19 tion Agency and any associated systems, necessary infor-  
20 mation technology infrastructure, or public access soft-  
21 ware tools to ensure access to compliance data and related  
22 information.

23 (b) COMMUNICATIONS WITH ICIS.—In addition to  
24 amounts otherwise available, there is appropriated to the  
25 Administrator of the Environmental Protection Agency for



1 fiscal year 2022, out of any money in the Treasury not  
2 otherwise appropriated, \$3,000,000, to remain available  
3 until September 30, 2031, for grants to States, Indian  
4 tribes, and air pollution control agencies (as such terms  
5 are defined in section 302 of the Clean Air Act (42 U.S.C.  
6 7602)) to update their systems to ensure communication  
7 with the Integrated Compliance Information System of the  
8 Environmental Protection Agency and any associated sys-  
9 tems.

10 (c) INSPECTION SOFTWARE.—In addition to amounts  
11 otherwise available, there is appropriated to the Adminis-  
12 trator of the Environmental Protection Agency for fiscal  
13 year 2022, out of any money in the Treasury not otherwise  
14 appropriated, \$4,000,000, to remain available until Sep-  
15 tember 30, 2031—

16 (1) to acquire or update inspection software for  
17 use by the Environmental Protection Agency, States,  
18 Indian tribes, and air pollution control agencies (as  
19 such terms are defined in section 302 of the Clean  
20 Air Act (42 U.S.C. 7602)); or

21 (2) to acquire necessary devices on which to run  
22 such inspection software.

23 **SEC. 60111. GREENHOUSE GAS CORPORATE REPORTING.**

24 (a) IN GENERAL.—In addition to amounts otherwise  
25 available, there is appropriated to the Administrator of the

1 Environmental Protection Agency for fiscal year 2022, out  
2 of any money in the Treasury not otherwise appropriated,  
3 \$5,000,000, to remain available until September 30, 2031,  
4 for the Environmental Protection Agency to support—

5 (1) enhanced standardization and transparency  
6 of corporate climate action commitments and plans  
7 to reduce greenhouse gas emissions;

8 (2) enhanced transparency regarding progress  
9 toward meeting such commitments and imple-  
10 menting such plans; and

11 (3) progress toward meeting such commitments  
12 and implementing such plans.

13 (b) DEFINITION OF GREENHOUSE GAS.—In this sec-  
14 tion, the term “greenhouse gas” means the air pollutants  
15 carbon dioxide, hydrofluorocarbons, methane, nitrous  
16 oxide, perfluorocarbons, and sulfur hexafluoride.

17 **SEC. 60112. ENVIRONMENTAL PRODUCT DECLARATION AS-**  
18 **SISTANCE.**

19 (a) IN GENERAL.—In addition to amounts otherwise  
20 available, there is appropriated to the Administrator of the  
21 Environmental Protection Agency for fiscal year 2022, out  
22 of any money in the Treasury not otherwise appropriated,  
23 \$250,000,000, to remain available until September 30,  
24 2031, to develop and carry out a program to support the  
25 development, enhanced standardization and transparency,

1 and reporting criteria for environmental product declara-  
2 tions that include measurements of the embodied green-  
3 house gas emissions of the material or product associated  
4 with all relevant stages of production, use, and disposal,  
5 and conform with international standards, for construc-  
6 tion materials and products by—

7           (1) providing grants to businesses that manu-  
8           facture construction materials and products for de-  
9           veloping and verifying environmental product dec-  
10          larations, and to States, Indian Tribes, and non-  
11          profit organizations that will support such busi-  
12          nesses;

13          (2) providing technical assistance to businesses  
14          that manufacture construction materials and prod-  
15          ucts in developing and verifying environmental prod-  
16          uct declarations, and to States, Indian Tribes, and  
17          nonprofit organizations that will support such busi-  
18          nesses; and

19          (3) carrying out other activities that assist in  
20          measuring, reporting, and steadily reducing the  
21          quantity of embodied carbon of construction mate-  
22          rials and products.

23          (b) ADMINISTRATIVE COSTS.—Of the amounts made  
24 available under this section, the Administrator of the En-

1 vironmental Protection Agency shall reserve 5 percent for  
2 administrative costs necessary to carry out this section.

3 (c) DEFINITIONS.—In this section:

4 (1) GREENHOUSE GAS.—The term “greenhouse  
5 gas” means the air pollutants carbon dioxide,  
6 hydrofluorocarbons, methane, nitrous oxide,  
7 perfluorocarbons, and sulfur hexafluoride.

8 (2) STATE.—The term “State” has the mean-  
9 ing given to that term in section 302(d) of the Clean  
10 Air Act (42 U.S.C. 7602(d)).

11 **SEC. 60113. METHANE EMISSIONS REDUCTION PROGRAM.**

12 The Clean Air Act is amended by inserting after sec-  
13 tion 135 of such Act, as added by section 60107 of this  
14 Act, the following:

15 **“SEC. 136. METHANE EMISSIONS AND WASTE REDUCTION**  
16 **INCENTIVE PROGRAM FOR PETROLEUM AND**  
17 **NATURAL GAS SYSTEMS.**

18 “(a) INCENTIVES FOR METHANE MITIGATION AND  
19 MONITORING.—In addition to amounts otherwise avail-  
20 able, there is appropriated to the Administrator for fiscal  
21 year 2022, out of any money in the Treasury not otherwise  
22 appropriated, \$850,000,000, to remain available until  
23 September 30, 2028—

24 “(1) for grants, rebates, contracts, loans, and  
25 other activities of the Environmental Protection

1 Agency for the purposes of providing financial and  
2 technical assistance to owners and operators of ap-  
3 plicable facilities to prepare and submit greenhouse  
4 gas reports under subpart W of part 98 of title 40,  
5 Code of Federal Regulations;

6 “(2) for grants, rebates, contracts, loans, and  
7 other activities of the Environmental Protection  
8 Agency authorized under subsections (a) through (c)  
9 of section 103 for methane emissions monitoring;

10 “(3) for grants, rebates, contracts, loans, and  
11 other activities of the Environmental Protection  
12 Agency for the purposes of providing financial and  
13 technical assistance to reduce methane and other  
14 greenhouse gas emissions from petroleum and nat-  
15 ural gas systems, mitigate legacy air pollution from  
16 petroleum and natural gas systems, and provide  
17 funding for—

18 “(A) improving climate resiliency of com-  
19 munities and petroleum and natural gas sys-  
20 tems;

21 “(B) improving and deploying industrial  
22 equipment and processes that reduce methane  
23 and other greenhouse gas emissions and waste;

24 “(C) supporting innovation in reducing  
25 methane and other greenhouse gas emissions

1 and waste from petroleum and natural gas sys-  
2 tems;

3 “(D) permanently shutting in and plugging  
4 wells on non-Federal land;

5 “(E) mitigating health effects of methane  
6 and other greenhouse gas emissions, and legacy  
7 air pollution from petroleum and natural gas  
8 systems in low-income and disadvantaged com-  
9 munities; and

10 “(F) supporting environmental restoration;  
11 and

12 “(4) to cover all direct and indirect costs re-  
13 quired to administer this section, prepare inven-  
14 tories, gather empirical data, and track emissions.

15 “(b) INCENTIVES FOR METHANE MITIGATION FROM  
16 CONVENTIONAL WELLS.—In addition to amounts other-  
17 wise available, there is appropriated to the Administrator  
18 for fiscal year 2022, out of any money in the Treasury  
19 not otherwise appropriated, \$700,000,000, to remain  
20 available until September 30, 2028, for activities described  
21 in paragraphs (1) through (4) of subsection (a) at mar-  
22 ginal conventional wells.

23 “(c) WASTE EMISSIONS CHARGE.—The Adminis-  
24 trator shall impose and collect a charge on methane emis-  
25 sions that exceed an applicable waste emissions threshold

1 under subsection (f) from an owner or operator of an ap-  
2 plicable facility that reports more than 25,000 metric tons  
3 of carbon dioxide equivalent of greenhouse gases emitted  
4 per year pursuant to subpart W of part 98 of title 40,  
5 Code of Federal Regulations, regardless of the reporting  
6 threshold under that subpart.

7 “(d) APPLICABLE FACILITY.—For purposes of this  
8 section, the term ‘applicable facility’ means a facility with-  
9 in the following industry segments, as defined in subpart  
10 W of part 98 of title 40, Code of Federal Regulations:

11 “(1) Offshore petroleum and natural gas pro-  
12 duction.

13 “(2) Onshore petroleum and natural gas pro-  
14 duction.

15 “(3) Onshore natural gas processing.

16 “(4) Onshore natural gas transmission com-  
17 pression.

18 “(5) Underground natural gas storage.

19 “(6) Liquefied natural gas storage.

20 “(7) Liquefied natural gas import and export  
21 equipment.

22 “(8) Onshore petroleum and natural gas gath-  
23 ering and boosting.

24 “(9) Onshore natural gas transmission pipeline.

1       “(e) CHARGE AMOUNT.—The amount of a charge  
2 under subsection (c) for an applicable facility shall be  
3 equal to the product obtained by multiplying—

4           “(1) the number of metric tons of methane  
5 emissions reported pursuant to subpart W of part  
6 98 of title 40, Code of Federal Regulations, for the  
7 applicable facility that exceed the applicable annual  
8 waste emissions threshold listed in subsection (f)  
9 during the previous reporting period; and

10           “(2)(A) \$900 for emissions reported for cal-  
11 endar year 2024;

12           “(B) \$1,200 for emissions reported for calendar  
13 year 2025; or

14           “(C) \$1,500 for emissions reported for calendar  
15 year 2026 and each year thereafter.

16       “(f) WASTE EMISSIONS THRESHOLD.—

17           “(1) PETROLEUM AND NATURAL GAS PRODUC-  
18 TION.—With respect to imposing and collecting the  
19 charge under subsection (c) for an applicable facility  
20 in an industry segment listed in paragraph (1) or  
21 (2) of subsection (d), the Administrator shall impose  
22 and collect the charge on the reported metric tons  
23 of methane emissions from such facility that ex-  
24 ceed—



1                   “(A) 0.20 percent of the natural gas sent  
2                   to sale from such facility; or

3                   “(B) 10 metric tons of methane per million  
4                   barrels of oil sent to sale from such facility, if  
5                   such facility sent no natural gas to sale.

6                   “(2) NONPRODUCTION PETROLEUM AND NAT-  
7                   URAL GAS SYSTEMS.—With respect to imposing and  
8                   collecting the charge under subsection (c) for an ap-  
9                   plicable facility in an industry segment listed in  
10                  paragraph (3), (6), (7), or (8) of subsection (d), the  
11                  Administrator shall impose and collect the charge on  
12                  the reported metric tons of methane emissions that  
13                  exceed 0.05 percent of the natural gas sent to sale  
14                  from or through such facility.

15                  “(3) NATURAL GAS TRANSMISSION.—With re-  
16                  spect to imposing and collecting the charge under  
17                  subsection (c) for an applicable facility in an indus-  
18                  try segment listed in paragraph (4), (5), or (9) of  
19                  subsection (d), the Administrator shall impose and  
20                  collect the charge on the reported metric tons of  
21                  methane emissions that exceed 0.11 percent of the  
22                  natural gas sent to sale from or through such facil-  
23                  ity.

24                  “(4) COMMON OWNERSHIP OR CONTROL.—In  
25                  calculating the total emissions charge obligation for

1 facilities under common ownership or control, the  
2 Administrator shall allow for the netting of emis-  
3 sions by reducing the total obligation to account for  
4 facility emissions levels that are below the applicable  
5 thresholds within and across all applicable segments  
6 identified in subsection (d).

7 “(5) EXEMPTION.—Charges shall not be im-  
8 posed pursuant to paragraph (1) on emissions that  
9 exceed the waste emissions threshold specified in  
10 such paragraph if such emissions are caused by un-  
11 reasonable delay, as determined by the Adminis-  
12 trator, in environmental permitting of gathering or  
13 transmission infrastructure necessary for offtake of  
14 increased volume as a result of methane emissions  
15 mitigation implementation.

16 “(6) EXEMPTION FOR REGULATORY COMPLI-  
17 ANCE.—

18 “(A) IN GENERAL.—Charges shall not be  
19 imposed pursuant to subsection (c) on an appli-  
20 cable facility that is subject to and in compli-  
21 ance with methane emissions requirements pur-  
22 suant to subsections (b) and (d) of section 111  
23 upon a determination by the Administrator  
24 that—

1           “(i) methane emissions standards and  
2           plans pursuant to subsections (b) and (d)  
3           of section 111 have been approved and are  
4           in effect in all States with respect to the  
5           applicable facilities; and

6           “(ii) compliance with the requirements  
7           described in clause (i) will result in equiva-  
8           lent or greater emissions reductions as  
9           would be achieved by the proposed rule of  
10          the Administrator entitled ‘Standards of  
11          Performance for New, Reconstructed, and  
12          Modified Sources and Emissions Guide-  
13          lines for Existing Sources: Oil and Natural  
14          Gas Sector Climate Review’ (86 Fed. Reg.  
15          63110 (November 15, 2021)), if such rule  
16          had been finalized and implemented.

17          “(B) RESUMPTION OF CHARGE.—If the  
18          conditions in clause (i) or (ii) of subparagraph  
19          (A) cease to apply after the Administrator has  
20          made the determination in that subparagraph,  
21          the applicable facility will again be subject to  
22          the charge under subsection (c) beginning in  
23          the first calendar year in which the conditions  
24          in either clause (i) or (ii) of that subparagraph  
25          are no longer met.

1           “(7) PLUGGED WELLS.—Charges shall not be  
2           imposed with respect to the emissions rate from any  
3           well that has been permanently shut-in and plugged  
4           in the previous year in accordance with all applicable  
5           closure requirements, as determined by the Adminis-  
6           trator.

7           “(g) PERIOD.—The charge under subsection (c) shall  
8           be imposed and collected beginning with respect to emis-  
9           sions reported for calendar year 2024 and for each year  
10          thereafter.

11          “(h) REPORTING.—Not later than 2 years after the  
12          date of enactment of this section, the Administrator shall  
13          revise the requirements of subpart W of part 98 of title  
14          40, Code of Federal Regulations, to ensure the reporting  
15          under such subpart, and calculation of charges under sub-  
16          sections (e) and (f) of this section, are based on empirical  
17          data, including data collected pursuant to subsection  
18          (a)(4), accurately reflect the total methane emissions and  
19          waste emissions from the applicable facilities, and allow  
20          owners and operators of applicable facilities to submit em-  
21          pirical emissions data, in a manner to be prescribed by  
22          the Administrator, to demonstrate the extent to which a  
23          charge under subsection (c) is owed.

24          “(i) DEFINITION OF GREENHOUSE GAS.—In this sec-  
25          tion, the term ‘greenhouse gas’ means the air pollutants

1 carbon dioxide, hydrofluorocarbons, methane, nitrous  
2 oxide, perfluorocarbons, and sulfur hexafluoride.”.

3 **SEC. 60114. CLIMATE POLLUTION REDUCTION GRANTS.**

4 The Clean Air Act is amended by inserting after sec-  
5 tion 136 of such Act, as added by section 60113 of this  
6 Act, the following:

7 **“SEC. 137. GREENHOUSE GAS AIR POLLUTION PLANS AND**  
8 **IMPLEMENTATION GRANTS.**

9 “(a) APPROPRIATIONS.—

10 “(1) GREENHOUSE GAS AIR POLLUTION PLAN-  
11 NING GRANTS.—In addition to amounts otherwise  
12 available, there is appropriated to the Administrator  
13 for fiscal year 2022, out of any amounts in the  
14 Treasury not otherwise appropriated, \$250,000,000,  
15 to remain available until September 30, 2031, to  
16 carry out subsection (b).

17 “(2) GREENHOUSE GAS AIR POLLUTION IMPLE-  
18 MENTATION GRANTS.—In addition to amounts other-  
19 wise available, there is appropriated to the Adminis-  
20 trator for fiscal year 2022, out of any amounts in  
21 the Treasury not otherwise appropriated,  
22 \$4,750,000,000, to remain available until September  
23 30, 2026, to carry out subsection (c).

24 “(3) ADMINISTRATIVE COSTS.—Of the funds  
25 made available under paragraph (2), the Adminis-

1 trator shall reserve 3 percent for administrative  
2 costs necessary to carry out this section, to provide  
3 technical assistance to eligible entities, to develop a  
4 plan that could be used as a model by grantees in  
5 developing a plan under subsection (b), and to model  
6 the effects of plans described in this section.

7 “(b) GREENHOUSE GAS AIR POLLUTION PLANNING  
8 GRANTS.—The Administrator shall make a grant to at  
9 least one eligible entity in each State for the costs of devel-  
10 oping a plan for the reduction of greenhouse gas air pollu-  
11 tion to be submitted with an application for a grant under  
12 subsection (c). Each such plan shall include programs,  
13 policies, measures, and projects that will achieve or facili-  
14 tate the reduction of greenhouse gas air pollution. Not  
15 later than 270 days after the date of enactment of this  
16 section, the Administrator shall publish a funding oppor-  
17 tunity announcement for grants under this subsection.

18 “(c) GREENHOUSE GAS AIR POLLUTION REDUCTION  
19 IMPLEMENTATION GRANTS.—

20 “(1) IN GENERAL.—The Administrator shall  
21 competitively award grants to eligible entities to im-  
22 plement plans developed under subsection (b).

23 “(2) APPLICATION.—To apply for a grant  
24 under this subsection, an eligible entity shall submit  
25 to the Administrator an application at such time, in

1 such manner, and containing such information as  
2 the Administrator shall require, which such applica-  
3 tion shall include information regarding the degree  
4 to which greenhouse gas air pollution is projected to  
5 be reduced in total and with respect to low-income  
6 and disadvantaged communities.

7 “(3) TERMS AND CONDITIONS.—The Adminis-  
8 trator shall make funds available to a grantee under  
9 this subsection in such amounts, upon such a sched-  
10 ule, and subject to such conditions based on its per-  
11 formance in implementing its plan submitted under  
12 this section and in achieving projected greenhouse  
13 gas air pollution reduction, as determined by the Ad-  
14 ministrator.

15 “(d) DEFINITIONS.—In this section:

16 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
17 tity’ means—

18 “(A) a State;

19 “(B) an air pollution control agency;

20 “(C) a municipality;

21 “(D) an Indian tribe; and

22 “(E) a group of one or more entities listed  
23 in subparagraphs (A) through (D).

24 “(2) GREENHOUSE GAS.—The term ‘greenhouse  
25 gas’ means the air pollutants carbon dioxide,

1 hydrofluorocarbons, methane, nitrous oxide,  
2 perfluorocarbons, and sulfur hexafluoride.”.

3 **SEC. 60115. ENVIRONMENTAL PROTECTION AGENCY EFFI-**  
4 **CIENT, ACCURATE, AND TIMELY REVIEWS.**

5 In addition to amounts otherwise available, there is  
6 appropriated to the Environmental Protection Agency for  
7 fiscal year 2022, out of any money in the Treasury not  
8 otherwise appropriated, \$40,000,000, to remain available  
9 until September 30, 2026, to provide for the development  
10 of efficient, accurate, and timely reviews for permitting  
11 and approval processes through the hiring and training  
12 of personnel, the development of programmatic docu-  
13 ments, the procurement of technical or scientific services  
14 for reviews, the development of environmental data or in-  
15 formation systems, stakeholder and community engage-  
16 ment, the purchase of new equipment for environmental  
17 analysis, and the development of geographic information  
18 systems and other analysis tools, techniques, and guidance  
19 to improve agency transparency, accountability, and public  
20 engagement.

21 **SEC. 60116. LOW-EMBODIED CARBON LABELING FOR CON-**  
22 **STRUCTION MATERIALS.**

23 (a) IN GENERAL.—In addition to amounts otherwise  
24 available, there is appropriated to the Administrator of the  
25 Environmental Protection Agency for fiscal year 2022, out



1 of any money in the Treasury not otherwise appropriated,  
2 \$100,000,000, to remain available until September 30,  
3 2026, for necessary administrative costs of the Adminis-  
4 trator of the Environmental Protection Agency to carry  
5 out this section and to develop and carry out a program,  
6 in consultation with the Administrator of the Federal  
7 Highway Administration for construction materials used  
8 in transportation projects and the Administrator of Gen-  
9 eral Services for construction materials used for Federal  
10 buildings, to identify and label construction materials and  
11 products that have substantially lower levels of embodied  
12 greenhouse gas emissions associated with all relevant  
13 stages of production, use, and disposal, as compared to  
14 estimated industry averages of similar materials or prod-  
15 ucts, as determined by the Administrator of the Environ-  
16 mental Protection Agency, based on—

17           (1) environmental product declarations; or  
18           (2) determinations by State agencies, as verified  
19       by the Administrator of the Environmental Protec-  
20       tion Agency.

21       (b) DEFINITION OF GREENHOUSE GAS.—In this sec-  
22       tion, the term “greenhouse gas” means the air pollutants  
23       carbon dioxide, hydrofluorocarbons, methane, nitrous  
24       oxide, perfluorocarbons, and sulfur hexafluoride.

1     **Subtitle B—Hazardous Materials**

2     **SEC. 60201. ENVIRONMENTAL AND CLIMATE JUSTICE**  
3                     **BLOCK GRANTS.**

4             The Clean Air Act is amended by inserting after sec-  
5     tion 137, as added by subtitle A of this title, the following:

6     **“SEC. 138. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK**  
7                     **GRANTS.**

8             “(a) APPROPRIATION.—In addition to amounts oth-  
9     erwise available, there is appropriated to the Adminis-  
10    trator for fiscal year 2022, out of any money in the Treas-  
11    ury not otherwise appropriated—

12             “(1) \$2,800,000,000 to remain available until  
13     September 30, 2026, to award grants for the activi-  
14     ties described in subsection (b); and

15             “(2) \$200,000,000 to remain available until  
16     September 30, 2026, to provide technical assistance  
17     to eligible entities related to grants awarded under  
18     this section.

19             “(b) GRANTS.—

20             “(1) IN GENERAL.—The Administrator shall  
21     use amounts made available under subsection (a)(1)  
22     to award grants for periods of up to 3 years to eligi-  
23     ble entities to carry out activities described in para-  
24     graph (2) that benefit disadvantaged communities,  
25     as defined by the Administrator.

1           “(2) ELIGIBLE ACTIVITIES.—An eligible entity  
2           may use a grant awarded under this subsection  
3           for—

4                   “(A) community-led air and other pollution  
5                   monitoring, prevention, and remediation, and  
6                   investments in low- and zero-emission and resil-  
7                   ient technologies and related infrastructure and  
8                   workforce development that help reduce green-  
9                   house gas emissions and other air pollutants;

10                   “(B) mitigating climate and health risks  
11                   from urban heat islands, extreme heat, wood  
12                   heater emissions, and wildfire events;

13                   “(C) climate resiliency and adaptation;

14                   “(D) reducing indoor toxics and indoor air  
15                   pollution; or

16                   “(E) facilitating engagement of disadvan-  
17                   tagged communities in State and Federal advi-  
18                   sory groups, workshops, rulemakings, and other  
19                   public processes.

20           “(3) ELIGIBLE ENTITIES.—In this subsection,  
21           the term ‘eligible entity’ means—

22                   “(A) a partnership between—

23                           “(i) an Indian tribe, a local govern-  
24                           ment, or an institution of higher education;

25                           and

1                   “(ii) a community-based nonprofit or-  
2                   ganization;

3                   “(B) a community-based nonprofit organi-  
4                   zation; or

5                   “(C) a partnership of community-based  
6                   nonprofit organizations.

7           “(c) ADMINISTRATIVE COSTS.—The Administrator  
8 shall reserve 7 percent of the amounts made available  
9 under subsection (a) for administrative costs to carry out  
10 this section.

11           “(d) DEFINITION OF GREENHOUSE GAS.—In this  
12 section, the term ‘greenhouse gas’ means the air pollut-  
13 ants carbon dioxide, hydrofluorocarbons, methane, nitrous  
14 oxide, perfluorocarbons, and sulfur hexafluoride.”.

## 15   **Subtitle C—United States Fish and** 16                   **Wildlife Service**

### 17   **SEC. 60301. ENDANGERED SPECIES ACT RECOVERY PLANS.**

18           In addition to amounts otherwise available, there is  
19 appropriated to the United States Fish and Wildlife Serv-  
20 ice for fiscal year 2022, out of any money in the Treasury  
21 not otherwise appropriated, \$125,000,000, to remain  
22 available until expended, for the purposes of developing  
23 and implementing recovery plans under paragraphs (1),  
24 (3), and (4) of subsection (f) of section 4 of the Endan-  
25 gered Species Act of 1973 (16 U.S.C. 1533(f)).

1 **SEC. 60302. FUNDING FOR THE UNITED STATES FISH AND**  
2 **WILDLIFE SERVICE TO ADDRESS WEATHER**  
3 **EVENTS.**

4 (a) **IN GENERAL.**—In addition to amounts otherwise  
5 available, there is appropriated to the United States Fish  
6 and Wildlife Service for fiscal year 2022, out of any money  
7 in the Treasury not otherwise appropriated,  
8 \$121,250,000, to remain available until September 30,  
9 2026, to make direct expenditures, award grants, and  
10 enter into contracts and cooperative agreements for the  
11 purposes of rebuilding and restoring units of the National  
12 Wildlife Refuge System and State wildlife management  
13 areas by—

- 14 (1) addressing the threat of invasive species;  
15 (2) increasing the resiliency and capacity of  
16 habitats and infrastructure to withstand weather  
17 events; and  
18 (3) reducing the amount of damage caused by  
19 weather events.

20 (b) **ADMINISTRATIVE COSTS.**—In addition to  
21 amounts otherwise available, there is appropriated to the  
22 United States Fish and Wildlife Service for fiscal year  
23 2022, out of any money in the Treasury not otherwise ap-  
24 propriated, \$3,750,000, to remain available until Sep-  
25 tember 30, 2026, for necessary administrative expenses  
26 associated with carrying out this section.

1                   **Subtitle D—Council on**  
2                   **Environmental Quality**

3   **SEC. 60401. ENVIRONMENTAL AND CLIMATE DATA COLLEC-**  
4                   **TION.**

5           In addition to amounts otherwise available, there is  
6 appropriated to the Chair of the Council on Environmental  
7 Quality for fiscal year 2022, out of any money in the  
8 Treasury not otherwise appropriated, \$32,500,000, to re-  
9 main available until September 30, 2026—

10           (1) to support data collection efforts relating  
11 to—

12                   (A) disproportionate negative environ-  
13 mental harms and climate impacts; and

14                   (B) cumulative impacts of pollution and  
15 temperature rise;

16           (2) to establish, expand, and maintain efforts to  
17 track disproportionate burdens and cumulative im-  
18 pacts and provide academic and workforce support  
19 for analytics and informatics infrastructure and data  
20 collection systems; and

21           (3) to support efforts to ensure that any map-  
22 ping or screening tool is accessible to community-  
23 based organizations and community members.

1 **SEC. 60402. COUNCIL ON ENVIRONMENTAL QUALITY EFFI-**  
2 **CIENT AND EFFECTIVE ENVIRONMENTAL RE-**  
3 **VIEWS.**

4 In addition to amounts otherwise available, there is  
5 appropriated to the Chair of the Council on Environmental  
6 Quality for fiscal year 2022, out of any money in the  
7 Treasury not otherwise appropriated, \$30,000,000, to re-  
8 main available until September 30, 2026, to carry out the  
9 Council on Environmental Quality’s functions and for the  
10 purposes of training personnel, developing programmatic  
11 environmental documents, and developing tools, guidance,  
12 and techniques to improve stakeholder and community en-  
13 gagement.

14 **Subtitle E—Transportation and**  
15 **Infrastructure**

16 **SEC. 60501. NEIGHBORHOOD ACCESS AND EQUITY GRANT**  
17 **PROGRAM.**

18 (a) IN GENERAL.—Chapter 1 of title 23, United  
19 States Code, is amended by adding at the end the fol-  
20 lowing:

21 **“§ 177. Neighborhood access and equity grant pro-**  
22 **gram**

23 “(a) IN GENERAL.—In addition to amounts other-  
24 wise available, there is appropriated for fiscal year 2022,  
25 out of any money in the Treasury not otherwise appro-  
26 priated, \$1,893,000,000, to remain available until Sep-

1   tember 30, 2026, to the Administrator of the Federal  
2   Highway Administration for competitive grants to eligible  
3   entities described in subsection (b)—

4           “(1) to improve walkability, safety, and afford-  
5           able transportation access through projects that are  
6           context-sensitive—

7                   “(A) to remove, remediate, or reuse a facil-  
8                   ity described in subsection (c)(1);

9                   “(B) to replace a facility described in sub-  
10                  section (c)(1) with a facility that is at-grade or  
11                  lower speed;

12                  “(C) to retrofit or cap a facility described  
13                  in subsection (c)(1);

14                  “(D) to build or improve complete streets,  
15                  multiuse trails, regional greenways, or active  
16                  transportation networks and spines; or

17                  “(E) to provide affordable access to essen-  
18                  tial destinations, public spaces, or transpor-  
19                  tation links and hubs;

20           “(2) to mitigate or remediate negative impacts  
21           on the human or natural environment resulting from  
22           a facility described in subsection (c)(2) in a dis-  
23           advantaged or underserved community through—



1           “(A) noise barriers to reduce impacts re-  
2           sulting from a facility described in subsection  
3           (c)(2);

4           “(B) technologies, infrastructure, and ac-  
5           tivities to reduce surface transportation-related  
6           greenhouse gas emissions and other air pollu-  
7           tion;

8           “(C) natural infrastructure, pervious, per-  
9           meable, or porous pavement, or protective fea-  
10          tures to reduce or manage stormwater run-off  
11          resulting from a facility described in subsection  
12          (c)(2);

13          “(D) infrastructure and natural features to  
14          reduce or mitigate urban heat island hot spots  
15          in the transportation right-of-way or on surface  
16          transportation facilities; or

17          “(E) safety improvements for vulnerable  
18          road users; and

19          “(3) for planning and capacity building activi-  
20          ties in disadvantaged or underserved communities  
21          to—

22                 “(A) identify, monitor, or assess local and  
23                 ambient air quality, emissions of transportation  
24                 greenhouse gases, hot spot areas of extreme  
25                 heat or elevated air pollution, gaps in tree can-

1           opy coverage, or flood prone transportation in-  
2           frastructure;

3           “(B) assess transportation equity or pollu-  
4           tion impacts and develop local anti-displacement  
5           policies and community benefit agreements;

6           “(C) conduct predevelopment activities for  
7           projects eligible under this subsection;

8           “(D) expand public participation in trans-  
9           portation planning by individuals and organiza-  
10          tions in disadvantaged or underserved commu-  
11          nities; or

12          “(E) administer or obtain technical assist-  
13          ance related to activities described in this sub-  
14          section.

15          “(b) ELIGIBLE ENTITIES DESCRIBED.—An eligible  
16          entity referred to in subsection (a) is—

17           “(1) a State;

18           “(2) a unit of local government;

19           “(3) a political subdivision of a State;

20           “(4) an entity described in section  
21          207(m)(1)(E);

22           “(5) a territory of the United States;

23           “(6) a special purpose district or public author-  
24          ity with a transportation function;

1           “(7) a metropolitan planning organization (as  
2 defined in section 134(b)(2)); or

3           “(8) with respect to a grant described in sub-  
4 section (a)(3), in addition to an eligible entity de-  
5 scribed in paragraphs (1) through (7), a nonprofit  
6 organization or institution of higher education that  
7 has entered into a partnership with an eligible entity  
8 described in paragraphs (1) through (7).

9           “(c) FACILITY DESCRIBED.—A facility referred to in  
10 subsection (a) is—

11           “(1) a surface transportation facility for which  
12 high speeds, grade separation, or other design fac-  
13 tors create an obstacle to connectivity within a com-  
14 munity; or

15           “(2) a surface transportation facility which is a  
16 source of air pollution, noise, stormwater, or other  
17 burden to a disadvantaged or underserved commu-  
18 nity.

19           “(d) INVESTMENT IN ECONOMICALLY DISADVAN-  
20 TAGED COMMUNITIES.—

21           “(1) IN GENERAL.—In addition to amounts  
22 otherwise available, there is appropriated for fiscal  
23 year 2022, out of any money in the Treasury not  
24 otherwise appropriated, \$1,262,000,000, to remain  
25 available until September 30, 2026, to the Adminis-

1       trator of the Federal Highway Administration to  
2       provide grants for projects in communities described  
3       in paragraph (2) for the same purposes and admin-  
4       istered in the same manner as described in sub-  
5       section (a).

6               “(2) COMMUNITIES DESCRIBED.—A community  
7       referred to in paragraph (1) is a community that—

8                       “(A) is economically disadvantaged, under-  
9                       served, or located in an area of persistent pov-  
10                      erty;

11                     “(B) has entered or will enter into a com-  
12                     munity benefits agreement with representatives  
13                     of the community;

14                     “(C) has an anti-displacement policy, a  
15                     community land trust, or a community advisory  
16                     board in effect; or

17                     “(D) has demonstrated a plan for employ-  
18                     ing local residents in the area impacted by the  
19                     activity or project proposed under this section.

20       “(e) ADMINISTRATION.—

21               “(1) IN GENERAL.—A project carried out under  
22       subsection (a) or (d) shall be treated as a project on  
23       a Federal-aid highway.

24               “(2) COMPLIANCE WITH EXISTING REQUIRE-  
25       MENTS.—Funds made available for a grant under

1 this section and administered by or through a State  
2 department of transportation shall be expended in  
3 compliance with the U.S. Department of Transpor-  
4 tation's Disadvantaged Business Enterprise Pro-  
5 gram.

6 “(f) COST SHARE.—The Federal share of the cost of  
7 an activity carried out using a grant awarded under this  
8 section shall be not more than 80 percent, except that the  
9 Federal share of the cost of a project in a disadvantaged  
10 or underserved community may be up to 100 percent.

11 “(g) TECHNICAL ASSISTANCE.—In addition to  
12 amounts otherwise available, there is appropriated for fis-  
13 cal year 2022, out of any money in the Treasury not other-  
14 wise appropriated, \$50,000,000, to remain available until  
15 September 30, 2026, to the Administrator of the Federal  
16 Highway Administration for—

17 “(1) guidance, technical assistance, templates,  
18 training, or tools to facilitate efficient and effective  
19 contracting, design, and project delivery by units of  
20 local government;

21 “(2) subgrants to units of local government to  
22 build capacity of such units of local government to  
23 assume responsibilities to deliver surface transpor-  
24 tation projects; and

1           “(3) operations and administration of the Fed-  
2           eral Highway Administration.

3           “(h) LIMITATIONS.—Amounts made available under  
4 this section shall not—

5           “(1) be subject to any restriction or limitation  
6           on the total amount of funds available for implemen-  
7           tation or execution of programs authorized for Fed-  
8           eral-aid highways; and

9           “(2) be used for a project for additional  
10          through travel lanes for single-occupant passenger  
11          vehicles.”.

12          (b) CLERICAL AMENDMENT.—The analysis for chap-  
13 ter 1 of title 23, United States Code, is amended by add-  
14 ing at the end the following:

“177. Neighborhood access and equity grant program.”.

15 **SEC. 60502. ASSISTANCE FOR FEDERAL BUILDINGS.**

16          In addition to amounts otherwise available, there is  
17 appropriated for fiscal year 2022, out of any money in  
18 the Treasury not otherwise appropriated, \$250,000,000,  
19 to remain available until September 30, 2031, to be depos-  
20 ited in the Federal Buildings Fund established under sec-  
21 tion 592 of title 40, United States Code, for measures nec-  
22 essary to convert facilities of the Administrator of General  
23 Services to high-performance green buildings (as defined  
24 in section 401 of the Energy Independence and Security  
25 Act of 2007 (42 U.S.C. 17061)).

1 **SEC. 60503. USE OF LOW-CARBON MATERIALS.**

2 (a) APPROPRIATION.—In addition to amounts other-  
3 wise available, there is appropriated for fiscal year 2022,  
4 out of any money in the Treasury not otherwise appro-  
5 priated, \$2,150,000,000, to remain available until Sep-  
6 tember 30, 2026, to be deposited in the Federal Buildings  
7 Fund established under section 592 of title 40, United  
8 States Code, to acquire and install materials and products  
9 for use in the construction or alteration of buildings under  
10 the jurisdiction, custody, and control of the General Serv-  
11 ices Administration that have substantially lower levels of  
12 embodied greenhouse gas emissions associated with all rel-  
13 evant stages of production, use, and disposal as compared  
14 to estimated industry averages of similar materials or  
15 products, as determined by the Administrator of the Envi-  
16 ronmental Protection Agency.

17 (b) DEFINITION OF GREENHOUSE GAS.—In this sec-  
18 tion, the term “greenhouse gas” means the air pollutants  
19 carbon dioxide, hydrofluorocarbons, methane, nitrous  
20 oxide, perfluorocarbons, and sulfur hexafluoride.

21 **SEC. 60504. GENERAL SERVICES ADMINISTRATION EMERG-**  
22 **ING TECHNOLOGIES.**

23 In addition to amounts otherwise available, there is  
24 appropriated to the Administrator of General Services for  
25 fiscal year 2022, out of any money in the Treasury not  
26 otherwise appropriated, \$975,000,000, to remain available

1 until September 30, 2026, to be deposited in the Federal  
2 Buildings Fund established under section 592 of title 40,  
3 United States Code, for emerging and sustainable tech-  
4 nologies, and related sustainability and environmental pro-  
5 grams.

6 **SEC. 60505. ENVIRONMENTAL REVIEW IMPLEMENTATION**  
7 **FUNDS.**

8 (a) IN GENERAL.—Chapter 1 of title 23, United  
9 States Code, is further amended by adding at the end the  
10 following:

11 **“§ 178. Environmental review implementation funds**

12 “(a) ESTABLISHMENT.—In addition to amounts oth-  
13 erwise available, for fiscal year 2022, there is appropriated  
14 to the Administrator, out of any money in the Treasury  
15 not otherwise appropriated, \$100,000,000, to remain  
16 available until September 30, 2026, for the purpose of fa-  
17 cilitating the development and review of documents for the  
18 environmental review process for proposed projects  
19 through—

20 “(1) the provision of guidance, technical assist-  
21 ance, templates, training, or tools to facilitate an ef-  
22 ficient and effective environmental review process for  
23 surface transportation projects and any administra-  
24 tive expenses of the Federal Highway Administra-



1       tion to conduct activities described in this section;  
2       and

3               “(2) providing funds made available under this  
4       subsection to eligible entities—

5               “(A) to build capacity of such eligible enti-  
6       ties to conduct environmental review processes;

7               “(B) to facilitate the environmental review  
8       process for proposed projects by—

9               “(i) defining the scope or study areas;

10              “(ii) identifying impacts, mitigation  
11       measures, and reasonable alternatives;

12              “(iii) preparing planning and environ-  
13       mental studies and other documents prior  
14       to and during the environmental review  
15       process, for potential use in the environ-  
16       mental review process in accordance with  
17       applicable statutes and regulations;

18              “(iv) conducting public engagement  
19       activities; and

20              “(v) carrying out permitting or other  
21       activities, as the Administrator determines  
22       to be appropriate, to support the timely  
23       completion of an environmental review  
24       process required for a proposed project;  
25       and

1           “(C) for administrative expenses of the eli-  
2           gible entity to conduct any of the activities de-  
3           scribed in subparagraphs (A) and (B).

4           “(b) COST SHARE.—

5           “(1) IN GENERAL.—The Federal share of the  
6           cost of an activity carried out under this section by  
7           an eligible entity shall be not more than 80 percent.

8           “(2) SOURCE OF FUNDS.—The non-Federal  
9           share of the cost of an activity carried out under  
10          this section by an eligible entity may be satisfied  
11          using funds made available to the eligible entity  
12          under any other Federal, State, or local grant pro-  
13          gram.

14          “(c) DEFINITIONS.—In this section:

15          “(1) ADMINISTRATOR.—The term ‘Adminis-  
16          trator’ means the Administrator of the Federal  
17          Highway Administration.

18          “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
19          tity’ means—

20                  “(A) a State;

21                  “(B) a unit of local government;

22                  “(C) a political subdivision of a State;

23                  “(D) a territory of the United States;

24                  “(E) an entity described in section  
25                  207(m)(1)(E);

1                   “(F) a recipient of funds under section  
2                   203; or

3                   “(G) a metropolitan planning organization  
4                   (as defined in section 134(b)(2)).

5                   “(3) ENVIRONMENTAL REVIEW PROCESS.—The  
6                   term ‘environmental review process’ has the meaning  
7                   given the term in section 139(a)(5).

8                   “(4) PROPOSED PROJECT.—The term ‘proposed  
9                   project’ means a surface transportation project for  
10                  which an environmental review process is required.”.

11                  (b) CLERICAL AMENDMENT.—The analysis for chap-  
12                  ter 1 of title 23, United States Code, is further amended  
13                  by adding at the end the following:

                  “178. Environmental review implementation funds.”.

14   **SEC. 60506. LOW-CARBON TRANSPORTATION MATERIALS**  
15                   **GRANTS.**

16                  (a) IN GENERAL.—Chapter 1 of title 23, United  
17                  States Code, is further amended by adding at the end the  
18                  following:

19   **“§ 179. Low-carbon transportation materials grants**

20                  “(a) FEDERAL HIGHWAY ADMINISTRATION APPRO-  
21                  PRIATION.—In addition to amounts otherwise available,  
22                  there is appropriated for fiscal year 2022, out of any  
23                  money in the Treasury not otherwise appropriated,  
24                  \$2,000,000,000, to remain available until September 30,  
25                  2026, to the Administrator to reimburse or provide incen-

1 tives to eligible recipients for the use, in projects, of con-  
2 struction materials and products that have substantially  
3 lower levels of embodied greenhouse gas emissions associ-  
4 ated with all relevant stages of production, use, and dis-  
5 posal as compared to estimated industry averages of simi-  
6 lar materials or products, as determined by the Adminis-  
7 trator of the Environmental Protection Agency, and for  
8 the operations and administration of the Federal Highway  
9 Administration to carry out this section.

10 “(b) REIMBURSEMENT OF INCREMENTAL COSTS; IN-  
11 CENTIVES.—

12 “(1) IN GENERAL.—The Administrator shall,  
13 subject to the availability of funds, either reimburse  
14 or provide incentives to eligible recipients that use  
15 low-embodied carbon construction materials and  
16 products on a project funded under this title.

17 “(2) REIMBURSEMENT AND INCENTIVE  
18 AMOUNTS.—

19 “(A) INCREMENTAL AMOUNT.—The  
20 amount of reimbursement under paragraph (1)  
21 shall be equal to the incrementally higher cost  
22 of using such materials relative to the cost of  
23 using traditional materials, as determined by  
24 the eligible recipient and verified by the Admin-  
25 istrator.

1           “(B) INCENTIVE AMOUNT.—The amount  
2           of an incentive under paragraph (1) shall be  
3           equal to 2 percent of the cost of using low-em-  
4           bodied carbon construction materials and prod-  
5           ucts on a project funded under this title.

6           “(3) FEDERAL SHARE.—If a reimbursement or  
7           incentive is provided under paragraph (1), the total  
8           Federal share payable for the project for which the  
9           reimbursement or incentive is provided shall be up  
10          to 100 percent.

11          “(4) LIMITATIONS.—

12           “(A) IN GENERAL.—The Administrator  
13           shall only provide a reimbursement or incentive  
14           under paragraph (1) for a project on a—

15                   “(i) Federal-aid highway;

16                   “(ii) tribal transportation facility;

17                   “(iii) Federal lands transportation fa-  
18                   cility; or

19                   “(iv) Federal lands access transpor-  
20                   tation facility.

21           “(B) OTHER RESTRICTIONS.—Amounts  
22           made available under this section shall not be  
23           subject to any restriction or limitation on the  
24           total amount of funds available for implementa-

1           tion or execution of programs authorized for  
2           Federal-aid highways.

3           “(C) SINGLE OCCUPANT PASSENGER VEHI-  
4           CLES.—Funds made available under this sec-  
5           tion shall not be used for projects that result in  
6           additional through travel lanes for single occu-  
7           pant passenger vehicles.

8           “(5) MATERIALS IDENTIFICATION.—The Ad-  
9           ministrators shall review the low-embodied carbon  
10          construction materials and products identified by the  
11          Administrator of the Environmental Protection  
12          Agency and shall identify low-embodied carbon con-  
13          struction materials and products—

14                 “(A) appropriate for use in projects eligible  
15                 under this title; and

16                 “(B) eligible for reimbursement or incen-  
17                 tives under this section.

18          “(c) DEFINITIONS.—In this section:

19                 “(1) ADMINISTRATOR.—The term ‘Adminis-  
20                 trator’ means the Administrator of the Federal  
21                 Highway Administration.

22                 “(2) ELIGIBLE RECIPIENT.—The term ‘eligible  
23                 recipient’ means—

24                         “(A) a State;

25                         “(B) a unit of local government;

1 “(C) a political subdivision of a State;

2 “(D) a territory of the United States;

3 “(E) an entity described in section  
4 207(m)(1)(E);

5 “(F) a recipient of funds under section  
6 203;

7 “(G) a metropolitan planning organization  
8 (as defined in section 134(b)(2)); or

9 “(H) a special purpose district or public  
10 authority with a transportation function.

11 “(3) GREENHOUSE GAS.—The term ‘greenhouse  
12 gas’ means the air pollutants carbon dioxide,  
13 hydrofluorocarbons, methane, nitrous oxide,  
14 perfluorocarbons, and sulfur hexafluoride.”.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-  
16 ter 1 of title 23, United States Code, is further amended  
17 by adding at the end the following:

“179. Low-carbon transportation materials grants.”.

18 **TITLE VII—COMMITTEE ON**  
19 **HOMELAND SECURITY AND**  
20 **GOVERNMENTAL AFFAIRS**

21 **SEC. 70001. DHS OFFICE OF CHIEF READINESS SUPPORT**  
22 **OFFICER.**

23 In addition to the amounts otherwise available, there  
24 is appropriated to the Secretary of Homeland Security for  
25 fiscal year 2022, out of any money in the Treasury not

1 otherwise appropriated, \$500,000,000, to remain available  
2 until September 30, 2028, for the Office of the Chief  
3 Readiness Support Officer to carry out sustainability and  
4 environmental programs.

5 **SEC. 70002. UNITED STATES POSTAL SERVICE CLEAN**  
6 **FLEETS.**

7 In addition to amounts otherwise available, there is  
8 appropriated to the United States Postal Service for fiscal  
9 year 2022, out of any money in the Treasury not otherwise  
10 appropriated, the following amounts, to be deposited into  
11 the Postal Service Fund established under section 2003  
12 of title 39, United States Code:

13 (1) \$1,290,000,000, to remain available  
14 through September 30, 2031, for the purchase of  
15 zero-emission delivery vehicles.

16 (2) \$1,710,000,000, to remain available  
17 through September 30, 2031, for the purchase, de-  
18 sign, and installation of the requisite infrastructure  
19 to support zero-emission delivery vehicles at facilities  
20 that the United States Postal Service owns or leases  
21 from non-Federal entities.

22 **SEC. 70003. UNITED STATES POSTAL SERVICE OFFICE OF**  
23 **INSPECTOR GENERAL.**

24 In addition to amounts otherwise available, there is  
25 appropriated to the Office of Inspector General of the



1 United States Postal Service for fiscal year 2022, out of  
2 any money in the Treasury not otherwise appropriated,  
3 \$15,000,000, to remain available through September 30,  
4 2031, to support oversight of United States Postal Service  
5 activities implemented pursuant to this Act.

6 **SEC. 70004. GOVERNMENT ACCOUNTABILITY OFFICE OVER-**  
7 **SIGHT.**

8 In addition to amounts otherwise available, there is  
9 appropriated to the Comptroller General of the United  
10 States for fiscal year 2022, out of any money in the Treas-  
11 ury not otherwise appropriated, \$25,000,000, to remain  
12 available until September 30, 2031, for necessary expenses  
13 of the Government Accountability Office to support the  
14 oversight of—

15 (1) the distribution and use of funds appro-  
16 priated under this Act; and

17 (2) whether the economic, social, and environ-  
18 mental impacts of the funds described in paragraph

19 (1) are equitable.

20 **SEC. 70005. OFFICE OF MANAGEMENT AND BUDGET OVER-**  
21 **SIGHT.**

22 In addition to amounts otherwise available, there are  
23 appropriated to the Director of the Office of Management  
24 and Budget for fiscal year 2022, out of any money in the  
25 Treasury not otherwise appropriated, \$25,000,000, to re-

1 main available until September 30, 2026, for necessary ex-  
2 penses to—

3 (1) oversee the implementation of this Act; and

4 (2) track labor, equity, and environmental  
5 standards and performance.

6 **SEC. 70006. FEMA BUILDING MATERIALS PROGRAM.**

7 Through September 30, 2026, the Administrator of  
8 the Federal Emergency Management Agency may provide  
9 financial assistance under sections 203(h), 404(a), and  
10 406(b) of the Robert T. Stafford Disaster Relief and  
11 Emergency Assistance Act (42 U.S.C. 5133(h), 42 U.S.C.  
12 5170c(a), 42 U.S.C. 5172(b)) for—

13 (1) costs associated with low-carbon materials;  
14 and

15 (2) incentives that encourage low-carbon and  
16 net-zero energy projects.

17 **SEC. 70007. FEDERAL PERMITTING IMPROVEMENT STEER-**  
18 **ING COUNCIL ENVIRONMENTAL REVIEW IM-**  
19 **PROVEMENT FUND MANDATORY FUNDING.**

20 In addition to amounts otherwise available, there is  
21 appropriated to the Federal Permitting Improvement  
22 Steering Council Environmental Review Improvement  
23 Fund, out of any money in the Treasury not otherwise  
24 appropriated, \$350,000,000 for fiscal year 2023, to re-  
25 main available through September 30, 2031.

1           **TITLE VIII—COMMITTEE ON**  
2                           **INDIAN AFFAIRS**

3   **SEC. 80001. TRIBAL CLIMATE RESILIENCE.**

4           (a) **TRIBAL CLIMATE RESILIENCE AND ADAPTA-**  
5 **TION.**—In addition to amounts otherwise available, there  
6 is appropriated to the Director of the Bureau of Indian  
7 Affairs for fiscal year 2022, out of any money in the  
8 Treasury not otherwise appropriated, \$220,000,000, to re-  
9 main available until September 30, 2031, for Tribal cli-  
10 mate resilience and adaptation programs.

11          (b) **BUREAU OF INDIAN AFFAIRS FISH HATCH-**  
12 **ERIES.**—In addition to amounts otherwise available, there  
13 is appropriated to the Director of the Bureau of Indian  
14 Affairs for fiscal year 2022, out of any money in the  
15 Treasury not otherwise appropriated, \$10,000,000, to re-  
16 main available until September 30, 2031, for fish hatchery  
17 operations and maintenance programs of the Bureau of  
18 Indian Affairs.

19          (c) **ADMINISTRATION.**—In addition to amounts other-  
20 wise available, there is appropriated to the Director of the  
21 Bureau of Indian Affairs for fiscal year 2022, out of any  
22 money in the Treasury not otherwise appropriated,  
23 \$5,000,000, to remain available until September 30, 2031,  
24 for the administrative costs of carrying out this section.

1 (d) COST-SHARING AND MATCHING REQUIRE-  
2 MENTS.—None of the funds provided by this section shall  
3 be subject to cost-sharing or matching requirements.

4 (e) SMALL AND NEEDY PROGRAM.—Amounts made  
5 available under this section shall be excluded from the cal-  
6 culation of funds received by those Tribal governments  
7 that participate in the “Small and Needy” program.

8 (f) DISTRIBUTION; USE OF FUNDS.—Amounts made  
9 available under this section that are distributed to Indian  
10 Tribes and Tribal organizations for services pursuant to  
11 a self-determination contract (as defined in subsection (j)  
12 of section 4 of the Indian Self-Determination and Edu-  
13 cation Assistance Act (25 U.S.C. 5304(j))) or a self-gov-  
14 ernance compact entered into pursuant to subsection (a)  
15 of section 404 of the Indian Self-Determination and Edu-  
16 cation Assistance Act (25 U.S.C. 5364(a))—

17 (1) shall be distributed on a 1-time basis;

18 (2) shall not be part of the amount required by  
19 subsections (a) through (b) of section 106 of the In-  
20 dian Self-Determination and Education Assistance  
21 Act (25 U.S.C. 5325(a)–(b)); and

22 (3) shall only be used for the purposes identi-  
23 fied under the applicable subsection.

1 **SEC. 80002. NATIVE HAWAIIAN CLIMATE RESILIENCE.**

2 (a) NATIVE HAWAIIAN CLIMATE RESILIENCE AND  
3 ADAPTATION.—In addition to amounts otherwise avail-  
4 able, there is appropriated to the Senior Program Director  
5 of the Office of Native Hawaiian Relations for fiscal year  
6 2022, out of any money in the Treasury not otherwise ap-  
7 propriated, \$23,500,000, to remain available until Sep-  
8 tember 30, 2031, to carry out, through financial assist-  
9 ance, technical assistance, direct expenditure, grants, con-  
10 tracts, or cooperative agreements, climate resilience and  
11 adaptation activities that serve the Native Hawaiian Com-  
12 munity.

13 (b) ADMINISTRATION.—In addition to amounts oth-  
14 erwise available, there is appropriated to the Senior Pro-  
15 gram Director of the Office of Native Hawaiian Relations  
16 for fiscal year 2022, out of any money in the Treasury  
17 not otherwise appropriated, \$1,500,000, to remain avail-  
18 able until September 30, 2031, for the administrative  
19 costs of carrying out this section.

20 (c) COST-SHARING AND MATCHING REQUIRE-  
21 MENTS.—None of the funds provided by this section shall  
22 be subject to cost-sharing or matching requirements.

23 **SEC. 80003. TRIBAL ELECTRIFICATION PROGRAM.**

24 (a) TRIBAL ELECTRIFICATION PROGRAM.—In addi-  
25 tion to amounts otherwise available, there is appropriated  
26 to the Director of the Bureau of Indian Affairs for fiscal

1 year 2022, out of any money in the Treasury not otherwise  
2 appropriated, \$145,500,000, to remain available until  
3 September 30, 2031, for—

4 (1) the provision of electricity to unelectrified  
5 Tribal homes through zero-emissions energy sys-  
6 tems;

7 (2) transitioning electrified Tribal homes to  
8 zero-emissions energy systems; and

9 (3) associated home repairs and retrofitting  
10 necessary to install the zero-emissions energy sys-  
11 tems authorized under paragraphs (1) and (2).

12 (b) ADMINISTRATION.—In addition to amounts oth-  
13 erwise available, there is appropriated to the Director of  
14 the Bureau of Indian Affairs for fiscal year 2022, out of  
15 any money in the Treasury not otherwise appropriated,  
16 \$4,500,000, to remain available until September 30, 2031,  
17 for the administrative costs of carrying out this section.

18 (c) COST-SHARING AND MATCHING REQUIRE-  
19 MENTS.—None of the funds provided by this section shall  
20 be subject to cost-sharing or matching requirements.

21 (d) SMALL AND NEEDY PROGRAM.—Amounts made  
22 available under this section shall be excluded from the cal-  
23 culation of funds received by those Tribal governments  
24 that participate in the “Small and Needy” program.

1 (e) DISTRIBUTION; USE OF FUNDS.—Amounts made  
2 available under this section that are distributed to Indian  
3 Tribes and Tribal organizations for services pursuant to  
4 a self-determination contract (as defined in subsection (j)  
5 of section 4 of the Indian Self-Determination and Edu-  
6 cation Assistance Act (25 U.S.C. 5304(j))) or a self-gov-  
7 ernance compact entered into pursuant to subsection (a)  
8 of section 404 of the Indian Self-Determination and Edu-  
9 cation Assistance Act (25 U.S.C. 5364(a))—

10 (1) shall be distributed on a 1-time basis;

11 (2) shall not be part of the amount required by  
12 subsections (a) through (b) of section 106 of the In-  
13 dian Self-Determination and Education Assistance  
14 Act (25 U.S.C. 5325(a)–(b)); and

15 (3) shall only be used for the purposes identi-  
16 fied under the applicable subsection.

17 **SEC. 80004. EMERGENCY DROUGHT RELIEF FOR TRIBES.**

18 (a) EMERGENCY DROUGHT RELIEF FOR TRIBES.—  
19 In addition to amounts otherwise available, there is appro-  
20 priated to the Commissioner of the Bureau of Reclamation  
21 for fiscal year 2022, out of any money in the Treasury  
22 not otherwise appropriated, \$12,500,000, to remain avail-  
23 able until September 30, 2026, for near-term drought re-  
24 lief actions to mitigate drought impacts for Indian Tribes  
25 that are impacted by the operation of a Bureau of Rec-

1 lamation water project, including through direct financial  
 2 assistance to address drinking water shortages and to  
 3 mitigate the loss of Tribal trust resources.

4 (b) COST-SHARING AND MATCHING REQUIRE-  
 5 MENTS.—None of the funds provided by this section shall  
 6 be subject to cost-sharing or matching requirements.

7 **TITLE IX—COMMITTEE ON**  
 8 **HEALTH, EDUCATION, LABOR,**  
 9 **AND PENSIONS**

10 **SEC. 90001. REQUIREMENTS WITH RESPECT TO COST-SHAR-**  
 11 **ING FOR INSULIN PRODUCTS.**

12 (a) IN GENERAL.—Part D of title XXVII of the Pub-  
 13 lic Health Service Act (42 U.S.C. 300gg–111 et seq.) is  
 14 amended by adding at the end the following:

15 **“SEC. 2799A–11. REQUIREMENTS WITH RESPECT TO COST-**  
 16 **SHARING FOR CERTAIN INSULIN PRODUCTS.**

17 “(a) IN GENERAL.—For plan years beginning on or  
 18 after January 1, 2023, a group health plan or health in-  
 19 surance issuer offering group or individual health insur-  
 20 ance coverage shall provide coverage of selected insulin  
 21 products, and with respect to such products, shall not—

22 “(1) apply any deductible; or

23 “(2) impose any cost-sharing in excess of, per  
 24 30-day supply—



1           “(A) for any applicable plan year begin-  
2           ning before January 1, 2024, \$35; or

3           “(B) for any plan year beginning on or  
4           after January 1, 2024, the lesser of—

5                   “(i) \$35; or

6                   “(ii) the amount equal to 25 percent  
7                   of the negotiated price of the selected insu-  
8                   lin product net of all price concessions re-  
9                   ceived by or on behalf of the plan or cov-  
10                  erage, including price concessions received  
11                  by or on behalf of third-party entities pro-  
12                  viding services to the plan or coverage,  
13                  such as pharmacy benefit management  
14                  services.

15           “(b) DEFINITIONS.—In this section:

16                   “(1) SELECTED INSULIN PRODUCTS.—The term  
17                   ‘selected insulin products’ means at least one of each  
18                   dosage form (such as vial, pump, or inhaler dosage  
19                   forms) of each different type (such as rapid-acting,  
20                   short-acting, intermediate-acting, long-acting, ultra  
21                   long-acting, and premixed) of insulin (as defined  
22                   below), when available, as selected by the group  
23                   health plan or health insurance issuer.

24                   “(2) INSULIN DEFINED.—The term ‘insulin’  
25                   means insulin that is licensed under subsection (a)

1 or (k) of section 351 and continues to be marketed  
2 under such section, including any insulin product  
3 that has been deemed to be licensed under section  
4 351(a) pursuant to section 7002(e)(4) of the Bio-  
5 logics Price Competition and Innovation Act of 2009  
6 and continues to be marketed pursuant to such li-  
7 censure.

8 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in  
9 this section requires a plan or issuer that has a network  
10 of providers to provide benefits for selected insulin prod-  
11 ucts described in this section that are delivered by an out-  
12 of-network provider, or precludes a plan or issuer that has  
13 a network of providers from imposing higher cost-sharing  
14 than the levels specified in subsection (a) for selected insu-  
15 lin products described in this section that are delivered  
16 by an out-of-network provider.

17 “(d) RULE OF CONSTRUCTION.—Subsection (a) shall  
18 not be construed to require coverage of, or prevent a group  
19 health plan or health insurance coverage from imposing  
20 cost-sharing other than the levels specified in subsection  
21 (a) on, insulin products that are not selected insulin prod-  
22 ucts, to the extent that such coverage is not otherwise re-  
23 quired and such cost-sharing is otherwise permitted under  
24 Federal and applicable State law.

1       “(e) APPLICATION OF COST-SHARING TOWARDS  
2 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any  
3 cost-sharing payments made pursuant to subsection (a)(2)  
4 shall be counted toward any deductible or out-of-pocket  
5 maximum that applies under the plan or coverage.”.

6       (b) NO EFFECT ON OTHER COST-SHARING.—Section  
7 1302(d)(2) of the Patient Protection and Affordable Care  
8 Act (42 U.S.C. 18022(d)(2)) is amended by adding at the  
9 end the following new subparagraph:

10               “(D) SPECIAL RULE RELATING TO INSU-  
11 LIN COVERAGE.—For plan years beginning on  
12 or after January 1, 2024, the exemption of cov-  
13 erage of selected insulin products (as defined in  
14 section 2799A–11(b) of the Public Health Serv-  
15 ice Act) from the application of any deductible  
16 pursuant to section 2799A–11(a)(1) of such  
17 Act, section 726(a)(1) of the Employee Retire-  
18 ment Income Security Act of 1974, or section  
19 9826(a)(1) of the Internal Revenue Code of  
20 1986 shall not be considered when determining  
21 the actuarial value of a qualified health plan  
22 under this subsection.”.

23       (c) COVERAGE OF CERTAIN INSULIN PRODUCTS  
24 UNDER CATASTROPHIC PLANS.—Section 1302(e) of the

1 Patient Protection and Affordable Care Act (42 U.S.C.  
2 18022(e)) is amended by adding at the end the following:

3 “(4) COVERAGE OF CERTAIN INSULIN PROD-  
4 UCTS.—

5 “(A) IN GENERAL.—Notwithstanding para-  
6 graph (1)(B)(i), a health plan described in  
7 paragraph (1) shall provide coverage of selected  
8 insulin products, in accordance with section  
9 2799A–11 of the Public Health Service Act, for  
10 a plan year before an enrolled individual has in-  
11 curred cost-sharing expenses in an amount  
12 equal to the annual limitation in effect under  
13 subsection (c)(1) for the plan year.

14 “(B) TERMINOLOGY.—For purposes of  
15 subparagraph (A)—

16 “(i) the term ‘selected insulin prod-  
17 ucts’ has the meaning given such term in  
18 section 2799A–11(b) of the Public Health  
19 Service Act; and

20 “(ii) the requirements of section  
21 2799A–11 of such Act shall be applied by  
22 deeming each reference in such section to  
23 ‘individual health insurance coverage’ to be  
24 a reference to a plan described in para-  
25 graph (1).”.

1 (d) ERISA.—

2 (1) IN GENERAL.—Subpart B of part 7 of sub-  
3 title B of title I of the Employee Retirement Income  
4 Security Act of 1974 (29 U.S.C. 1185 et seq.) is  
5 amended by adding at the end the following:

6 **“SEC. 726. REQUIREMENTS WITH RESPECT TO COST-SHAR-**  
7 **ING FOR CERTAIN INSULIN PRODUCTS.**

8 “(a) IN GENERAL.—For plan years beginning on or  
9 after January 1, 2023, a group health plan or health in-  
10 surance issuer offering group health insurance coverage  
11 shall provide coverage of selected insulin products, and  
12 with respect to such products, shall not—

13 “(1) apply any deductible; or

14 “(2) impose any cost-sharing in excess of, per  
15 30-day supply—

16 “(A) for any applicable plan year begin-  
17 ning before January 1, 2024, \$35; or

18 “(B) for any plan year beginning on or  
19 after January 1, 2024, the lesser of—

20 “(i) \$35; or

21 “(ii) the amount equal to 25 percent  
22 of the negotiated price of the selected insu-  
23 lin product net of all price concessions re-  
24 ceived by or on behalf of the plan or cov-  
25 erage, including price concessions received

1 by or on behalf of third-party entities pro-  
2 viding services to the plan or coverage,  
3 such as pharmacy benefit management  
4 services.

5 “(b) DEFINITIONS.—In this section:

6 “(1) SELECTED INSULIN PRODUCTS.—The term  
7 ‘selected insulin products’ means at least one of each  
8 dosage form (such as vial, pump, or inhaler dosage  
9 forms) of each different type (such as rapid-acting,  
10 short-acting, intermediate-acting, long-acting, ultra  
11 long-acting, and premixed) of insulin (as defined  
12 below), when available, as selected by the group  
13 health plan or health insurance issuer.

14 “(2) INSULIN DEFINED.—The term ‘insulin’  
15 means insulin that is licensed under subsection (a)  
16 or (k) of section 351 of the Public Health Service  
17 Act (42 U.S.C. 262) and continues to be marketed  
18 under such section, including any insulin product  
19 that has been deemed to be licensed under section  
20 351(a) of such Act pursuant to section 7002(e)(4)  
21 of the Biologics Price Competition and Innovation  
22 Act of 2009 (Public Law 111–148) and continues to  
23 be marketed pursuant to such licensure.

24 “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in  
25 this section requires a plan or issuer that has a network

1 of providers to provide benefits for selected insulin prod-  
2 ucts described in this section that are delivered by an out-  
3 of-network provider, or precludes a plan or issuer that has  
4 a network of providers from imposing higher cost-sharing  
5 than the levels specified in subsection (a) for selected insu-  
6 lin products described in this section that are delivered  
7 by an out-of-network provider.

8 “(d) RULE OF CONSTRUCTION.—Subsection (a) shall  
9 not be construed to require coverage of, or prevent a group  
10 health plan or health insurance coverage from imposing  
11 cost-sharing other than the levels specified in subsection  
12 (a) on, insulin products that are not selected insulin prod-  
13 ucts, to the extent that such coverage is not otherwise re-  
14 quired and such cost-sharing is otherwise permitted under  
15 Federal and applicable State law.

16 “(e) APPLICATION OF COST-SHARING TOWARDS  
17 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any  
18 cost-sharing payments made pursuant to subsection (a)(2)  
19 shall be counted toward any deductible or out-of-pocket  
20 maximum that applies under the plan or coverage.”.

21 (2) CLERICAL AMENDMENT.—The table of con-  
22 tents in section 1 of the Employee Retirement In-  
23 come Security Act of 1974 (29 U.S.C. 1001 et seq.)  
24 is amended by inserting after the item relating to  
25 section 725 the following:

“Sec. 726. Requirements with respect to cost-sharing for certain insulin products.”.

1 (e) INTERNAL REVENUE CODE.—

2 (1) IN GENERAL.—Subchapter B of chapter  
3 100 of the Internal Revenue Code of 1986 is amend-  
4 ed by adding at the end the following new section:

5 **“SEC. 9826. REQUIREMENTS WITH RESPECT TO COST-SHAR-**  
6 **ING FOR CERTAIN INSULIN PRODUCTS.**

7 “(a) IN GENERAL.—For plan years beginning on or  
8 after January 1, 2023, a group health plan shall provide  
9 coverage of selected insulin products, and with respect to  
10 such products, shall not—

11 “(1) apply any deductible; or

12 “(2) impose any cost-sharing in excess of, per  
13 30-day supply—

14 “(A) for any applicable plan year begin-  
15 ning before January 1, 2024, \$35; or

16 “(B) for any plan year beginning on or  
17 after January 1, 2024, the lesser of—

18 “(i) \$35; or

19 “(ii) the amount equal to 25 percent  
20 of the negotiated price of the selected insu-  
21 lin product net of all price concessions re-  
22 ceived by or on behalf of the plan, includ-  
23 ing price concessions received by or on be-  
24 half of third-party entities providing serv-



1                   ices to the plan, such as pharmacy benefit  
2                   management services.

3           “(b) DEFINITIONS.—In this section:

4                   “(1) SELECTED INSULIN PRODUCTS.—The term  
5           ‘selected insulin products’ means at least one of each  
6           dosage form (such as vial, pump, or inhaler dosage  
7           forms) of each different type (such as rapid-acting,  
8           short-acting, intermediate-acting, long-acting, ultra  
9           long-acting, and premixed) of insulin (as defined  
10          below), when available, as selected by the group  
11          health plan.

12                  “(2) INSULIN DEFINED.—The term ‘insulin’  
13          means insulin that is licensed under subsection (a)  
14          or (k) of section 351 of the Public Health Service  
15          Act (42 U.S.C. 262) and continues to be marketed  
16          under such section, including any insulin product  
17          that has been deemed to be licensed under section  
18          351(a) of such Act pursuant to section 7002(e)(4)  
19          of the Biologics Price Competition and Innovation  
20          Act of 2009 (Public Law 111–148) and continues to  
21          be marketed pursuant to such licensure.

22                  “(c) OUT-OF-NETWORK PROVIDERS.—Nothing in  
23          this section requires a plan that has a network of providers  
24          to provide benefits for selected insulin products described  
25          in this section that are delivered by an out-of-network pro-

1 vider, or precludes a plan that has a network of providers  
2 from imposing higher cost-sharing than the levels specified  
3 in subsection (a) for selected insulin products described  
4 in this section that are delivered by an out-of-network pro-  
5 vider.

6 “(d) RULE OF CONSTRUCTION.—Subsection (a) shall  
7 not be construed to require coverage of, or prevent a group  
8 health plan from imposing cost-sharing other than the lev-  
9 els specified in subsection (a) on, insulin products that are  
10 not selected insulin products, to the extent that such cov-  
11 erage is not otherwise required and such cost-sharing is  
12 otherwise permitted under Federal and applicable State  
13 law.

14 “(e) APPLICATION OF COST-SHARING TOWARDS  
15 DEDUCTIBLES AND OUT-OF-POCKET MAXIMUMS.—Any  
16 cost-sharing payments made pursuant to subsection (a)(2)  
17 shall be counted toward any deductible or out-of-pocket  
18 maximum that applies under the plan.”.

19 (2) CLERICAL AMENDMENT.—The table of sec-  
20 tions for subchapter B of chapter 100 of such Code  
21 is amended by adding at the end the following new  
22 item:

“Sec. 9826. Requirements with respect to cost-sharing for certain insulin prod-  
ucts.”.

23 (f) IMPLEMENTATION.—The Secretary of Health and  
24 Human Services, the Secretary of Labor, and the Sec-

1 retary of the Treasury shall implement the provisions of  
2 this section, including the amendments made by this sec-  
3 tion, through subregulatory guidance or program instruc-  
4 tion.