

taxpayer certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that the facility is composed of steel, iron, or manufactured products which were produced in the United States. "(ii) Steel and iron.— In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5(b) of title 49, Code of Federal Regulations. "(iii) Manufactured product.— For purposes of clause (i), a manufactured product shall be deemed to have been manufactured in the United States if not less than 55 percent of the total cost of the components of such product is attributable to components which are mined, produced, or manufactured in the United States. "(C) Applicable rate increase.— For purposes of subparagraph (A), the applicable credit rate increase shall be an amount equal to— "(i) in the case of energy project that does not meet the requirements of subclause (I) or (III) of paragraph (8)(B)(ii), 2 percentage points, and "(ii) in the case of energy property that meets the requirements of subclause (I) or (III) of paragraph (8)(B)(ii), 10 percentage points. "(D) International agreements.— This paragraph shall be applied in a manner which is consistent with the obligations of the United States under international agreements. "(12) Penalty for direct pay.— "(A) In general.— In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with— "(i) the value of such credit (determined without regard to this paragraph), multiplied by "(ii) the applicable percentage. "(B) 100 percent applicable percentage for certain energy projects.— In the case of any energy project— "(i) which satisfies the requirements under paragraph (11) with respect to the construction of such project, or "(ii) with a maximum net output of less than 1 megawatt the applicable percentage shall be 100 percent. "(C) Phased domestic content requirement.— Subject to subparagraph (D), in the case of any energy project which is not described in subparagraph (B), the applicable percentage shall be— "(i) if construction of such project began before January 1, 2024, 100 percent, "(ii) if construction of such project began in calendar year 2024, 90 percent, "(iii) if construction of such project began in calendar year 2025, 85 percent, and "(iv) if construction of such project began after December 31, 2025, 0 percent. "(D) Exceptions.— In order to facilitate the use of amounts made available in this section, increase the tax incentives for investment in clean energy, and grow the domestic supply chains, the Secretary shall provide appropriate exceptions to the domestic content requirements for products under subparagraph (C) for the construction of qualified facilities if either the inclusion of domestic products increases the overall costs of projects by more than 25 percent or relevant manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality. "(13) Regulations and guidance.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection. ". (i) Effective dates.— (1) The amendments made by subsections (a), (b), (c), (e), (f), (g), and (h) of this section shall apply to property placed in service after December 31, 2021. (2) The amendment made by subsection (d) shall apply

~~to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply.~~

"(C) RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of paragraph (9), with respect to any project which does not satisfy the requirements under subparagraph (A) (after application of subparagraph (B)) for the period described in clause (ii) of subparagraph (A) (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a).

"(10) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(11) DOMESTIC CONTENT BONUS CREDIT AMOUNT.—

"(A) IN GENERAL.— In the case of any energy project which satisfies the requirement under subparagraph (B), for purposes of applying paragraph (2) with respect to such property, the energy percentage shall be increased by the applicable credit rate increase.

"(B) REQUIREMENT.— Rules similar to the rules of section 45(b)(10)(B) shall apply.

"(C) APPLICABLE CREDIT RATE INCREASE.— For purposes of subparagraph (A), the applicable credit rate increase shall be—

"(i) in the case of an energy project that does not satisfy the requirements of paragraph (8)(B), 2 percentage points, and

"(ii) in the case of an energy project that satisfies the requirements of paragraph (8)(B), 10 percentage points.

"(12) PHASEOUT FOR ELECTIVE PAYMENT.— Rules similar to the rules of section 45(b)(11) shall apply.

"(13) REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection."

(k) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.—

Section 48(a)(4) is amended to read as follows:

"(4) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.— Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section."

(l) TREATMENT OF CERTAIN CONTRACTS INVOLVING ENERGY STORAGE.— Section 7701(e)(3) is amended—

(I) in subparagraph (A)(i), by striking "or" at the end of subclause (II), by striking "and" at the end of subclause (III) and inserting "(I)", and by adding at the end the

following new subclause:

"(IV) the operation of a storage facility, or", and

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

"(F) STORAGE FACILITY.— For purposes of subparagraph (A), the term 'storage facility' means a facility which uses energy storage technology within the meaning of section 48(c)(6)."

(m) INCREASE IN CREDIT RATE FOR ENERGY COMMUNITIES.—

Section 48(a) is amended by adding at the end the following new paragraph:

"(14) INCREASE IN CREDIT RATE FOR ENERGY COMMUNITITES.—

"(A) IN GENERAL.— In the case of any energy project that is placed in service within an energy community, for purposes of applying paragraph (2) with respect to such property, the energy percentage shall be increased by the applicable credit rate increase.

"(B) APPLICABLE CREDIT RATE INCREASE.— For purposes of subparagraph (A), the applicable credit rate increase shall be equal to—

"(i) in the case of any energy project that does not satisfy the requirements of paragraph (8)(B), 2 percentage points, and

"(ii) in the case of any energy project that satisfies the requirements of paragraph (8)(B), 10 percentage points.

"(C) ENERGY COMMUNITY.— For purposes of this paragraph, the term 'energy community' means a census tract—

"(i) in which—

"(I) for the calendar year in which construction of the energy property begins, not less than 5 percent of the employment in such tract is within the oil and gas sector,

"(II) after December 31, 1999, a coal mine has closed, or

"(III) after December 31, 2009, a coal-fired electric generating unit has been retired, or

"(ii) which is immediately adjacent to any census tract described in clause (i)."

(n) CONFORMING AMENDMENT.— Section 48(a)(2)(A) is amended by striking "paragraphs (6) and (7)" and inserting "paragraph (6)".

(o) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), (c), (d), (h), (i), (j), (l), (m), and (n) of this section shall apply to property placed in service after December 31, 2021.

(2) The amendments made by subsections (e), (f), and (g) shall apply to property placed in service after December 31, 2021, and, for any property the construction of which begins prior to January 1, 2022, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 2021.

(3) The amendments made by subsection (k) shall apply to property the construction of which begins after December 31, 2021.

**Sec. 136103. Increase in energy credit for solar facilities placed in service in connection with low-income communities**

(a) IN GENERAL.—

Section 48 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES FOR CERTAIN SOLAR AND WIND FACILITIES PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME COMMUNITIES.—

"(1) IN GENERAL.— In the case of any qualified solar and wind facility with respect to which the Secretary, ~~after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency,~~ makes an allocation of environmental justice solar and wind capacity limitation under paragraph (4)—

~~"(A) equipment described in paragraph (3)(B) shall be treated for purposes of this section as energy property described in subsection (a)(2)(A)(i), "(B) the energy percentage otherwise determined under subsection (a)(2) with respect to any eligible property which is part of such facility shall be increased by—~~

~~"(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii) and not described in subclause (II) of such paragraph, 10 percentage points, and~~

~~"(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii), 20 percentage points, and~~

~~"(G) the increase in the credit determined under subsection (a) by reason of this subsection for any taxable year with respect to all property which is part of such facility shall not exceed the amount which bears the same ratio to the amount of such increase (determined without regard to this subparagraph) as—~~

~~"(i) the environmental justice solar and wind capacity limitation allocated to such facility, bears to~~

~~"(ii) the total megawatt nameplate capacity of such facility, as measured in direct current.~~

"(2) QUALIFIED SOLAR AND WIND FACILITY.— For purposes of this subsection—

"(A) IN GENERAL.— The term 'qualified solar and wind facility' means any facility—

"(i) which generates electricity solely from property described in section 45(d)(1) or in clause (i) or (vi) of subsection (a)(3)(A)(i),

"(ii) which has a nameplate capacity of maximum net output of less than 5 megawatts or less, and

"(iii) which— (i)

"(i) is located in a low-income community (as defined in section 45D(e)) or on Indian land (as defined in section 2601(2) of the Energy

Policy Act of 1992 (25 U.S.C. 3501(2))), or

"(II) is part of a qualified low-income residential building project or a qualified low-income economic benefit project.

"(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.— A facility shall be treated as part of a qualified low-income residential building project if—

"(i) such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a Housing Development Fund Corporation cooperative under Article XI of the New York State Private Housing Finance Law, a housing assistance program administered by the Department of Agriculture under title V of the Housing Act of 1949, a housing program administered by a tribally designated housing entity (as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))), or such other affordable housing programs as the Secretary may provide, and

"(ii) the financial benefits of the electricity produced by such facility are allocated equitably among the occupants of the dwelling units of such building.

"(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.— A facility shall be treated as part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of—

"(i) less than 200 percent of the poverty line applicable to a family of the size involved, or

"(ii) less than 80 percent of area median gross income (as determined under section 142(d)(2)(B)).

"(D) FINANCIAL BENEFIT.— For purposes of subparagraphs (B) and (C), electricity acquired at a below-market rate shall not fail to be taken into account as a financial benefit.

"(3) ELIGIBLE PROPERTY.—~~"(A) IN GENERAL.—~~ For purposes of this section, the term 'eligible property' means—~~"(i) energy property which is described in subsection (a)(3)(A)(i), including energy storage property part of a facility (described in subsection (a)(3)(A)(viii)) installed in connection with such energy property, and "(ii) the amount of any expenditures which are paid or incurred by the taxpayer for qualified interconnection property installed in connection with the installation of property described in subparagraph (A) to provide for the transmission or distribution of the electricity produced or stored by such property, and which are properly chargeable to the capital account of the taxpayer. "(B) Definitions.—~~ For purposes of subparagraph (A)—~~"(i) Qualified interconnection property.—~~ The term 'qualified interconnection property' means, with respect to a qualified facility which is not a microgrid, any ~~transmission or distribution system which is required at or beyond the point at which~~ <sup>(1)</sup> ~~transmission or distribution system which is required at or beyond the point at which~~

~~the qualified facility interconnects to such transmission or distribution system in order to accommodate such interconnection, "(II) either—"(aa) which is constructed, reconstructed, or erected by the taxpayer, or "(bb) for which the cost with respect to the construction, reconstruction, or erection of such property is paid or incurred by such taxpayer, and "(III) the original use of which, pursuant to an interconnection agreement, commences with the utility. "(ii) Interconnection agreement.— The term 'interconnection agreement' means an agreement with a utility for the purposes of interconnecting the qualified facility owned by such taxpayer to the transmission or distribution system of such utility. "(iii) Utility.— The term 'utility' means the owner or operator of an electrical transmission or distribution system which is subject to the regulatory authority of—"(I) the Federal Energy Regulatory Commission, or "(II) a State or political subdivision thereof, any agency or instrumentality of the United States, a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or ratemaking body of an electric cooperative. "(C) Special rule for interconnection property.— In the case of expenses paid or incurred for interconnection property, amounts otherwise chargeable to capital account with respect to such expenses shall be reduced under rules similar to the rules of section 50(c)45(d)(1) or in clause (i) or (vi) of subsection (a)(3)(A), including energy storage property (described in subsection (a)(3)(A)(viii)) installed in connection with such energy property.~~

"(4) ALLOCATIONS.—

"(A) IN GENERAL.— Not later than 48270 days after the date of enactment of this subsection, the Secretary shall establish a program to allocate amounts of environmental justice solar and wind capacity limitation to qualified solar and wind facilities.

"(B) LIMITATION.— The amount of environmental justice solar and wind capacity limitation allocated by the Secretary under subparagraph (A) during any calendar year shall not exceed the annual capacity limitation with respect to such year.

"(C) ANNUAL CAPACITY LIMITATION.— For purposes of this paragraph, the term 'annual capacity limitation' means 1.8 gigawatts of direct current capacity for each of calendar years 2022 through 203426, and zero thereafter.

"(D) CARRYOVER OF UNUSED LIMITATION.— If the annual capacity limitation for any calendar year exceeds the aggregate amount allocated for such year under this paragraph, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 203326 except as provided in section 48F(i)(4)(D)(ii).

"(E) PLACED IN SERVICE DEADLINE.—

"(i) IN GENERAL.— Paragraph (1) shall not apply with respect to any property which is place(d) in service after the date that is 4 years after the date of the allocation with respect to the facility of which such property is a part.

"(ii) APPLICATION OF CARRYOVER.— Any amount of environmental justice solar and wind capacity limitation which expires under clause (i) during any calendar year shall be taken into account as an excess described in subparagraph (D) (or as an increase in such excess) for such calendar year, subject to the limitation imposed by the last sentence of such subparagraph.

"(F) SELECTION CRITERIA.— In determining to which qualified solar and wind facilities to allocate environmental justice solar and wind capacity limitation under this paragraph, the Secretary shall take into consideration which facilities will result in—

"(i) the greatest health and economic benefits, including the ability to withstand extreme weather events, for individuals described in section 45D(e)(2),

"(ii) the greatest employment and wages for such individuals, and

"(iii) the greatest engagement with, outreach to, or ownership by, such individuals, including through partnerships with local governments, Indian tribal governments (as defined in section 139E), and community-based organizations.

"(G) DISCLOSURE OF ALLOCATIONS.— The Secretary shall, upon making an allocation of environmental justice solar and wind capacity limitation under this paragraph, publicly disclose the identity of the applicant, the amount of the environmental justice solar and wind capacity limitation allocated to such applicant, and the location of the facility for which such allocation is made.

"(5) RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of this subsection with respect to any property which ceases to be property eligible for such increase (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture may not apply with respect to any property if, within 12 months after the date the taxpayer becomes aware (or reasonably should have become aware) of such property ceasing to be property eligible for such increase, the eligibility of such property for such increase is restored. The preceding sentence shall not apply more than once with respect to any facility."

(b) EFFECTIVE DATE.— The amendments made by this section shall ~~apply to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)~~ take effect on January 1, 2022.

[NOTE-- DELETED /tXIII/stG/p1/s136104: ~~Sec. 136104. Elective payment for energy property and electricity produced from certain renewable resources, etc~~ (1)]

**Sec. 13561044.** ~~Credit to issuer for certain infrastructure bonds~~ **Elective payment for energy property and electricity produced from certain renewable resources, etc**

(a) IN GENERAL.—

Subchapter B of chapter 65 is amended by inserting before ~~after~~ section 643216 the following new section:

~~"Sec. 6431A. Credit allowed to issuer for qualified infrastructure bonds "(a) In general.— In the case of a qualified infrastructure bond, the issuer of such bond shall be allowed a credit with respect to each interest payment under such bond which shall be payable by the Secretary as provided in subsection (b). "(b) Payme~~ **17. Elective payment of applicable credits**

"(a) IN GENERAL.— In the case of a taxpayer making an election (at such time and in such manner as the Secretary may provide) under this section with respect to any applicable credit determined with respect to such taxpayer, such taxpayer shall be treated as making a payment against the tax imposed by subtitle A (for the taxable year with respect to which such credit was determined) equal to the amount of such credit.—

~~"(4b) In general.— The Secretary shall pay (contemporaneously with each date on which interest is paid, including any interest paid after the originally scheduled payment date) to the issuer of such b~~ **APPLICABLE CREDIT.— The term 'applicable credit' means each of the following:**

"(1) So much of the renewable electricity production credit determined under section 45 as is attributable to qualified facilities which are originally placed in service after December 31, 2021, and with respect to which an election is made under subsection (d) (or, at the direction of the issuer, to any person who makes such interest payments on behalf of such issuer) an amount equal to the applicable percentage of such interest so paid. "(2) Applicable percentage.— For purposes of this subsection, except as provided in subsection (d), the applicable percentage with respect to any bond shall be determined under the following table: "In the case of a bond issued during calendar year: The applicable percentage is: 2022 through 2024 35% 2025 32% 2026 30% 2027 and thereafter 28% c) (3).

"(2) The energy credit determined under section 48.

"(3) So much of the credit for carbon oxide sequestration determined under section 45Q as is attributable to carbon capture equipment which is originally placed in service after December 31, 2021, and with respect to which an election is made under subsection (c) (3).

"(4) The credit for alternative fuel vehicle refueling property allowed under section 30C.

"(5) The qualifying advanced energy project credit determined under section 48C.

"(c) SPECIAL RULES.— For purposes of this section—

~~"(3) Limitation.— "(A) In general.— The amount of any interest payment taken into account under paragraph (1) with respect to a bond for any payment date shall not exceed the amount of interest which would have been payable under such bond~~



~~for such payment date if interest were determined at the applicable credit rate.~~ APPLICATION TO TAX-EXEMPT AND GOVERNMENTAL ENTITIES.— In the case of any organization exempt from the tax imposed by subtitle A, any State or local government (or political subdivision thereof), the Tennessee Valley Authority, or any Indian tribal government (within the meaning of section 139E), which makes the election described in subsection (a), any applicable credit shall be determined—

"(A) without regard to paragraphs (3) and (4)(A)(i) of section 50(b), and

"(B) by treating any property with rate multiplied by the applicable amount for such bond for such payment date respect to which such credit is determined as used in a trade or business of the taxpayer.

~~"(B2) APPLICABLE CREDIT RATE.— FOR PURPOSES OF SUBPARAGRAPH (A) OF SECTION 139E,~~ "(B2) APPLICABLE CREDIT RATE.— FOR PURPOSES OF SUBPARAGRAPH (A) OF SECTION 139E, ~~AND S CORPORATIONS.—~~

~~"(iA) IN GENERAL.— The applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified infrastructure bonds with a specified maturity or redemption date without discount and without additional interest cost to the issuer.~~ "(iA) IN GENERAL.— The applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified infrastructure bonds with a specified maturity or redemption date without discount and without additional interest cost to the issuer. In the case of any applicable credit determined with respect to any facility or property held directly by a partnership or S corporation, if such partnership or S corporation makes an election under this subsection (in such manner as the Secretary may provide) with respect to such credit—

~~"(ii) Date of determination.— The applicable credit rate with respect to any qualified infrastructure bond shall be determined as of the first day on which there is a payment to such partnership or S corporation equal to the amount of such credit.~~ "(ii) Date of determination.— The applicable credit rate with respect to any qualified infrastructure bond shall be determined as of the first day on which there is a payment to such partnership or S corporation equal to the amount of such credit.

~~"(ii) subsection (d) shall be applied with respect to such credit before determining, written contract for the sale or exchange of the bond. "(C) Applicable amount.— "(i) Bonds with more than de minimis original issue discount.— In the case of any bond that has more than a de minimis amount of original issue discount (determined under the rules of section 1273(a)(3)), the applicable amount for a payment date is the issue price of such bond (within the meaning of section 148), as adjusted for any principal payments made prior to such date. "(ii) Other bonds.— In the case of any other bond, any partner's distributive share, or shareholder's pro rata share, of such credit.~~ "(ii) subsection (d) shall be applied with respect to such credit before determining, written contract for the sale or exchange of the bond. "(C) Applicable amount.— "(i) Bonds with more than de minimis original issue discount.— In the case of any bond that has more than a de minimis amount of original issue discount (determined under the rules of section 1273(a)(3)), the applicable amount for a payment date is the issue price of such bond (within the meaning of section 148), as adjusted for any principal payments made prior to such date. "(ii) Other bonds.— In the case of any other bond, any partner's distributive share, or shareholder's pro rata share, of such credit.

~~"(iii) any amount with respect to which the election in subsection (a) is made shall be treated as tax exempt income for purposes of sections 705 and 1366, and~~ "(iii) any amount with respect to which the election in subsection (a) is made shall be treated as tax exempt income for purposes of sections 705 and 1366, and

~~"(iv) a partner's distributive share of such tax exempt income shall be based on such partner's distributive share of the otherwise applicable credit for each taxable year.~~ "(iv) a partner's distributive share of such tax exempt income shall be based on such partner's distributive share of the otherwise applicable credit for each taxable year.

~~"(B) COORDINATION WITH THE APPLICABLE AMOUNT FOR A PAYMENT DATE IS THE OUTSTANDING PRINCIPAL AMOUNT OF SUCH BOND ON SUCH PAYMENT DATE (DETERMINED WITHOUT TAKING INTO ACCOUNT ANY PRINCIPAL PAYMENT ON SUCH~~ "(B) COORDINATION WITH THE APPLICABLE AMOUNT FOR A PAYMENT DATE IS THE OUTSTANDING PRINCIPAL AMOUNT OF SUCH BOND ON SUCH PAYMENT DATE (DETERMINED WITHOUT TAKING INTO ACCOUNT ANY PRINCIPAL PAYMENT ON SUCH

~~SECTION AT PARTNER OR SHAREHOLDER LEVEL.— In the case of any partnership or S corporation, subsection (a) shall be applied at the partner or shareholder level after application of such date paragraph (A)(ii).~~

~~"(e3) Qualified infrastructure bELECTIONS.—~~

~~"(4A) IN GENERAL.— For purposes of Any election under this subsection, the term 'qualified infrastructure bond' means any bond (e shall be made not later than the due date (including extensions of time) for the return of tax for the than a private activity bond) issued as part of an issue if— "(A) 100 percent of the excess of available project proceeds of such issue over the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue are to be used for— axable year for which the election is made, but in no event earlier than 270 days after the date of the enactment of this section. Any such election, once made, shall be irrevocable. Except as otherwise provided in this paragraph, any election under this subsection shall apply with respect to any credit for the taxable year for which the election is made.~~

~~"(iB) capital expenditures or operations and maintenance expenditures in connection with property the acquisition, construction, or improvement of which would be a capital expenditure, or RENEWABLE ELECTRICITY PRODUCTION CREDIT.— In the case of the credit described in subsection (b)(1), any election under this subsection shall—~~

~~"(i) apply separately with respect to each qualified facility,~~

~~"(ii) be made for the taxable year in which such qualified facility is originally placed in service, and~~

~~"(ii) payments made by a State or political subdivision of a State to a custodian of a rail corridor for purposes of the transfer, lease, sale, or acquisition of shall apply to such taxable year and all subsequent taxable years with respect to such qualified facility.~~

~~"(C) CREDIT FOR CARBON OXIDE SEQUESTRATION.— In the case of the credit described in subsection (b)(3), any established railroad right-of-way consistent with section 8(d) of the National Trails Act of 1968, but only if the Surface Transportation Board has issued a certificate of interim trail use or notice of interim trail use for purposes of authorizing such transfer, lease,lection under this subsection shall—~~

~~"(i) apply separately with respect to the carbon capture equipment originally placed in service by the taxpayer during a taxable year, and~~

~~"(ii) shall apply to such taxable year and all subsequent taxable years with respect to such equipment.~~

~~"(4) TIMING.— The payment described in subsection (a) shall, or acquisition, be treated as made on;—~~

~~"(BA) in the interest of such bond would (but case of any government, or political subdivision, described in paragraph (1) and for this section) be excludable from gross income under section 103, "(C) the issue price has not~~

~~more~~ no return is required under section 6011 or 6033(a), the later of the date that a de minimis amount (determined under rules similar to the rules of section 4273(a)(3)) of premium over the stated principal amount of the bond return would be due under section 6033(a) if such government or subdivision were described in that section or the date on which such government or subdivision submits a claim for credit or refund (at such time and in such manner as the Secretary shall provide), and

~~"(D)~~ B) prior to the issuance of such bond, the issuer makes an irrevocable election to have this section apply in any other case, the later of the due date (determined without regard to extensions) of the return of tax for the taxable year or the date on which such return is filed.

~~"(2)~~ 5) Applicable rules.— For purposes of applying paragraph (1)— "(A) Not treated as federally guaranteed.— For purposes of section 149(b), a qualified infrastructure bond shall not be— TREATMENT OF PAYMENTS TO PARTNERSHIPS AND S CORPORATIONS.— For purposes of section 1324 of title 31, United States Code, the payments under paragraph (2)(A)(ii) shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

~~"(6)~~ 6) ADDITIONAL INFORMATION.— As a condition of, and prior to, a payment under this section, the Secretary may require such information or registration as federally guaranteed by reason of the credit allowed the Secretary deems necessary or appropriate for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section.

~~"(B)~~ 7) Application of arbitrage rules.— For purposes of section 148, the yield on a qualified infrastructure bond shall be reduced by the credit allowed under this section, except that no such reduction shall apply in determining the amount of gross proceeds of an issue that qualifies as a reasonably required reserve or replacement fund— EXCESSIVE PAYMENT.—

~~"(A)~~ IN GENERAL.— In the case of a payment made to a taxpayer under this subsection or any amount treated as a payment which is made by the taxpayer under subsection (a) which the Secretary determines constitutes an excessive payment, the tax imposed on such taxpayer by chapter 1 for the taxable year in which such determination is made shall be increased by an amount equal to the sum of—

"(i) the amount of such excessive payment, plus

"(ii) an amount equal to 20 percent of such excessive payment.

~~"(d)~~ B) Definition and special rules.— For purposes— REASONABLE CAUSE.— Subparagraph (A)(ii) shall not apply if the taxpayer demonstrates to the Secretary— "(1) Interest includible in gross income.— For purposes of this title, interest on any qualified infrastructure bond shall be includible in gross income. "(2) Available project proceeds.— The term 'available project proceeds' means— "(A) the excess of— "(i) the proceeds from the sale of an— e satisfaction of the Secretary that the excessive payment resulted from reasonable cause.

"(C) EXCESSIVE PAYMENT DEFINED.— For purposes of this paragraph, the term 'excessive payment' means, with respect to a facility for which an election is made under this section for any taxable year, an amount equal to the excess of—

"(i) the amount of the payment made to the taxpayer under this sub-  
~~section or any amount treated as a~~  
payment which is made by the taxpayer under subsection (a) with respect to such facility for such taxable year, over

"(Bii) the proceeds from any investment of the excess described in subparagraph (A). "(3) Current refundings allowed.—amount of the credit which, without application of this subsection, would be otherwise allowable (determined without regard to section 38(c)) under this section with respect to such facility for such taxable year.

"(Ad) In general.— In the case of a bond issued to refund a qualified infrastructure bond  
~~DENIAL OF DOUBLE BENEFIT.— In the case of a taxpayer making an election under this section with respect to an applicable credit, such refunding bond~~  
~~shall not be treated as a qualified infrastructure bond reduced to zero and shall, for any other purposes of~~  
~~this section unless—~~  
~~"(i) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, "(ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, "(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond, and "(iv) the refunded bond was issued more than 30 days after~~  
title, be deemed to have been allowed to the taxpayer for such taxable year.

"(e) MIRROR CODE POSSESSIONS.— In the case of any possession of the United States with a mirror code tax system (as defined in section 24(k)), this section shall not be treated as part of the income tax laws of the United States for purposes of determining the income tax law of such possession unless such possession elects to have this section be so treated.

"(f) BASIS REDUCTION AND RECAPTURE.— Except as otherwise provided in subsection (c)(1)(A), rules similar to the rules of section 50 shall apply for purposes of this section.

"(g) REGULATIONS.— The Secretary shall issue such regulations or other guidance as may be necessary or appropriate the date of the enactment to carry out the purposes of this section, including—

"(B1) Applicable percentage limitation.— The applicable percentage with respect to any bond to which subparagraph (A) applies shall be 28 percent.  
~~regulations or other guidance providing rules for determining a partner's distributive share of the tax exempt income described in subsection (c)(2)(A)(iii), and~~

"(E2) Determination of average maturity.— For purposes of subparagraph (A)(i), average maturity shall be  
~~guidance to ensure that the amount of the payment or deemed payment made under this section is commensurate with the amount of the~~

~~credit that would be otherwise allowable (determined in accordance with section 147(b)(2)(A) without regard to section 38(c)).~~"(4).

~~(b) APPLICATION OF DAVIS-BACON ACT REQUIREMENTS WITH RESPECT TO QUALIFIED INFRASTRUCTURE BONDS.— SUBCHAPTER IV OF CHAPTER 31 OF TITLE 40, UNITED STATES CODE, SHALL APPLY TO PROJECTS FINANCED WITH THE PROCEEDS OF QUALIFIED INFRASTRUCTURE BONDS. "(E) REGULATIONS.— THE SECRETARY MAY PRESCRIBE SUCH REGULATIONS AND OTHER GUIDANCE AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THIS SECTION~~WITH RESPECT TO REAL ESTATE INVESTMENT TRUSTS.— Section 50(d) is amended by adding at the end the following: "In the case of a real estate investment trust making an election under section 6417, paragraphs (1)(B) and (2)(B) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any qualified investment credit property of a real estate investment trust."

~~(bc) GROSS-UP OF PAYMENT TO ISSUERS IN CASE OF SEQUESTRATION.— In the case of any payment under~~made as a refund due to an overpayment as a result of section 6431A17 of the Internal Revenue Code of 1986 ~~made~~ after the date of the enactment of this Act to which sequestration applies, the amount of such payment shall be increased to an amount equal to—

(1) such payment (determined before such sequestration), multiplied by

(2) the quotient obtained by dividing 1 by the amount by which 1 exceeds the percentage reduction in such payment pursuant to such sequestration.

For purposes of this subsection, the term "sequestration" means any reduction in direct spending ordered in accordance with a sequestration report prepared by the Director of the Office and Management and Budget pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 or the Statutory Pay-As-You-Go Act of 2010.

~~(e) Conforming amendments.— (1) Section 1324(b)(2) of title 31, United States Code, is amended by striking "or 6431" and inserting "6431, or 6431A". (2)d) CLERICAL AMENDMENT.—~~

The table of sections for subchapter B of chapter 65 is amended by inserting ~~before~~after the item relating to section 643216 the following new item:

~~"Sec. 6431A. Credit allowed to issuer for qualified infrastructure bond~~17. Elective payment of applicable credits."

~~(de) Effective date~~IN GENERAL.— The amendments made by this section shall apply to ~~bonds issued~~taxable years beginning after December 31, 2021.

[NOTE-- DELETED /tXIII/stF/p1/spA/s135102: ~~Sec. 135102. Advance refunding bonds]~~

[NOTE-- DELETED /tXIII/stF/p1/spA/s135103: ~~Sec. 135103. Permanent modification of small issuer exception to tax-exempt interest expense allcat of rules for financial institutions]~~

[NOTE-- DELETED /tXIII/stF/p1/spA/s135104: ~~Sec. 135104. Modifications to qualified small issue bonds]~~

[NOTE-- DELETED /tXIII/stF/p1/spA/s135105: ~~Sec. 135105. Expansion of certain exceptions to the private activity bond rules for first-time farmers]~~

[NOTE-- DELETED /tXIII/stF/p1/spA/s135106: ~~Sec. 135106. Certain water and sewage facility bonds exempt from volume cap on private activity bonds]~~

[NOTE-- DELETED /tXIII/stF/p1/spA/s135107: ~~Sec. 135107. Exempt facility bonds for zero-emission vehicle infrastructure]~~

[NOTE-- DELETED /tXIII/stF/p1/spA/s135108: ~~Sec. 135108. Application of Davis-Bacon Act requirements with respect to certain exempt facility bonds]~~

[NOTE-- DELETED /tXIII/stF/p1/spB/s135111: ~~Sec. 135111. Credit for operations and maintenance costs of government-owned broadband]~~

[NOTE-- DELETED /tXIII/stF/p2/s135201: ~~Sec. 135201. Permanent extension of new markets tax credit]~~

[NOTE-- DELETED /tXIII/stF/p3/s135301: ~~Sec. 135301. Determination of credit percentage]~~

[NOTE-- DELETED /tXIII/stF/p3/s135302: ~~Sec. 135302. Increase in the rehabilitation credit for certain small projects]~~

[NOTE-- DELETED /tXIII/stF/p3/s135303: ~~Sec. 135303. Modification of definition of substantially rehabilitated]~~

[NOTE-- DELETED /tXIII/stF/p3/s135304: ~~Sec. 135304. Elimination of rehabilitation credit basis adjustment]~~

[NOTE-- DELETED /tXIII/stF/p3/s135305: ~~Sec. 135305. Modifications regarding certain tax-exempt use property]~~

[NOTE-- DELETED /tXIII/stF/p3/s135306: ~~Sec. 135306. Qualification of rehabilitation expenditures for public school buildings for rehabilitation credit]~~

[NOTE-- DELETED /tXIII/stF/p4/s135401: ~~Sec. 135401. Exclusion of amounts received from state-based catastrophe loss mitigation programs]~~

[NOTE-- DELETED /tXIII/stF/p4/s135402: ~~Sec. 135402. Repeal of temporary limitation on personal casualty losses]~~

**Sec. 136105. Investment credit for electric transmission property**

(a) IN GENERAL.—

Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48C the following new section:

**"Sec. 48D. Qualifying electric transmission property**

"(a) ALLOWANCE OF CREDIT.— For purposes of section 46, the qualifying electric transmission property credit for any taxable year is an amount equal to ~~30~~ percent of the basis of qualifying electric transmission property placed in service by the taxpayer during such taxable year.

"(b) QUALIFYING ELECTRIC TRANSMISSION PROPERTY.— For purposes of this section—

"(1) IN GENERAL.— The term 'qualifying electric transmission property' means tangible property—

"(A) which is a qualifying electric transmission line or related transmission property,

"(B)

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(2) QUALIFYING ELECTRIC TRANSMISSION LINE.— The term 'qualifying electric transmission line' means an electric transmission line which—

"(A) is capable of transmitting electricity at a voltage of not less than 275 kilovolts, and

"(B) has a transmission capacity of not less than 500 megawatts.

"(3) RELATED TRANSMISSION PROPERTY.—

"(A) IN GENERAL.— The term 'related transmission property' means, with respect to any electric transmission line, any property which—

"(i) is listed as a 'transmission plant' in the Uniform System of Accounts for the Federal Energy Regulatory Commission under part 101 of subchapter C of chapter I of title 18, Code of Federal Regulations, and

"(ii) is—

"(I) necessary for the operation of such electric transmission line, or

"(II) conversion equipment along such electric transmission line.

"(B) CREDIT NOT ALLOWED SEPARATELY WITH RESPECT TO RELATED PROPERTY.— No credit shall be allowed to any taxpayer under this section with respect to any related transmission property unless such taxpayer is allowed a

credit under this section with respect to the qualifying electric transmission line to which such related transmission property relates.

"(c) APPLICATION TO REPLACEMENT AND UPGRADED SYSTEMS.—

"(1) IN GENERAL.— In the case of any qualifying electric transmission line (determined without regard to this subsection) which replaces any existing electric transmission line—

"(A) the 500 megawatts referred to in subsection (b)(2)(B) shall be increased by the transmission capacity of such existing electric transmission line, and

"(B) in no event shall the basis of such existing electric transmission line (or related transmission property with respect to such existing electric transmission line) be taken into account in determining the credit allowed under this section.

"(2) UPGRADES TREATED AS REPLACEMENTS.— For purposes of this subsection, any upgrade of an existing electric transmission line shall be treated as a replacement of such line.

"(d) EXCEPTION FOR CERTAIN PROPERTY AND PROJECTS ALREADY IN PROCESS.—

"(1) IN GENERAL.— No credit shall be allowed under this section with respect to—

~~"(4A) any property if a State or political subdivision thereof, any agency or instrumentality of the United States, a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or ratemaking body of an electric cooperative has, before the date of the enactment of this section, selected for cost allocation such property for cost recoveryy a regional transmission organization or an independent system operator (as such terms are defined in paragraphs (27) and (28) of section 3 of the Federal Power Act (16 U.S.C. 796)) prior to January 1, 2022, or~~

~~"(2B) any property if—~~

~~"(A) construction of such property begins before January 1, 2022, or~~

~~"(B) construction of any portion of the qualifying electric transmission line to which such property relates begins before such date.~~

~~"(2) WHEN CONSTRUCTION BEGINS.— For purposes of subparagraph (B) of paragraph (1), construction of property begins when the taxpayer has begun on-site physical work of a significant nature with respect to such property.~~

"(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.— Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

"(f) CREDIT ADJUSTMENTS; WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) ~~Base credit amount and i~~INCREASED CREDIT AMOUNT FOR APPLICABLE FACILITIES.—

(i)

"(A) IN GENERAL.—



~~"(i) RULE.— In the case of any applicable facility which does not satisfy~~es the requirements of subparagraph (B), the amount of the credit determined under ~~this subsection (a)~~ shall be ~~20 percent of such amounts~~such amount multiplied by 5 (determined without regard to this sentence).

~~"(ii) APPLICABLE FACILITY DEFINED.— For purposes of this subsection, the term 'applicable facility' means a qualifying electric transmission line and related transmission property to which such qualifying electric transmission line relates.~~

~~"(B) Increased credit for applicable facility meeting project requirements.—~~

~~"(i) In general.— In the case of any applicable facility which meets the project requirements of this subparagraph, subparagraph (A) shall not apply. "(ii) Project requirements.— A project~~APPLICABLE FACILITY REQUIREMENTS.— An applicable facility meets the requirements of this subparagraph if it is one of the following:

~~"(i) A project with a maximum net output of less than 1 megawatt. "(ii) A project which commences construction prior to the date of the enactment of this paragraph. "(iii) A project which satisfies the requirements of paragraphs (2) and (3). "(2) Prevailing wage requirements.— "(A) In general.— The requirements described in this subparagraph with respect to any applicable facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in— "(i) the construction of such facility, and "(ii) for any year during the 5-year period beginning on the date the facility or property is originally placed in service, the alteration or repair of such facility or property, shall be paid wages at rates not less than~~ applicable facility the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (2) and (3).

~~"(ii) An applicable facility which satisfies the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code~~requirements of paragraphs (2) and (3).

~~"(B2) Correction and penalty related to failure to satisfy wage requirements.— A taxpayer shall not be treated as failing to satisfy the requirements of this paragraph if such taxpayer meets requirement~~PREVAILING WAGE REQUIREMENTS.— Rules similar to the requirementules of section 45(b)(9)(B)~~8(a)(9)~~ shall apply.

~~"(3) APPRENTICESHIP REQUIREMENTS.— The requirements described in this subparagraph with respect to the construction of any applicable facility are as follows: "(A) Labor hours.— "(i) Percentage of total labor hours.— All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any applicable facility prior to such facility being placed into service shall, subject to subpar:graph (B), ensure that (not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes of paragraph (1), the applicable percentage shall be— "(1)~~

in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent, "(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and "(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent Rules similar to the rules of section 45(b)(9) shall apply.

"(4) DOMESTIC CONTENT BONUS CREDIT AMOUNT.— Rules similar to the rules of section 48(a)(11) shall apply.

"(B5) Apprentice to journeyworker ratio.— The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice to journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency.—(C) Participation.— Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 4 or more qualified apprentices to perform such work PHASEOUT FOR ELECTIVE PAYMENT.— Rules similar to the rules of section 48(a)(12) shall apply.

"(Dg) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who — "(l) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and "(II) makes a good faith effort to comply with the requirements of this paragraph. "(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program TERMINATION.— This section shall not apply to any qualifying electric transmission property unless such property is placed in service before January 1, 2032.

"(Eh) Definitions.— For purposes of this paragraph — "(i) Labor hours.— The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i). "(ii) Qualified apprentice.— The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii). "(4) Domestic content bonus credit amount.— "(A) In general.— In the case of any applicable facility which satisfies the requirements under subparagraph (B), the credit determined under subsection (a) shall be increased by the applicable rate in subparagraph (C). "(B) Requirements.— "(i) In general.— The requirement described in this subclause with respect to any applicable facility is satisfied if the taxpayer certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that the facility is composed of steel, iron, or manufactured products which were produced in the United States. "(ii) Steel and iron.— In the case of steel or iron, clause (i) shall be applied in a manner consistent with section 661.5(b) of title 49, Code of Federal Regulations. "(iii) Manufactured product.— For purposes of clause (i), a manufactured product shall be deemed to have been manufactured in the United States if not less than 55 percent of the total cost of the components of such product is attributable to

~~components which are mined, produced, or manufactured in the United States. "(C) Applicable rate increase.— For purposes of subparagraph (A), the applicable credit rate increase shall be an amount equal to— "(i) in the case of applicable facility that does not meet the requirements of subclause (I) or (III) of paragraph (1)(B)(ii), 2 percentage points; and "(ii) in the case of applicable facility that meets the require~~REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection."

~~(b) ELECTIVE PAYMENTS OF SUBCLAUSE (I) OR (III) OF PARAGRAPH (1)(B)(II), 10 PERCENTAGE POINTS. "(D) INTERNATIONAL AGREEMENTS.— THIS PARAGRAPH SHALL BE APPLICABLE.—~~

Section 6417(b), as amended by the preced~~in a manner which is consistent with the obligations of the United States under international agreements. "(5) Penalty for direct pay.— "(A) In general.— In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with— "(i) the value of such credit (determined without regard to this paragraph), multiplied by~~provisions of this Act, is amended by adding at the end the following new paragraph:

~~"(ii) [The applicable percentage. "(B) 100 percent applicable percentage for certain applicable facility.— In the case of any applicable facility— "(i) which satisfies the requirements under paragraph (11) with respect to the construction of such property, or "(ii) with a maximum net output of less than 1 megawatt, the applicable percentage shall be 100 percent. "(C) Phased domestic content requirement.— Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be— "(i) if construction of such facility began before January 1, 2024, 100 percent, "(ii) if construction of such facility began in calendar year 2024, 90 percent, "(iii) if construction of such facility began in calendar year 2025, 85 percent, and "(iv) if construction of such facility began after December 31, 2025, 0 percent. "(D) Except~~qualifying electric transmission property credit determined under section 48D."

~~(c) SPECIAL RULE FOR PROPERTY FINANCED BY TAX-EXEMPT BONDS.— In order to facilitate the use of amounts made available in this section, increase the tax incentives for investment in clean energy, and grow the domestic supply chains, the Secretary shall provide appropriate exceptions to the domestic content requirements for products under subparagraph (C) for the construction of qualified facilities if either the inclusion of domestic products increases the overall costs of projects by more than 25 percent or relevant manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality.~~

Section 48D, as added by subsection (a), is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

(j)

~~"(g) Termination.— This section shall not apply to any property unless—"(1) such property is placed in service SPECIAL RULE FOR PROPERTY FINANCED BEFORE JANUARY 1, 2032, AND "(2) THE QUALIFYING ELECTRIC TRANSMISSION LINE WITH RESPECT TO WHICH SUCH PROPERTY RELATES IS PLACED IN SERVICE BEFORE SUCH DATE. "(H) REGULATIONS AND GUIDANCE.— THE SECRETARY, AFTER CONSULTATION WITH THE CHAIRMAN OF THE FEDERAL ENERGY REGULATORY COMMISSION, SHALL ISSUE SUCH REGULATIONS OR OTHER GUIDANCE AS THE SECRETARY DETERMINES NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSE TAX-EXEMPT BONDS.— Rules similar to the rules of this section." (b) Elective payment of credit.— Section 6417(b), as added by the preceding provisions of this Act, is amended by adding at the end the following new paragraph: "(6) The qualifying electric transmission property credit determined under section 48D 45(b)(3) shall apply."~~

~~(e) CONFORMING AMENDMENTS.—~~

~~(1) Section 46 is amended—~~

~~(A) by striking "and" at the end of paragraph (5),~~

~~(B) by striking the period at the end of paragraph (6) and inserting ", and", and~~

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

~~"(7) the qualifying electric transmission property credit."~~

~~(2) Section 49(a)(1)(C) is amended—~~

~~(A) by striking "and" at the end of clause (iv),~~

~~(B) by striking the period at the end of clause (v) and inserting ", and", and~~

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

~~"(vi) the basis of any qualifying electric transmission property under section 48D."~~

~~(3) Section 50(a)(2)(E) is amended by striking "or 48C(b)(2)" and inserting "48C(b)(2), or 48D(e)".~~

~~(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48C the following new item:~~

~~"Sec. 48D. Qualifying electric transmission property."~~

~~(e) EFFECTIVE DATE.—~~

~~(1) IN GENERAL.— The amendments made by subsections (a), (b), and (d) of this section shall apply to property placed in service after December 31, 2021.~~

~~(2) TAX-EXEMPT BONDS.— The amendment made by subsection (c) shall apply to property the construction of which begins after December 31, 2021.~~

~~(3) EXCEPTION FOR CERTAIN PROPERTY AND PROJECTS ALREADY IN PROCESS.— For exclusion of certain property and projects already in process, see section 48D(d) of the Internal Revenue Code of <sup>1986</sup> (as added by this section).~~

**Sec. 136106. Zero-emissions facility credit** (a) In general.— Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48C the following new section: "Sec. 48E. Zero-emissions facility credit "(a) In general.— For purposes of section 46, the zero-emissions facility credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any zero-emissions facility of the taxpayer. "(b) Qualified investment.— "(1) In general.— For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a zero-emissions facility. "(2) Certain qualified progress expenditures rules made applicable.— Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section. "(3) Limitation.— The amount which is treated as the qualified investment for all taxable years with respect to any zero-emissions facility shall not exceed the amount designated by the Secretary as eligible for the credit under this section. "(c) Zero-emissions facility.— "(1) In general.— For purposes of this section, the term 'zero-emissions facility' means any facility— "(A) which generates electricity; "(B) which does not generate any greenhouse gases (within the meaning of section 211(o)(1)(C) of the Clean Air Act (42 U.S.C. 7545(o)(1)(C)), as in effect on the date of the enactment of this section); "(C) which uses a technology or process which, in the calendar year in which an amount of credit is designated with respect to such facility, achieved a market penetration level of less than 3 percent; "(D) no portion of which is— "(i) a qualified facility (as defined in section 45(d)); "(ii) an advanced nuclear power facility (as defined in section 45J(d)); "(iii) a qualified facility (as defined in section 45Q); or "(iv) energy property (as defined in section 48(a)(3)). "(2) Market penetration level.— For purposes of this subsection, the term 'market penetration level' means, with respect to any calendar year, the amount equal to the greater of— "(A) the amount (expressed as a percentage) equal to the quotient of— "(i) the sum of all electricity produced (expressed in terawatt hours) from the technology or method used for the production of electricity by all electricity generating facilities in the United States during such calendar year (as determined by the Secretary on the basis of data reported by the Energy Information Administration), divided by the total domestic power sector electricity production (expressed in terawatt hours) for such calendar year, or "(ii) the amount determined under this subparagraph for the preceding calendar year with respect to such technology or method. "(d) Eligible property.— For purposes of this section, the term 'eligible property' means any property— "(1) which is necessary for the generation of electricity; "(2) which is— "(A) tangible personal property, or "(B) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the zero-emissions facility, and "(3) with respect to which depreciation (or amortization in lieu of depreciation) is allowable. "(e) Allocations.— "(1) In general.— Not later than 180 days after the date of enactment of this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall establish a program to consider and award certification amounts of zero-emissions facility credit limitation to zero-emissions facilities. "(2) Annual limitation.— "(A) In general.— The amount of zero-emissions facility credit limitation that may be designated under this subsection during any calendar year shall not

~~exceed the annual credit limitation with respect to such year. "(B) Annual credit limitation.—For purposes of this subsection, the term 'annual credit limitation' means \$250,000,000 for each of calendar years 2022 through 2031, and zero thereafter. "(C) Carryover of unused limitation.—If the annual credit limitation for any calendar year exceeds the aggregate amount designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2031. "(3) Placed in service deadline.—"(A) In general.—No credit shall be determined under subsection (a) with respect to any zero emissions facility which is placed in service after the date that is 4 years after the date of the designation under this subsection relating to such zero emissions facility. "(B) Application of carryover.—Any amount of credit which expires under subparagraph (A) during any calendar year shall be taken into account as an excess described in paragraph (2)(C) (or as an increase in such excess) for such calendar, subject to the limitation imposed by the last sentence of such paragraph. "(4) Selection criteria.—In determining which zero emissions facilities to certify under this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall—"(A) take into consideration which facilities—"(i) will result in the greatest reduction of greenhouse gas emissions, "(ii) have the greatest potential for technological innovation and commercial deployment, and "(iii) will result in the greatest reduction of local environmental effects that are harmful to human health, and "(B) require that applicants provide written assurances to the Secretary that all laborers and mechanics employed by contractors and subcontractors in the performance of construction, alteration or repair work on a zero emissions facility shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. "(5) Disclosure of certifications.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant, the amount of the credit awarded with respect to such applicant, and the location of the zero emissions facility for which such credit is awarded. "(f) Credit conditioned upon wage and apprenticeship requirements.—"(1) In general.—No credit shall be allocated for a zero emissions facility under this section unless the zero emissions facility meets the prevailing wage requirements of paragraph (2) and the apprenticeship requirements of paragraph (3). "(2) Prevailing wage requirements.—"(A) In general.—The requirements described in this paragraph with respect to a zero emissions facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—"(i) the construction of such zero emissions facility, and "(ii) for any year during the 5-year period beginning on the date the facility is originally placed in service, the alteration or repair of such zero emissions facility, shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. "(B) Correction and penalty related to failure to satisfy wage requirements.—"(i) In general.—In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to the construction of any qualified facility or with respect to the alteration or repair of a facility in any year during the period~~

described in subparagraph (A)(ii), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such zero emissions facility for any year if, with respect to any laborer or mechanic who was paid wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer— "(l) makes payment to such laborer or mechanic in an amount equal to the sum of— "(aa) an amount equal to the difference between the amount of wages paid to such laborer or mechanic during such period, and— "(bb) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus "(AA) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period described in such item, and "(ll) makes payment to the Secretary of a penalty in an amount equal to the product of— "(aa) \$5,000, multiplied by "(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subparagraph (A) for any period during such year. "(ii) Penalty assessed as tax.— The penalty described in clause (i)(ll) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68. "(3) Apprenticeship requirements.— The requirements described in this subparagraph with respect to a zero emissions facility are as follows: "(A) Labor hours.— "(i) Percentage of total labor hours.— All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any facility prior to such facility being placed into service shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes of paragraph (1), the applicable percentage shall be— "(l) in the case of any applicable zero emissions facility the construction of which begins before January 1, 2023, 5 percent, "(ll) in the case of any applicable zero emissions facility the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and "(lll) in the case of any applicable zero emissions facility the construction of which begins after December 31, 2023, 15 percent. "(B) Apprentice to journeyworker ratio.— The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice to journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency. "(C) Participation.— Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable zero emissions facility shall employ 1 or more qualified apprentices to perform such work. "(D) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who— "(l) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and "(ll) makes a good faith effort to comply with the requirements of this paragraph. "(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program. "(E) Definitions.— For purposes of this paragraph— "(i) Labor

hours.— The term 'labor hours'— "(I) means the total number of hours devoted to the performance of construction, alteration, or repair work by employees of the contractor or subcontractor prior to a facility being placed into service, and "(II) excludes any hours worked by— "(aa) foremen, "(bb) superintendents, "(cc) owners, or "(dd) persons employed in a bona fide executive, administrative, or professional capacity (within the meaning of those terms in part 541 of title 29, Code of Federal Regulations). "(ii) Qualified apprentice.— The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii). "(4) Regulations and guidance.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection. "(5) Penalty for direct pay.— "(A) In general.— In the case of a taxpayer making an election under section 6417 with respect to a credit under this section, the amount of such credit shall be replaced with— "(i) the value of such credit (determined without regard to this paragraph), multiplied by "(ii) the applicable percentage. "(B) 100 percent applicable percentage for certain qualified facilities.— In the case of any qualified facility— "(i) which satisfies the requirements under paragraph (5) with respect to the construction of such facility, or "(ii) with a maximum net output of less than 1 megawatt, the applicable percentage shall be 100 percent. "(C) Phased domestic content requirement.— Subject to subparagraph (D), in the case of any qualified facility which is not described in subparagraph (B), the applicable percentage shall be— "(i) if construction of such facility began before January 1, 2024, 100 percent, "(ii) if construction of such facility began in calendar year 2024, 90 percent, "(iii) if construction of such facility began in calendar year 2025, 85 percent, and "(iv) if construction of such facility began after December 31, 2025, 0 percent. "(D) Exception.— If the Secretary, after consultation with the Secretary of Commerce and the United States Trade Representative, determines that, for purposes of application of the requirements under paragraph (5) with respect to the construction of the qualified facility— "(i) their application would be inconsistent with the public interest, "(ii) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality, or "(iii) inclusion of domestic material will increase the cost of the construction of the qualified facility by more than 25 percent, the applicable percentage shall be 100 percent." (b) Elective payment of credit.— Section 6417(b), as added and amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph: "(7) The zero emissions facility credit determined under section 48E." (c) Conforming amendments.— (1) Section 46 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", and", and by adding at the end the following new paragraph: "(8) the zero emissions facility credit." (2) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting a comma, and by adding at the end the following new clause: "(vii) the basis of any eligible property which is part of a zero emissions facility under section 48D." (3) Section 50(a)(2)(E) is amended by striking " or 48D" and inserting "48D, or 48E(b)(2)". (4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48D the following new item: Sec. 48E. Zero emissions facility credit. (d) Effective date.— The amendments made by this section shall apply to periods after December 31, 2021, under rules similar to the



~~rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)~~ **Extension and modification of credit for carbon oxide sequestration**

(a) MODIFICATION OF CARBON OXIDE CAPTURE REQUIREMENTS.—

Section 45Q(d) is amended to read as follows:

“(d) QUALIFIED FACILITY.—

“(1) IN GENERAL.— For purposes of this section, the term ‘qualified facility’ means a facility which captures—

“(A) in the case of a direct air capture facility, not less than 1,000 metric tons of qualified carbon oxide during the taxable year,

“(B) in the case of an electricity generating facility, not less than 18,750 metric tons of qualified carbon oxide during the taxable year and not less than 75 percent by mass of the carbon oxide that would otherwise be released into the atmosphere by such facility during such taxable year, and

“(C) in the case of any other facility, not less than 12,500 metric tons of qualified carbon oxide during the taxable year.

“(2) TERMINATION RULE.— The term ‘qualified facility’ means any industrial facility or direct air capture facility—

“(A) the construction of which begins before January 1, 2032, and

“(B) either—

“(i) the construction of carbon capture equipment of which begins before such date, or

“(ii) the original planning and design of which includes installation of carbon capture equipment.”.

(b) DETERMINATION OF APPLICABLE DOLLAR AMOUNT.—

(1) IN GENERAL.— Section 45Q(b)(1) is amended by redesignating subparagraph (B) as subparagraph (D) and by inserting after subparagraph (A) the following new subparagraphs:

“(B) SPECIAL RULE FOR DIRECT AIR CAPTURE FACILITIES.— For any qualified facility described in subsection (d)(1)(A), the construction of which begins after December 31, 2021, the applicable dollar amount shall be an amount equal to the applicable dollar amount otherwise determined with respect to such facility under subparagraph (A), except that such subparagraph shall be applied—

“(i) in clause (i)(I) of such subparagraph, by substituting ‘\$36’ for ‘\$17’, and

“(ii) in clause (i)(II) of such subparagraph, by substituting ‘\$26’ for ‘\$12’.

“(C) APPLICABLE DOLLAR AMOUNT FOR ADDITIONAL CARBON CAPTURE EQUIPMENT.— In the case of any qualified facility the construction of which begins before January 1, 2022, if any additional carbon capture equipment is installed at such facility and construction of such equipment began after December 31, 2021,

the applicable dollar amount shall be an amount equal to the applicable dollar amount otherwise determined under subparagraph (A), except that such subparagraph shall be applied by substituting 'carbon capture equipment' for 'qualified facility' each place it appears."

(2) CONFORMING AMENDMENTS.—

(A) Section 45Q(b)(1)(A) is amended by striking "The applicable dollar amount" and inserting "Except as provided in subparagraph (B), the applicable dollar amount".

(B) Section 45Q(b)(1)(D), as redesignated by subparagraph (A), is amended by striking "subparagraph (A)" and inserting "subparagraph (A), (B), or (C)".

(C) Section 45Q(b)(2) is amended by inserting "Subject to paragraph (3)" before "in the case".

(c) WAGE AND APPRENTICESHIP REQUIREMENTS.—

Section 45Q is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) following new subsection:

"(h) INCREASED CREDIT AMOUNT FOR QUALIFIED FACILITIES AND CARBON CAPTURE EQUIPMENT.—

"(1) IN GENERAL.— In the case of any qualified facility and any carbon capture equipment which satisfy the requirements of paragraph (2), the amount of the credit determined under subsection (a) shall be equal to such amount multiplied by 5 (determined without regard to this sentence).

"(2) REQUIREMENTS.— The requirements described in this subparagraph are that

"(A) with respect to any qualified facility the construction of which begins on or after the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3) and (4), as well as any carbon capture equipment placed in service at such facility—

"(i) subject to subparagraph (B) of paragraph (3), such facility and equipment shall satisfy the requirements under subparagraph (A) of such paragraph, and

"(ii) subject to subparagraph (D) of paragraph (4), the construction of such facility and equipment shall satisfy the requirements under subparagraph (A) of such paragraph, and

"(B) with respect to any carbon capture equipment the construction of which begins after the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3) and (4), and which is installed at a qualified facility the construction of which began prior to such date—

"(i) subject to subparagraph (B) of paragraph (3), such equipment satisfies the requirements of subparagraphs (A) of such paragraph, and

"(ii) subject to subparagraph (D) of paragraph (4), the construction of such equipment shall satisfy the requirements under subparagraph (A) of

such paragraph.

"(3) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.— The requirements described in this subparagraph with respect to any qualified facility and any carbon capture equipment placed in service at such facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) in the case of—

"(I) any qualified facility described in subparagraph (A)(i) of paragraph (2), the construction of such facility and carbon capture equipment placed in service at such facility, or

"(II) any carbon capture equipment described in subparagraph (A)(ii) of paragraph (2), the construction of such equipment, and

"(ii) for the period of the taxable year which is within the 12-year period beginning on the date on which any carbon capture equipment is originally placed in service at any qualified facility (as described in paragraphs (3)(A) and (4)(A) of subsection (a)), the alteration or repair of such facility or such equipment.

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. For purposes of determining an increased credit amount under paragraph (1) for a taxable year, the requirement under clause (ii) of this paragraph is applied to such taxable year in which the alteration or repair of qualified facility occurs.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(8)(B) shall apply.

"(4) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(5) REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection."

(d) INCREASED APPLICABLE DOLLAR AMOUNT.—

(1) IN GENERAL.— Section 45Q(b)(1) is amended—

(A) by amending clause (i) of subparagraph (A) to read as follows:

"(i) for any taxable year beginning in a calendar year after 2016 and before 2027—

"(I) for purposes of paragraph (3) of subsection (a), \$17 for each calendar year during such period, and

"(II) for purposes of paragraph (4) of such subsection, \$12 for each calendar year during such period, and", and

(B) in clause (ii)—

(i) in subclause (I), by striking "\$50" and inserting "the amount determined under clause (i)(I) with respect to the qualified facility", and

(ii) in subclause (II), by striking "\$35" and inserting "the amount determined under clause (i)(II) with respect to the qualified facility".

(e) INSTALLATION OF ADDITIONAL CARBON CAPTURE EQUIPMENT ON CERTAIN FACILITIES.

Section 45Q(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) INSTALLATION OF ADDITIONAL CARBON CAPTURE EQUIPMENT ON CERTAIN FACILITIES.— In the case of a qualified facility described in paragraph (1)(C), for purposes of determining the amount of qualified carbon oxide which is captured by the taxpayer, rules similar to rules of paragraph (2) shall apply for purposes of subsection (a)."

(f) CREDIT REDUCED FOR TAX-EXEMPT BONDS.—

Section 45Q(f) is amended by adding at the end the following new paragraph:

"(8) CREDIT REDUCED FOR TAX-EXEMPT BONDS.— Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section."

(g) APPLICATION OF SECTION FOR CERTAIN CARBON CAPTURE EQUIPMENT.— Section 45Q(g) is amended by inserting "the earlier of January 1, 2023 and" before "the end of the calendar year".

(h) ELECTION.—

Section 45Q(f) is amended by adding at the end the following new paragraph:

"(9) ELECTION.— For purposes of paragraphs (3) and (4) of subsection (a), a person described in paragraph (3)(A)(ii) may elect, at such time and in such manner as the Secretary may prescribe, to have the 12-year period begin on the first day of the first taxable year in which a credit under this section is claimed with respect to carbon capture equipment which is originally placed in service at a qualified facility on or after the date of the enactment of the Bipartisan Budget Act of 2018 (after application of subsection (f)(6) where applicable) if—

"(A) no taxpayer claimed a credit under this section with respect to such carbon capture equipment for any prior taxable year,

"(B) the qualified facility at which such carbon capture equipment is placed in service is located in an area affected by a federally-declared disaster (as defined by section 165(i)(5)(A)) after the carbon capture equipment is originally placed in service, and

"(C) such federally-declared disaster results in a cessation of the operation of the qualified facility after the carbon capture equipment is originally placed in

service."

(i) EFFECTIVE DATE.— The amendments made by this section shall apply to facilities or equipment the construction of which begins after December 31, 2021.

**Sec. 1361087. Green energy publicly traded partnerships**

(a) IN GENERAL.— Section 7704(d)(1)(E) is amended—

(1) by striking "income and gains derived from the exploration" and inserting income and gains derived from—

"(i) the exploration",

(2) by inserting "or" before "industrial source", and

(3) by striking ", or the transportation or storage" and all that follows and inserting the following:

"(ii) the generation of electric power or thermal energy exclusively using any qualified energy resource (as defined in section 45(c)(1)),

"(iii) the operation of energy property (as defined in section 48(a)(3), determined without regard to any date by which the construction of the facility is required to begin),

"(iv) in the case of a facility described in paragraph (3) or (7) of section 45(d) (determined without regard to any placed in service date or date by which construction of the facility is required to begin), the accepting or processing of open-loop biomass or municipal solid waste,

"(v) the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426,

"(vi) the conversion of renewable biomass (as defined in subparagraph (I) of section 211(o)(1) of the Clean Air Act (as in effect on the date of the enactment of this clause)) into renewable fuel (as defined in subparagraph (J) of such section as so in effect), or the storage or transportation of such fuel,

"(vii) the production, storage, or transportation of any fuel which—

"(I) uses as its primary feedstock carbon oxides captured from an anthropogenic source or the atmosphere,

"(II) does not use as its primary feedstock carbon oxide which is deliberately released from naturally occurring subsurface springs, and

"(III) is determined by the Secretary, ~~after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency,~~ to achieve a reduction of not less than a 60 percent in lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(H) of the Clean Air Act, as in effect on the date of the enactment of this clause) compared to baseline lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(C) of such Act, as so in effect), or

"(viii) a qualified facility (as defined in section 45Q(d), without regard to any date by which construction of the facility is required to begin)."

(b) EFFECTIVE DATE.— The amendments made by this section apply to taxable years beginning after December 31, 2021.

**Sec. 1361078.** ~~Extension and modification of credit for carbon oxide sequestration (a) Extension.— Section 45Q(d)(1) is amended by striking "January 1, 2026" and inserting "January 1, 2032". (b) Modification of carbon oxide capture requirements.— Section 45Q(d)(2) is amended to read as follows: "(2) which captures— "(A) in the case of a direct air capture facility, not less than 1,000 metric tons of qualified carbon oxide during the taxable year;~~  
**Zero-emission nuclear power production credit**

~~(a) IN GENERAL.—~~

~~Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:~~

**"Sec. 45W. Zero-emission nuclear power production credit**

~~"(B~~a~~) in the case of an electricity generating facility, not less than AMOUNT OF CREDIT.— For purposes of section 438,750 metric tons of qualified carbon oxide during the taxable year and not less than 75 percent of the carbon oxide that would otherwise be released into the atmosphere by such facility during such taxable year, and "(C) in the case of any other facility, not less than 12,500 metric tons of qualified carbon oxide during the taxable year and not less than 50 percent of the carbon oxide that would otherwise be released into the the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—~~

~~"(1) the product of—~~

~~"(A) 0.3 cents, multiplied by~~

~~"(B) the kilowatt hours of electricity—~~

~~"(i) produced by the taxpayer at a qualified nuclear power facility, and~~

~~"(ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds~~

~~"(2) the reduction atmosphere by such facility during unt for such taxable year.~~

~~— (c) Determ(b) DEFINITION OF APPLICABLE DOLLAR AMOUNT.— (1) IN GENERAL.— SECTION 45Q(B)(1) IS AMENDED BY REDESIGNATING SUBPARAGRAPH (B) AS SUBPARAGRAPH (C) AND BY INS.—~~

~~"(1) QUALIFIED NUCLEAR POWER FACILITY.— For purposes of this section after subparagraph (A) the following new subparagraph: "(B) Special rule for direct air capture facilities.— For any taxable year beginning after December 31, 2021, in the case of any qualified on, the term 'qualified nuclear power facility' means any nuclear facility—~~

~~"(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,~~

"(B) which is not an advanced nuclear power facility described in subsection (d)(2)(C), the applicable dollar amount shall be an amount equal to 1) of section 45J, and

"(iC) for purposes of paragraph (3) of subsection (a), an amount equal to the product of \$180 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2020' for '1990', and "(ii) for purposes of paragraph (4) of such subsection, an amount equal to the product of \$130 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2020' for '1990'." (2) Conforming amendments.— (A) Section 45Q(b)(1)(A) is amended by striking "The applicable dollar amount" and inserting "Except as provided in subparagraph (B), the applicable dollar amount". (B) Section 45Q(b)(1)(C), as redesignated by subparagraph (A), is amended by striking "subparagraph (A)" and inserting "subparagraph (A) or (B)". (d) Wage and apprenticeship requirements.— Section 45Q is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) following new subsection: "(h) Base credit amount and increased credit amount for qualified facilities and carbon capture equipment.— "(1) In general.— In the case of any qualified facility and any carbon capture equipment which does not satisfy the requirements of paragraph (2), the amount of the credit determined under subsection (a) shall be 20 percent of such which is placed in service before the date of the enactment of this section.

"(2) REDUCTION AMOUNT.—

"(A) IN GENERAL.— For purposes of this section, the term 'reduction amount' means, with respect to any qualified nuclear power facility for any taxable year, the amount equal to the lesser of—

"(i) the amount determined under subsection (a)(1), or

"(ii) the amount equal to 80 percent of the excess of—

"(I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year, over

"(II) the amount equal to the product of—

"(aa) 0.5 cents (or 2.5 cents for purposes of determining the amount of the credit for any facility described in subsection (d)(1)(A)), multiplied by

"(bb) the amount (determined without regard to this sentence) under subsection (a)(1)(B).

"(2B) Increased credit for certain facilities and carbon capture equipment meeting project requirements. TREATMENT OF CERTAIN RECEIPTS.—

"(A) IN GENERAL.— In the case of any qualified facility and any carbon capture equipment placed in service at such facility which meets the project

~~requirements of this subparagraph. The amount determined under subparagraph (A)(ii)(I), shall not apply. (B) Project requirements.— A project meets the requirements of this subparagraph if it is one of the following: (i) A qualified facility with a maximum net output of less than 1 megawatt. (ii) A qualified facility or any carbon capture equipment placed include any amount received by the taxpayer during the taxable year with respect to the qualified nuclear power facility from a zero-emission credit program unless the amount received by the taxpayer in service at such facility which commences construction prior to the date of the enactment of this paragraph. (iii) A project which satisfies the requirements of paragraphs (3) and (4). (3) Prevailing wage requirements.— (A) In general subject to reduction—~~

~~(I) by the full amount of the credit determined under this section, or~~

~~(II) by any lesser amount if such amount entirely offsets the amount received from a zero-emission credit program.~~

~~(ii) ZERO-EMISSION CREDIT PROGRAM.— The requirements described in this subparagraph with respect to any qualified facility and any carbon capture equipment placed in service at such facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in— (i) the construction of such facility and carbon capture equipment, (ii) the alteration or repair of such facility and carbon capture equipment during the 12 year period after being placed into service, or for carbon capture equipment placed in service prior to 2018, until the date determined by the Secretary under subsection (g), shall be paid wages at rates not less than the prevailing rates for construction, alterati For purposes of this subparagraph, the term 'zero-emission credit program' means any payments to a qualified nuclear power facility as a result of any Federal, State or local government program for, in whole or in part, the zero-emission, zero-carbon, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with quality attributes of any portion of the electricity produced by subchapter IV of chapter 31 of title 40, United States Code facility.~~

~~(B3) Correction and penalty related to failure to satisfy wage requirements.— (i) In general.— In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to the construction of any qualified facility or with respect to the alteration or repair of a facility in any year during the period described in subparagraph (A)(ii), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such facility and carbon capture equipm~~  
~~ELECTRICITY.— For purposes of this section, the term 'electricity' means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.~~

~~(c) OTHER RULES.—~~

~~(I)~~

~~(i) INFLATION ADJUSTMENT.— The 0.3 cent amount in subsection (a)(1)(A) and the 0.5 cent f(or any year if, with respect to any laborer or mechanic who was paid~~



wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer—"(I) makes payment to such laborer or mechanic in an amount equal to the sum of an amount equal to the difference between the amount of wages paid to such laborer or mechanic during such period, and—"(aa) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during such period, plus "(bb) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period describ2.5 cents where applicable) amount in subsection (b)(2)(A)(ii)(I)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting 'calendar year 2022' for 'calendar year 1992' in subparagraph (B) thereof) for the calendar year in which the sale occurs. If any amount as increased under the preced-ing such item, and "(H) makes payment to the Secretary of a penalty in an amount equal to the product of—"(aa) \$5,000; multiplied by "(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(2) SPECIAL RULES.— Rules similar to the rules of paragraphs (A) for any period during such year. "(ii) Penalty assessed as tax.— The penalty described in clause (i) (H) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 681), (3), (4), and (5) of section 45(e) shall apply for purposes of this section.

"(43) Apprenticeship requirements.— The requirements described in this paragraph with respect to any qualified facility and carbon capture equipment are as follows: "(A) Labor hours.— "(i) Percentage of total labor hours.— All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any facility and carbon capture equipment prior to such facility being pULTIMATE PURCHASER.— For purposes of this section, electricity produced by the taxpayer shall be treated as sold to an unrelated person if the ultimate purchaser of such electricity is unrelaeted into service shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes of paragraph (1), the applicable percentage shall be— "(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent, "(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and "(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percentuch taxpayer.

"(d) WAGE REQUIREMENTS.—

"(1) INCREASED CREDIT AMOUNT FOR QUALIFIED NUCLEAR POWER FACILITIES.— In the case of any qualified nuclear power facility which satisfies the requirements of paragraph (2), the amount of the credit determined under subsection (a) shall be equal to such amount multiplied by 5 (determined without regard to this sentence).

"(B2) Apprentice to journeyworker ratio.— The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice to journeyworker

ratios of the Department of Labor or the applicable State apprenticeship agency. "(C) Participation.— Each PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.— The taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractor who employs 4 or more individuals to perform construction, s in the alteration; or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work. "(D) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who— "(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, of a facility shall be paid wages at rates not less than the prevailing rates for alteration; or repair work, and "(II) makes a good faith effort to comply with the requirements of this paragraph. "(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program. "(E) Definitions.— For purposes of this paragraph— "(i) Labor hours.— The term 'labor hours' has the meaning given such term in apter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(9)(E)(i). "(ii) Qualified apprentice.— The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii)B) shall apply.

"(53) REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection.— (e) Increased applicable dollar amount.— (1) In general.— Section 45Q(b)(1) is amended— (A) by amending clause (i) of subparagraph (A) to read as follows: "(i) for any, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection.

"(e) TERMINATION.— This section shall not apply to taxable years beginning in a calendar year after 2016 and before 2027— "(i) for purposes of paragraph after December 31, 2029.

(b) CONFORMING AMENDMENTS.—

(31) of subsection (a), \$50 for each calendar year during such period, and "(ii) for purposes of paragraph (4) of such subsection, \$35 for each calendar year during such period, and", (B) by redesignating sub Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (32), by striking "plus" at the end,

(B) in paragraphs (B) and (C) as subparagraphs (C) and (D), and (C) by inserting after subparagraph (A) 33, by striking the period at the end and inserting ". plus", and

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

"(B) Inflation adjustment.— In the case of any taxable year beginning in a calendar year after 2025, each of the dollar amounts in subparagraph (A)(i) shall be increased by an amount equal to— "(i) such dollar amount, multiplied by "(ii) the cost-of-living adjustment determined under section 1(f) (3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2024' for 'calendar year 2016' in subparagraph (A) (ii) thereof. Any increase determined under the preceding sentence shall be rounded to the nearest cent<sup>34</sup> the zero-emission nuclear power production credit determined under section 45W(a)."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45W. Zero-emission nuclear power production credit."

(c) ELECTIVE PAYMENT OF CREDIT.—

Section 6417(b), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(7) The zero-emission nuclear power production credit determined under section 45W."

(fd) EFFECTIVE DATES.— (1) EXTENSION.— THE AMENDMENT MADE BY SUB.— This section (a) shall apply to facilities the construction of which begins after December 31, 2025. (2) Other amendments.— The amendments made by subsections (b), (c), (d), and (e) shall apply to electricity produced and sold after December 31, 2021, in taxable years beginning after December 31, 2021 such date.

### **Sec. 136201. Extension of incentives for biodiesel, renewable diesel and alternative fuels**

(a) BIODIESEL AND RENEWABLE DIESEL CREDIT.— Section 40A(g) is amended by striking "December 31, 2022" and inserting "December 31, 2034~~26~~".

(b) BIODIESEL MIXTURE CREDIT.—

(1) IN GENERAL.— Section 6426(c)(6) is amended by striking "December 31, 2022" and inserting "December 31, 2034~~26~~".

(2) FUELS NOT USED FOR TAXABLE PURPOSES.— Section 6427(e)(6)(B) is amended by striking "December 31, 2022" and inserting "December 31, 2034~~26~~".

(c) ALTERNATIVE FUEL CREDIT.— <sup>(4)</sup>Section 6426(d)(5) is amended by striking "December 31, 2021" and inserting "December 31, 2034~~26~~".

(d) ALTERNATIVE FUEL MIXTURE CREDIT.— Section 6426(e)(3) is amended by striking "December 31, 2021" and inserting "December 31, 2034~~26~~".

(e) PAYMENTS FOR ALTERNATIVE FUELS.— Section 6427(e)(6)(C) is amended by striking "December 31, 2021" and inserting "December 31, 2034~~26~~".

(f) EFFECTIVE DATE.— The amendments made by this section shall apply to fuel sold or used after December 31, 2021.

### **Sec. 136202. Extension of second generation biofuel incentives**

(a) IN GENERAL.— Section 40(b)(6)(J)(i) is amended by striking "2022" and inserting "2032~~Z~~".

(b) EFFECTIVE DATE.— The amendment made by subsection (a) shall apply to qualified second generation biofuel production after December 31, 2021.

### **Sec. 136203. Sustainable aviation fuel credit**

(a) IN GENERAL.—

Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 40A the following new section:

#### **"Sec. 40B. Sustainable aviation fuel credit**

"(a) IN GENERAL.— For purposes of section 38, the sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture which occurs during such taxable year, an amount equal to the product of—

"(1) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

"(2) the sum of—

"(A) \$1.25, plus

"(B) the applicable supplementary amount with respect to such sustainable aviation fuel.

"(b) APPLICABLE SUPPLEMENTARY AMOUNT.— For purposes of this section, the term 'applicable supplementary amount' means, with respect to any sustainable aviation fuel, an amount equal to \$0.01 for each percentage point by which the lifecycle greenhouse gas emissions reduction percentage with respect to such fuel exceeds 50 percent. In no event shall the applicable supplementary amount determined under this subsection exceed \$0.50.

"(c) QUALIFIED MIXTURE.— For purposes of this section, the term 'qualified mixture' means a mixture of sustainable aviation fuel and kerosene if—

"(1) such mixture is produced by the taxpayer in the United States,

"(2) such mixture is used by the taxpayer (or sold by the taxpayer for use) in an aircraft,

"(3) such sale or use is in the ordinary course of a trade or business of the taxpayer, and

"(4) the transfer of such mixture to the fuel tank of such aircraft occurs in the United States.

"(d) SUSTAINABLE AVIATION FUEL.— For purposes of this section, the term 'sustainable aviation fuel' means liquid fuel which—

"(1) meets the requirements of—

"(A) ASTM International Standard D7566, or

"(B) the Fischer Tropsch provisions of ASTM International Standard D1655, Annex A1,

"(2) is not derived from palm fatty acid distillates or petroleum, and

"(3) has been certified in accordance with subsection (e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent.

"(e) LIFECYCLE GREENHOUSE GAS EMISSIONS REDUCTION PERCENTAGE.— For purposes of this section—~~"(1) In general.—T, the term 'lifecycle greenhouse gas emissions reduction percentage' means, with respect to any sustainable aviation fuel, the percentage reduction in lifecycle greenhouse gas emissions achieved by such fuel in comparison with petroleum-based jet fuel as stated in a certification which meets the requirements of paragraphs (2);—~~

~~"(2) Certification methodology.— A certification meets the requirements of this paragraph if such certification (including the methodology and process of such certification) conforms with all requirements (including requirements related to traceability and information transmission) of as defined in accordance with—~~

~~"(A) the most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States; or~~

~~"(3) Option to obtain certification from Secretary.— Not later than 24 months after the date of the enactment of this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall establish procedures pursuant to which taxpayers may obtain a certification which meets the requirements of paragraph (2) from the Secretary any similar methodology which satisfies the criteria under section 211(o), (1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), and~~

~~"(2) achieved by such fuel as compared with petroleum-based jet fuel.~~

"(f) REGISTRATION OF SUSTAINABLE AVIATION FUEL PRODUCERS.— No credit shall be allowed under this section with respect to any sustainable aviation fuel unless the producer of such fuel ~~has entered into an agreement with the Secretary to provide the Secretary~~ such is registered with the Secretary under section 4101 and has provided such other information with respect to such fuel as the Secretary may require for purposes of carrying out this section. (l)

"(g) COORDINATION WITH CREDIT AGAINST EXCISE TAX.— The amount of the credit determined under this section with respect to any sustainable aviation fuel shall, under rules prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such sustainable aviation fuel solely by reason of the application of section 6426 or 6427(e).

"(h) TERMINATION.— This section shall not apply to any sale or use after December 31, 2034~~26~~."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

Section 38(b) is amended by striking "plus" at the end of paragraph (373), by striking the period at the end of paragraph (384) and inserting ", plus", and by inserting after paragraph (384) the following new paragraph:

"(395) the sustainable aviation fuel credit determined under section 40B."

(c) COORDINATION WITH BIODIESEL INCENTIVES.—

(1) IN GENERAL.— Section 40A(d)(1) is amended by inserting "or 40B" after "determined under section 40".

(2) CONFORMING AMENDMENT.— Section 40A(f) is amended by striking paragraph (4).

(d) SUSTAINABLE AVIATION FUEL ADDED TO CREDIT FOR ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.— Section 6426 is amended by adding at the end the following new subsection:

"(k) SUSTAINABLE AVIATION FUEL CREDIT.—

"(1) IN GENERAL.— For purposes of this section, the sustainable aviation fuel credit for the taxable year is, with respect to any sale or use of a qualified mixture, an amount equal to the product of—

"(A) the number of gallons of sustainable aviation fuel in such mixture, multiplied by

"(B) the sum of—

"(i) \$1.25, plus

"(ii) the applicable supplementary amount with respect to such sustainable aviation fuel.

"(2) APPLICABLE SUPPLEMENTARY AMOUNT.— For purposes of this subsection, the term 'applicable supplementary amount' has the meaning given such term in section 40B(b).

"(3) OTHER DEFINITIONS.— Any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) REGISTRATION REQUIREMENT.— For purposes of this subsection, rules similar to the rules of section 40B(f) shall apply. "

(2) CONFORMING AMENDMENTS.—

(A) Section 6426 is amended—

(i) in subsection (a)(1), by striking "and (e)" and inserting "(e), and (k)", and

(ii) in subsection (h), by striking "under section 40 or 40A" and inserting "under section 40, 40A, or 40B".

(B) Section 6427(e)(6) is amended by striking the "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) any qualified mixture of sustainable aviation fuel (as defined in section 6426(k)(3)) sold or used after December 31, 2034-26. "

(C) Section 6427(e) is amended in the heading by striking "or alternative fuel" and inserting, "alternative fuel, or sustainable aviation fuel".

(D) Section 6427(e)(1) is amended by inserting "or the sustainable aviation fuel mixture credit" after "alternative fuel mixture credit".

(E) Section 4101(a)(1) is amended by inserting "every person producing sustainable aviation fuel (as defined in section 40B or section 6426(k)(3)), " before "and every person producing second generation biofuel".

(e) GUIDANCE.— Under rules prescribed by the Secretary of the Treasury (or the Secretary's delegate), the amount of the credit allowed under section 40B of the Internal Revenue Code of 1986 (as added by this subsection) shall be properly reduced to take into account any benefit provided with respect to sustainable aviation fuel (as defined in such section 40B) by reason of the application of section 6426 or section 6427(e).

(f) AMOUNT OF CREDIT INCLUDED IN GROSS INCOME.—

Section 87 is amended by striking "and" in paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the sustainable aviation fuel credit determined with respect to the taxpayer for the taxable year under section 40B(a). "

(g) EFFECTIVE DATE.— The amendments made by this section shall apply to fuel sold or used after December 31, 2022.

#### **Sec. 136109. ~~Zero-emission nuclear power production credit~~ 204. Clean hydrogen**

(a) CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.—

(a1) IN GENERAL.— Subpart D of part IV of subchapter A of chapter 1 ~~of the Internal Revenue Code of 1986~~ is amended by adding at the end the following new section:

**"Sec. 45WX. ~~Zero-emission nuclear power production credit~~ Credit for production of clean hydrogen**

(a) AMOUNT OF CREDIT.— For purposes of section 38, the ~~zero-emission nuclear power~~ clean hydrogen production credit for any taxable year is an amount equal to the amount by which ~~"(1) the product of—"(A) 1.5 ee~~ product of—

~~"(1) the applicable amounts, multiplied by~~

~~"(B2) the kilowatt-hours of electricity—"(i)grams of qualified clean hydrogen produced by the taxpayer during such taxable year at a qualified nuclear power facility, and "(ii) sold by the taxpayer to an unrelated person durn hydrogen production facility during the 10-year period beginning on the taxable year, exceeds "(2) the reduction amount for such taxable year. "(b) Definitions.—"(1) Qualified nuclear power facilitydate such facility was originally placed in service.~~

~~"(b) APPLICABLE AMOUNT.—~~

~~"(1) IN GENERAL.— For purposes of this subsection, the term 'qualified nuclear power facility' means any nuclear facility—"(A) which is own\_(a)(1), the applicable amount shall be an amount equal to the applicable percentage of \$0.60. If any amount as determined under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded byto the taxpayer and which uses nuclear energy to produce electricity;nearest multiple of 0.1 cent.~~

~~"(2) APPLICABLE PERCENTAGE.— For purposes of paragraph (1), the term 'applicable percentage' shall be determined as follows:~~

~~"(BA) which has not received an allocation under section 45J(b), and "(C) which is placed in service before the date of the enactment of this section.In the case of any qualified clean hydrogen which is produced by a facility that is placed in service before January 1, 2027 through a process that results in a lifecycle greenhouse gas emissions rate of—~~

~~"(2i) Reduction amount.—"(A) In general.— For purposes of this section, the term 'reduction amount' means, with respect to~~not greater than 6 kilograms of CO2e per kilogram of hydrogen, and~~~~

~~"(ii) not less than 4 kilograms of CO2e per kilogram of hydrogen, the applicable percentage shall be 8.4 percent.~~

~~"(B) In the case of any qualified nuclear power facility for any taxable year, the amount equal to the lesser of— "(i) the amount determined under subsection (a)(1), or "(ii) the amount equal to 80 percent of the excess of— "(I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year, over "(II) the amount equal to the product of— "(aa) 2.5 cents, multiplied by "(bb) the amount determined under subsection (a)(1)(B). "(B) Treatment of certain receipts.— "(i) In general.— The amount determined under subparagraph (A)(ii)(I) shall include any amount received by the taxpayer during the taxable year with respect to the hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—~~

~~"(i) less than 4 kilograms of CO2e per kilogram of hydrogen, and~~

~~"(ii) not less than 2.5 kilograms of CO2e per kilogram of hydrogen.~~



the applicable percentage shall be 20 percent.

"(C) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of

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"(i) less than 2.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

"(ii) not less than 1.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

the applicable percentage shall be 33.4 percent.

"(D) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of

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"(i) less than 1.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

"(ii) not less than 0.45 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

the applicable percentage shall be 50 percent.

"(E) In the case of any qualified nuclear power facility from a zero-emission credit program unless the amount received by the taxpayer is subject to reduction—"(I) by the full hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of less than 0.45 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, the applicable percentage shall be 100 percent.

"(3) INFLATION ADJUSTMENT.— The \$0.60 amount in paragraph (1) shall be adjusted by multiplying such amount ~~ef~~ by the ~~credit~~inflation adjustment factor (as determined under this section, or "(ii) by any lesser amount if such amount entirely offsets the amount received from a zero-emission credit program. "(ii) Zero-emission credit program.— For purposes of this 45(e)(2), determined by substituting '2020' for '1992' in subparagraph (B) thereof for the calendar year in which the qualified clean hydrogen is produced. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

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

"(1) LIFECYCLE GREENHOUSE GAS EMISSIONS.—

"(A) IN GENERAL.— Subject to subparagraph (B), the term 'zero-emission credit progr'lifecycle greenhouse gas emissions' has the same means any payments to a qualified nuclear power facility as a result of any Federal, State or local government program for, in whole or in part, the zero-eing given such term under subparagraph (H) of section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of enactment of this section.

"(B) GREET MODEL.— The term 'lifecycle greenhouse gas emissions' shall only include emissions through the point of production, as determined under the most recent <sup>(1)</sup> Greenhouse gases, Regulated Emissions, zero-carbon, or air quality attributes of any portion of the electricity produced by

such facility. ~~"(3) Electricity.— For purposes of this section, the term 'electricity' means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power. "(c) Other rules.— "(1) Inflation adjustment.— The 1.5 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting 'calendar year 2022' for 'calendar year 1992' in subparagraph (B) thereof) for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent. "(2) Special rules.— Rules similar to the rules of paragraphs (1), (3), (4), and (5) of section 45(e) shall apply for purposes of this section. "(3) Denial of double benefit.— No credit shall be allowed under section 48E for any power production for which a credit is taken under this section. "(d) Wage and apprenticeship requirements.— "(1) Base credit amount and increased credit amount for qualified nuclear power facilities.— "(A) In general.— In the case of any qualified nuclear power facility which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under subsection (a) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall be 20 percent of such amount (determined without regard to this sentence). "(B) Increased credit for certain facilities meeting project requirements.— "(i) In general.— In the case of any qualified nuclear power facility which meets the project requirements of this subparagraph, subparagraph (A) shall not apply. "(ii) Project requirements.— A project meets the requirements of this subparagraph if it is one of the following: "(I) A project with a maximum net output of less than 1 megawatt. "(II) A project which satisfies the requirements of paragraphs (2) and (3). "(2) Prevailing wage requirements.— "(A) In general.— The taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the alteration or repair of a facility shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. "(B) Correction and penalty related to failure to satisfy wage requirements.— "(i) In general.— In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A), such taxpayer shall be deemed to have satisfied such requirement under such subparagraph with respect to such facility for any year if, with respect to any laborer or mechanic who was paid wages at a rate below the rate described in such subparagraph for any period during such year, such taxpayer — "(I) makes payment to such laborer or mechanic in an amount equal to the sum of — "(aa) an amount equal to the difference between the amount of wages paid to such laborer or mechanic during such period, and — "(AA) the amount of wages required to be paid to such laborer or mechanic pursuant to such subparagraph during~~

such period, plus "(BB) interest on the amount determined under item (aa) at the underpayment rate established under section 6621 for the period described in such item, and "(II) makes payment to the Secretary of a penalty in an amount equal to the product of— "(aa) \$5,000, multiplied by "(bb) the total number of laborers and mechanics who were paid wages at a rate below the rate described in subparagraph (A) for any period during such year. "(ii) Penalty assessed as tax.— The penalty described in clause (i)(II) shall be treated in the same manner as a penalty imposed under subchapter B of chapter 68. "(3) Apprenticeship requirements.— The requirements described in this subparagraph with respect to any qualified nuclear power facility are as follows: "(A) Labor hours.— "(i) Percentage of total labor hours.— All contractors and subcontractors engaged in the performance of alteration or repair work on any qualified nuclear power facility shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes of paragraph (1), the applicable percentage shall be— "(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent, "(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and "(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent. "(B) Apprentice to journeyworker ratio.— The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice to journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency. "(C) Participation.— Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work. "(D) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who— "(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and "(II) makes a good faith effort to comply with the requirements of this paragraph. "(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program. "(E) Definitions.— For purposes of this paragraph— "(i) Labor hours.— The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i). "(ii) Qualified apprentice.— The term 'qualified apprentice' has

~~the meaning given such term in section 45(b)(9)(E)(ii). "(4) Regulations and guidance.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection. "(e) Termination.—This section shall not apply to taxable years beginning after December 31, 2026." (b) Conforming amendments.—(4) Section 38(b) of the Internal Revenue Code of 1986 is amended—(A) in paragraph (36), by striking "plus" at the end, (B) in paragraph (37), by striking the period at the end and inserting ", plus", and (C) by adding at the end the following new paragraph: "(38) the zero-emission nuclear power production credit determined under section 45W(a)". (2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item: "Sec. 45W. Zero-emission nuclear power production credit.". (c) Elective payment of credit.—Section 6417(b), as added by the preceding provisions of this Act, is amended by adding at the end the following new paragraph: "(8) The zero-emission nuclear power production credit determined under section 45W.". (d) Effective date.—This section shall apply to electricity produced and sold after December 31, 2021, in taxable years beginning after such date and *Energy use in Transportation model (commonly referred to as the 'GREET model'), developed by Argonne National Laboratory, or a successor model (as determined by the Secretary).*~~

"(2) QUALIFIED CLEAN HYDROGEN.—

"(A) IN GENERAL.— The term 'qualified clean hydrogen' means hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of not greater than 6 kilograms of CO<sub>2</sub>e per kilogram of hydrogen.

"(B) ADDITIONAL REQUIREMENTS.— Such term shall not include any hydrogen unless such hydrogen is produced—

"(i) in the United States (as defined in section 638(1) or a possession of the United States (as defined in section 638(2)),

"(ii) in the ordinary course of a trade or business of the taxpayer,  
and

"(iii) for sale or use, as verified by an unrelated third party of such production and sale or use in such form or manner as the Secretary may prescribe under subsection (f)(2).

"(3) QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITY.—

"(A) IN GENERAL.— The term 'qualified clean hydrogen production facility' means a facility owned by the taxpayer which produces qualified clean hydrogen and which meets the requirements of subparagraph (B).

"(B) TERMINATION.— The term 'qualified clean hydrogen production facility' shall not include any facility the construction of which begins after December 31, 2028.

"(d) SPECIAL RULES.—

"(1) TREATMENT OF FACILITIES OWNED BY MORE THAN 1 TAXPAYER.— Rules similar to the rules section 45(e)(3) shall apply for purposes of this section.

"(2) COORDINATION WITH CREDIT FOR CARBON OXIDE SEQUESTRATION.— No credit shall be allowed under this section with respect to any qualified clean hydrogen produced at a facility which includes carbon capture equipment for which a credit is allowed to any taxpayer under section 45Q for the taxable year or any prior taxable year.

"(e) INCREASED CREDIT AMOUNT FOR QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITIES.—

"(1) IN GENERAL.— In the case of any qualified clean hydrogen production facility which satisfies the requirements of paragraph (2), the amount of the credit determined under subsection (a) with respect to qualified clean hydrogen described in subsection (b)(2) shall be equal to such amount multiplied by 5 (determined without regard to this sentence).

"(2) REQUIREMENTS.— A facility meets the requirements of this subparagraph if it is one of the following:

"(A) A facility—

"(i) the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (3) and (4), and

"(ii) which meets the requirements of paragraph (3) with respect to construction, alteration, or repair of facilities which occurs after such date, and

"(B) A facility which satisfies the requirements of paragraphs (3) and (4).

"(3) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.— The requirements described in this subparagraph with respect to any qualified clean hydrogen production facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—

"(i) the construction of such facility, and

"(ii) for the period of the taxable year which is within the 10-year period beginning on the date the facility was originally placed in service, the alteration or repair of such facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code. For purposes of determining an increased credit amount under paragraph (1) for a taxable year, the requirement under clause (ii) of this paragraph is

applied to such taxable year in which the alteration or repair of qualified facility occurs.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(8)(B) shall apply.

"(4) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(5) REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection.

"(f) REGULATIONS.— Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations or other guidance to carry out the purposes of this section, including regulations or other guidance—

"(1) for determining lifecycle greenhouse gas emissions, and

"(2) which require verification by unrelated third parties of the production and sale or use of qualified clean hydrogen with respect to which credit is otherwise allowed under this section."

(2) ELECTIVE PAYMENT OF CREDIT.—

(A) IN GENERAL.—

Section 6417(b), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(8) So much of the the credit for production of clean hydrogen determined under section 45X as is attributable to qualified clean hydrogen production facilities which are originally placed in service after December 31, 2011, and with respect to which an election is made under subsection (c) (3)."

(B) ELECTION.—

Section 6417(c)(3), as amended by the preceding provisions of this Act, is amended by adding at the end the following new subparagraph:

"(D) CREDIT FOR PRODUCTION OF CLEAN HYDROGEN.— In the case of the credit described in subsection (b)(8), any election under this subsection shall

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"(i) apply separately with respect to each qualified clean hydrogen production facility,

"(ii) be made for the taxable year in which the facility is placed in service (or within 90 days of date of enactment in the case of facilities placed in service before December 31, 2021),,

"(iii) shall apply to such taxable year and all subsequent taxable years with respect to such facility."

(3) CREDIT REDUCED FOR TAX-EXEMPT BONDS.— Section 45X(d), as added by this section, is amended by adding at the end the following new paragraph:

"(3) CREDIT REDUCED FOR TAX-EXEMPT BONDS.— Rules similar to the rule under section 45(b)(3) shall apply for purposes of this section."

(4) CONFORMING AMENDMENTS.—

(A) Section 38(b) is amended—

(i) in paragraph (34), by striking "plus" at the end,

(ii) in paragraph (35), by striking the period at the end and inserting ", plus", and

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

"(36) the clean hydrogen production credit determined under section 45X(a)."

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 amended by adding at the end the following new item:

"Sec. 45X. Credit for production of clean hydrogen."

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1), (2), and (4) of this subsection shall apply to hydrogen produced after December 31, 2021.

(B) The amendment made by paragraph (3) shall apply to facilities the construction of which begins after December 31, 2021.

(b) CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES ALLOWED IF ELECTRICITY IS USED TO PRODUCE CLEAN HYDROGEN.—

(1) IN GENERAL.— Section 45(e) is amended by adding at the end the following new paragraph:

"(13) SPECIAL RULE FOR ELECTRICITY USED AT A QUALIFIED CLEAN HYDROGEN PRODUCTION FACILITY.— Electricity produced by the taxpayer shall be treated as sold by such taxpayer to an unrelated person during the taxable year if such electricity is used during such taxable year by the taxpayer or a person related to the taxpayer at a qualified clean hydrogen production facility (as defined in section 45X(c)(3)) to produce qualified clean hydrogen (as defined in section 45X(c)(2)) during the 10 year period after such facility is placed in service. The Secretary shall issue such regulations or other guidance as the Secretary determines appropriate to carry out the purposes of this paragraph, including regulations or other guidance to require verification by unrelated third parties of the production and use of electricity to which this paragraph applies."

(2) EFFECTIVE DATE.— The amendment made by this subsection shall apply to electricity produced after December 31, 2021.

(c) ELECTION TO TREAT CLEAN HYDROGEN PRODUCTION FACILITIES AS ENERGY PROPERTY.—

(1) IN GENERAL.— Section 48(a) is amended by adding at the end the following new paragraph:

"(15) ELECTION TO TREAT CLEAN HYDROGEN PRODUCTION FACILITIES AS ENERGY PROPERTY.—

"(A) IN GENERAL.— In the case of any qualified property (as defined in paragraph (5)(D)) which is part of a specified clean hydrogen production facility—

"(i) such property shall be treated as energy property for purposes of this section, and

"(ii) the energy percentage with respect to such property is—

"(I) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (A) of section 45X(b)(2), 0.5 percent,

"(II) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (B) of such section, 1.2 percent,

"(III) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (C) of such section, 2 percent,

"(IV) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (D) of such section, 3 percent, and

"(V) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in subparagraph (E) of such section, 6 percent.

"(B) DENIAL OF PRODUCTION CREDIT.— No credit shall be allowed under section 45X or section 45Q for any taxable year with respect to any specified clean hydrogen production facility or any carbon capture equipment included at such facility.

"(C) SPECIFIED CLEAN HYDROGEN PRODUCTION FACILITY.— For purposes of this paragraph, the term 'specified clean hydrogen production facility' means any qualified clean hydrogen production facility (as defined in section 45X(c)(3)) or any portion of such facility—

"(i) which is placed in service after December 31, 2021, and

"(ii) with respect to which—

"(I) no credit has been allowed under section 45X or 45Q, and

"(II) the taxpayer makes an irrevocable election to have this paragraph apply.

"(D) QUALIFIED CLEAN HYDROGEN.— For purposes of this paragraph, the term 'qualified clean hydrogen' has the meaning given such term by section 45X(c)(2).



"(E) REGULATIONS.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which—

"(i) requires verification by one or more unrelated third parties that the facility produces hydrogen which is consistent with the hydrogen that such facility was designed and expected to produce under subparagraph (A)(ii), and

"(ii) recaptures so much of any credit allowed under this section as exceeds the amount of the credit which would have been allowed if the expected production were consistent with the actual verified production (or all of the credit so allowed in the absence of such verification)."

(2) EFFECTIVE DATE.— The amendments made by this subsection shall apply to property placed in service after December 31, 2021 and, for any property the construction of which begins prior to January 1, 2022, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 2021.

(d) TERMINATION OF EXCISE TAX CREDIT FOR HYDROGEN.—

(1) IN GENERAL.— Section 6426(d)(2) is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(2) CONFORMING AMENDMENT.— Section 6426(e)(2) is amended by striking "(E)" and inserting "(E)".

(3) EFFECTIVE DATE.— The amendments made by this subsection shall apply to fuel sold or used after December 31, 2021.

### **Sec. 136301. Extension, increase, and modifications of nonbusiness energy property credit**

(a) EXTENSION OF CREDIT.— Section 25C(g)(2) is amended by striking "December 31, 2021" and inserting "December 31, 2031".

(b) INCREASE IN CREDIT PERCENTAGE FOR QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.— Section 25C(a)(1) is amended by striking "10 percent" and inserting "30 percent".

(c) APPLICATION OF ANNUAL LIMITATION IN LIEU OF LIFETIME LIMITATION.— Section 25C(b) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) IN GENERAL.— The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed \$1,200.

"(2) WINDOWS.— The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer<sup>(1)</sup> for any taxable year shall not exceed—"~~(A) in the aggregate with respect to all exterior windows and skylights which are not described in~~

~~subparagraph (B), \$200, "(B) in the aggregate with respect to all exterior windows and skylights which meet the standard for the most efficient certification under applicable Energy Star program requirements, the excess (if any) of \$600 over the credit so allowed with respect to all windows and skylights taken into account under subparagraph (A). "(3) Doors.— The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer for any taxable year shall not exceed— "(A) \$250 in the case of any exterior door, and "(B) \$500 in the aggregate with respect to all exterior doors., in the aggregate with respect to all exterior windows and skylights, \$600.~~

"(3) DOORS.— The credit allowed under this section by reason of subsection (a)(1) with respect to any taxpayer for any taxable year shall not exceed—

"(A) \$250 in the case of any exterior door, and

"(B) \$500 in the aggregate with respect to all exterior doors.

"(4) CERTAIN PROPERTY EXCLUDED FROM LIMITATION.— Amounts paid or incurred for property described in subsection (d)(2)(A)(ii), subsection (d)(2)(B), or subsection (d)(2)(C) shall not be subject to the limitation in paragraph (1) or factored in for purposes of calculating the limitation under such paragraph."

(d) MODIFICATIONS RELATED TO QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) STANDARDS FOR ENERGY EFFICIENT BUILDING ENVELOPE COMPONENTS.— Section 25C(c)(2) is amended by striking "meets—" and all that follows through the period at the end and inserting the following:

meets—

"(A) in the case of an exterior window, ~~a or skylight, or an exterior door,~~ applicable Energy Star program~~Energy Star most efficient certification requirements, and~~

"(B) in the case of any other component, the prescriptive criteria for such component established by the most recent International Energy Conservation Code standard in effect as of the beginning of the calendar year which is 2 years prior to the calendar year in which such component is placed in service. "

(2) ROOFS NOT TREATED AS BUILDING ENVELOPE COMPONENTS.— Section 25C(c)(3) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(3) AIR ~~BARRIER~~SEALING INSULATION ADDED TO DEFINITION OF BUILDING ENVELOPE COMPONENT.— Section 25C(c)(3)(A) is amended by striking "material or system" and inserting "material or system, including air sealing material or system,".

(e) MODIFICATION OF RESIDENTIAL ENERGY PROPERTY EXPENDITURES.— Section 25C(d) is amended to read as follows:

"(d) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.— For purposes of this section—

"(1) IN GENERAL.— The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property which is—

"(A) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, and

"(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) QUALIFIED ENERGY PROPERTY.— The term 'qualified energy property' means a:

"(A) Any of the following which meet or exceed the highest efficiency tier (not including any advanced tier) established by the Consortium for Energy Efficiency which is in effect as of the beginning of the calendar year in which the property is placed in service:

"(A*i*) An electric heat pump water heater.

"(B*ii*) An electric heat pump.

"(C*iii*) A central air conditioner.

"(D*iv*) A natural gas, propane, or oil water heater.

"(E*v*) A natural gas, propane, or oil furnace or hot water boiler.

"(B) A geothermal heat pump which meets such requirements of the Energy Star program as are in effect at the time that the expenditure for such equipment is made.

"(C) A biomass stove—

"(i) which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and

"(ii) which has a thermal efficiency rating of at least 75 percent (measured by the higher heating value of the fuel).

"(D) Any oil furnace or hot water boiler which—

"(i) is placed in service after December 31, 2021 and before January 1, 2027 and meets or exceeds 2021 Energy Star efficiency criteria and is rated by the manufacturer for use with eligible fuel blends of 20 percent or more, or

"(ii) is placed in service after December 31, 2026 and achieves an annual fuel utilization efficiency rate of not less than 90 and is rated by the manufacturer for use with eligible fuel blends of 50 percent or more.

"(3) ELIGIBLE FUEL.— For purposes of paragraph (2), the term 'eligible fuel' means biodiesel and renewable diesel (within the meaning of section 40A) and second generation biofuel (within the meaning of section 40)."

(f) HOME ENERGY AUDITS.—

(1) IN GENERAL.— Section 25C(a) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 30 percent of the amount paid or incurred by the taxpayer during the taxable year for home energy audits."

(2) LIMITATION.— Section 25C(b), as amended by subsection (c), is amended adding at the end the following new paragraph:

"(54) HOME ENERGY AUDITS.—

"(A) DOLLAR LIMITATION.— The amount of the credit allowed under this section by reason of subsection (a)(3) shall not exceed \$150.

"(B) SUBSTANTIATION REQUIREMENT.— No credit shall be allowed under this section by reason of subsection (a)(3) unless the taxpayer includes with the taxpayer's return of tax such information or documentation as the Secretary may require."

(3) HOME ENERGY AUDITS.—

(A) IN GENERAL.—

Section 25C, as amended by subsections (a), is amended by redesignating subsections (e), (f), and (g), as subsections (f), (g), and (h), respectively, and by inserting after subsection (d) the following new subsection:

"(e) HOME ENERGY AUDITS.— For purposes of this section, the term 'home energy audit' means an inspection and written report with respect to a dwelling unit located in the United States and owned or used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121) which—

"(1) identifies the most significant and cost-effective energy efficiency improvements with respect to such dwelling unit, including an estimate of the energy and cost savings with respect to each such improvement, and

"(2) is conducted and prepared by a home energy auditor that meets the certification or other requirements specified by the Secretary ~~(after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency and not later than 480365~~ days after the date of the enactment of this subsection) in regulations or other guidance. "

(B) CONFORMING AMENDMENT.— Section 1016(a)(33) is amended by striking "section 25C(f)" and inserting "section 25C(g)".

(4) LACK OF SUBSTANTIATION TREATED AS MATHEMATICAL OR CLERICAL ERROR.— Section 6213(g)(2) is amended—

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

(B) in subparagraph (Q), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(R) an omission of correct information or documentation required under section 25C(b)(54)(B) (relating to home energy audits) to be included on a return." (I)

(g) IDENTIFICATION NUMBER REQUIREMENT.—

(1) IN GENERAL.— Section 25C, as amended by subsections (a) and (f), is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) PRODUCT IDENTIFICATION NUMBER REQUIREMENT.—

"(1) IN GENERAL.— No credit shall be allowed under subsection (a) with respect to any item of specified property placed in service after December 31, 2023, unless—

"(A) such item is produced by a qualified manufacturer, and

"(B) the taxpayer includes the qualified product identification number of such item on the return of tax for the taxable year.

"(2) QUALIFIED PRODUCT IDENTIFICATION NUMBER.— For purposes of this section, the term 'qualified product identification number' means, with respect to any item of specified property, the product identification number assigned to such item by the qualified manufacturer pursuant to the methodology referred to in paragraph (3).

"(3) QUALIFIED MANUFACTURER.—~~"(A) IN GENERAL.—~~ For purposes of this section, the term 'qualified manufacturer' means any manufacturer of specified property which enters into an agreement with the Secretary which provides that such manufacturer will—

"(iA) assign a product identification number to each item of specified property produced by such manufacturer utilizing a methodology that will ensure that such number (including any alphanumeric) is unique to each such item (by utilizing numbers or letters which are unique to such manufacturer or by such other method as the Secretary may provide),

"(iB) label such item with such number in such manner as the Secretary may provide, and

"(iC) make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) of the product identification numbers so assigned and including such information as the Secretary may require with respect to the item of specified property to which such number was so assigned.~~"(B) Consultation with DOE and EPA.— The Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall establish procedures for manufacturers and consumers to meet the requirements for product identification numbers under subparagraph (A).~~

"(4) SPECIFIED PROPERTY.— For purposes of this subsection, the term 'specified property' means any qualified energy property and any property described in subparagraph (B) or (C) of subsection (c)(3). "

(2) OMISSION OF CORRECT PRODUCT IDENTIFICATION NUMBER TREATED AS MATHEMATICAL OR CLERICAL ERROR.— Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(A) in subparagraph (Q), by striking "and" at the end,  
 (B) in subparagraph (R), by striking the period at the end and inserting ",  
 and", and

(C) by adding at the end the following:

"(S) an omission of a correct product identification number required under section 25C(h) (relating to credit for nonbusiness energy property) to be included on a return."

(h) EFFECTIVE DATES.—

(1) IN GENERAL.— Except as otherwise provided by this subsection, the amendments made by this section shall apply to property placed in service after December 31, 2021.

(2) HOME ENERGY AUDITS.— The amendments made by subsection (f) shall apply to amounts paid or incurred after December 31, 2021.

(3) IDENTIFICATION NUMBER REQUIREMENT.— The amendments made subsection (g) shall apply to property placed in service after December 31, 2023.

### **Sec. 136302. Residential energy efficient property**

(a) EXTENSION OF CREDIT.—

(1) IN GENERAL.— Section 25D(h) is amended by striking "December 31, 2023" and inserting "December 31, 2033".

(2) APPLICATION OF PHASEOUT.— Section 25D(g) is amended—

(A) by striking "before January 1, 2023" in paragraph (2) and inserting "before January 1, 2022",

(B) by striking "and" at the end of paragraph (2),

(C) by redesignating paragraph (3) as paragraph (5) and by inserting after paragraph (2) the following new paragraphs:

"(3) in the case of property placed in service after December 31, 2021, and before January 1, 2032, 30 percent,

"(4) in the case of property placed in service after December 31, 2031, and before January 1, 2033, 26 percent, and", and

(D) by striking "December 31, 2022, and before January 1, 2024" in paragraph (5) (as so redesignated) and inserting "December 31, 2032, and before January 1, 2034".

(b) RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR BATTERY STORAGE TECHNOLOGY.—

(1) IN GENERAL.— Section 25D(a) is amended by striking "and" at the end of paragraph (5) and by inserting after paragraph (6) the following new paragraph:

"(7) the qualified battery<sup>(1)</sup> storage technology expenditures,".

(2) QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.— Section 25D(d) is amended by adding at the end the following new paragraph:

"(7) QUALIFIED BATTERY STORAGE TECHNOLOGY EXPENDITURE.— The term 'qualified battery storage technology expenditure' means an expenditure for battery storage technology which—

"(A) is installed in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, and

"(B) has a capacity of not less than 3 kilowatt hours."

(c) CREDIT MADE REFUNDABLE; INSTALLER REQUIREMENTS; TREATMENT OF CERTAIN POSSESSIONS.—

Section 25D is amended by redesignating subsection (h) as subsection (k) and by inserting after subsection (g) the following new subsections:

"(h) CREDIT MADE REFUNDABLE FOR TAXABLE YEARS AFTER 2021.— In the case of any taxable year beginning after December 31, 2022, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C (and not allowed under this subpart).

"(i) REQUIREMENT FOR QUALIFIED INSTALLER.—

"(1) IN GENERAL.— No credit shall be allowed under this section with respect to any property described in subsection (a) placed in service after December 31, 2022 unless—

"(A) such property is installed by a qualified installer, and

"(B) the taxpayer includes the qualified installation identification number described in paragraph (3) on the return of tax for the taxable year.

"(2) QUALIFIED INSTALLER.—

"(A) IN GENERAL.— For purposes of this section, the term 'qualified installer' means an installer who enters into an agreement with the Secretary which provides that such installer will, with respect to expenditures described in subsection (a) in connection with the residence of a taxpayer—

"(i) provide the taxpayer with a qualified installation identification number and a written receipt of the purchase and installation of such property in a manner prescribed by the Secretary, and

"(ii) make periodic written reports to the Secretary (in such manner as the Secretary may provide) of installation identification numbers assigned by the installer corresponding to such expenditures, including such information as the Secretary may require with respect to such expenditures.

"(B) INSTALLER DEEMED TO MEET REQUIREMENT.— For purposes of subparagraph (A), to the extent provided by the Secretary, an installer may be deemed to meet the requirement under clause (ii) of such subparagraph on the basis of information available to the Secretary which the Secretary determines is reasonably reliable for purposes of determining the amount of qualified expenditures under subsection (a) made by a taxpayer in connection with a residence of such taxpayer.

"(3) QUALIFIED INSTALLATION IDENTIFICATION NUMBER.— For purposes of this section, the term 'qualified installation identification number' means a unique identification number with respect to expenditures described in subsection (a) in connection with a residence of a taxpayer that is installed by a qualified installer.

"(4) REGISTRATION.— The Secretary may require such information or registration of a qualified installer as the Secretary deems necessary or appropriate for purposes of preventing duplication, fraud, or improper claims with respect to property described in subsection (a). Under regulations or other guidance prescribed by the Secretary, the registration of any person under this section may be denied, revoked, or suspended if the Secretary determines that such denial, revocation, or suspension is necessary to prevent duplication, fraud, or improper claims with respect to property described in subsection (a).

"(j) TREATMENT OF CERTAIN POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.— The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

"(2) PAYMENTS TO OTHER POSSESSIONS.— The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

"(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.— Rules similar to the rules of paragraphs (3), (4), and (5) of section 21(h) shall apply for purposes of this section. "

(d) CERTAIN EXPENDITURES DISALLOWED.— Section 25D is amended—

(1) in subsection (a), by adding "and" at the end of paragraph (3), by striking the comma at the end of paragraph (4) and inserting a period, and by striking paragraphs (5) and (6), and

(2) in subsection (d), by striking paragraphs (5) and (6).

(e) CONFORMING AMENDMENT.— Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

(1) in subparagraph (T), by striking "and" at the end,

(2) in subparagraph (U), by striking the period at the end and inserting ", and",

and

(I)

(3) by adding at the end the following:



"(V) an omission of a correct qualified installation identification number required under section 25D (relating to credit for residential energy efficient property) to be included on a return."

(f) EFFECTIVE DATES.—

(1) The amendments made by this subsections (a), (b), (d), and (e) shall apply to expenditures made after December 31, 2021.

(2) The amendments made by subsection (c) shall apply to expenditures made after December 31, 2024.

**~~Sec. 136204. Clean hydrogen (a) Credit for production of clean hydrogen.— (1) In general.— Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section: "Sec. 45X. Credit for production of clean hydrogen (a) Amount of credit.— For purposes of section 38, the clean hydrogen production credit for any taxable year is an amount equal to the product of~~**  
**303. Energy efficient commercial buildings deduction**

(a) PLACED IN SERVICE REQUIREMENT.—

Section 179D(c)(2) is amended to read as follows:

"(2) REFERENCE STANDARD 90.1.— The term 'Reference Standard 90.1' means, with respect to any property, the more recent of—

"(4A) the applicable amount, multiplied by "(2) the kilograms of qualified clean hydrogen produced by the taxpayer during such taxable year at a qualified clean hydrogen production facility during the 10-year period beginning on the date such facility was originally placed in service. "(b) Applicable amount.— Standard 90.1-2007 published by the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America, or

"(4B) In general.— For purposes of subsection (a)(1), the applicable amount shall be an amount equal to the applicable percentage of \$3.00. If any amount as determined under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent. "(2) Applicable percentage.— For purposes of paragraph (1), the term 'applicable percentage' means— "(A) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse ~~g~~the most recent Standard 90.1 published by the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America for which the Department of Energy has emissions which is less than 75 percent, 20 percent, "(B) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is used a final determination and which

~~has been affirmed by the Secretary for purposes of this section not less~~ ~~ater~~ than 75 percent and less than 85 percent, 25 percent, "(C) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is not less than 85 percent and less than 95 percent, 34 percent, and "(D) in the case of any qualified clean hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentage reduction in lifecycle greenhouse gas emissions which is not less than 95 percent, 100 percent. "(3) Inflation adjustment.— The \$3.00 amount in paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), determined by substituting '2020' for '1992' in subparagraph (B) thereof) for the calendar year in which the qualified clean hydrogen is produced. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent the date that is 4 years before the date such property is placed in service."

(b) TEMPORARY INCREASE IN DEDUCTION, ETC.—

Section 179D is amended by adding at the end the following:

"(i) TEMPORARY RULES.—

"(1) PERIOD OF APPLICATION.— The provisions of this subsection shall apply only to taxable years beginning after December 31, 2021, and before January 1, 2032.

"(2) MODIFICATION OF EFFICIENCY STANDARD.— Subsection (c)(1)(D) shall be applied by substituting '25' for '50'.

"(e3) Definitions.— For purposes of this se~~MAXIMUM AMOUNT OF DEDUCTION.—~~

"(4A) Lifecycle greenhouse gas emissions.— For purposes of this section, the term 'lifecycle greenhouse gas emissions' has the same meaning given such term under subparagraph (H) of section 241(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of enactment of this section, as related to the full fuel lifecycle through the point of hydrogen~~IN GENERAL.— The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—~~

"(i) the production, of—

"(2) Qualified clean hydrogen.— "(A) In general.— The term 'qualified clean hydrogen' means hydrogen which is produced through a process that, as compared to hydrogen produced by steam-methane reforming, achieves a percentagethe applicable dollar value, and

"(ii) the square footage of the building, over

"(ii) the aggregate amount of the rdeduction in lifecycle greenhouse gas emissions which is not less than 40 percent. "(B) Additional requirements.— Such term shall not include any hydrogen unless such hydrogen is produced

~~—"(i) in the United States (as defined in section 638(1)) or a possession of the United States (as defined in section 638(2)), "(ii) in the ordinary course of a trade or business of the taxpayer, and "(iii) for sale or use. "(3) Qualified clean hydrogen production facility. — "(A) In general. — The term 'qualified clean hydrogen production facility' means a facility owned by the taxpayer which produces qualified clean hydrogen and which meets the requirements under subsection (a) and paragraph (6) with respect to the building for the 3 taxable years immediately preceding such taxable year (or, in the case of any such deduction allowable to a person other than the taxpayer, for any taxable year ending during the 4-taxable-year period ending with such taxable year).~~

~~"(B) APPLICABLE DOLLAR VALUE. — For purposes of subparagraph (B). "(B) Termination. — The term 'qualified clean hydrogen production facility' shall not include any facility the construction of which begins after December 31, 2028. "(4) Steam-methane reforming. — The term 'steam-methane reforming' means a hydro3)(A)(i), the applicable dollar value shall be an amount equal to \$0.50 increased (but not above \$1.00) by \$0.02 for each percent production process in which high-temperature steam is used to produce hydrogen from natural gas (other than natural gas derived from biomass (as defined in section 45K(e)(3) as in effect on the date of the enactment of this section), without carbon capture and sequestration. "(d) Special rules. oint by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25 percent.~~

~~"(C) APPLICATION OF INFLATION ADJUSTMENT. — Subsection (g) shall be applied —~~

~~"(4) Treatment of facilities owned by more than 1 taxpayer. — Rules similar to the rules section 45(e)(3) shall apply for purposes of this section. "(2) Coordination with credit for carbon oxide sequestration. — No credit shall be allowed under this section with respect to any qualified clean hydrogen produced at a facility which includes property for which a credit is allowed under section 45Q. "(e) Base credit amount and increased credit amount for qualified clean hydrogen production facilities by substituting '2022' for '2020'.~~

~~"(ii) by substituting 'subsection (i)(3)(B)' for 'subsection (b) or subsection (d)(1)(A)', and~~

~~"(iii) by substituting '2021' for '2019'.~~

~~"(D) LIMITATION TO APPLY IN LIEU OF CURRENT LIMITATION AND PARTIAL ALLOWANCE. — Subsections (b) and (d)(1) shall not apply.~~

~~"(4) INCREASED CREDIT AMOUNT FOR CERTAIN PROPERTY. —~~

~~"(4A) IN GENERAL. — In the case of any qualified clean hydrogen production facility which does not property which satisfies the requirements of subparagraph (2)(B), the amount of the credit determined under subsection (a) shall be 20 percent of such amount (determined without regard to this sentence). "(2) Increased credit for certain facilities meeting project requirements. — "(A) In~~

~~general. In the case of any qualified facility which meets the project requirements of this paragraph, paragraph (1) shall not apply. "(B) Project requirements.— A project meets the requirements of this subparagraph if it is one of the following: "(i) A project with a maximum net output of less than 1 megawatt. "(ii) A project which commences construction prior to the date of the enactment of this paragraph paragraph (3)(B) shall be applied by substituting '\$2.50' for '\$0.50', '\$.10' for '\$.02', and '\$5.00' for '\$1.00'.~~

"(B) PROJECT REQUIREMENTS.— A project meets the requirements of this subparagraph if it is one of the following:

"(i) A building or qualified retrofit plan the construction of which begins prior to 60 days after the Secretary publishes guidance with respect to the requirements of paragraphs (5) and (6).

"(iii) A project building or qualified retrofit plan the construction of which satisfies the requirements of paragraphs (35) and (46).

~~"(35) PREVAILING WAGE REQUIREMENTS.—~~

~~"(A) IN GENERAL.— The requirements described in this subparagraph with respect to any qualified clean hydrogen production facility project are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in—"(i) the construction of such facility, and "(ii) for the 10-year period beginning on the date the facility was originally placed in service, the alteration or repair of such facility, any property or with respect to building modifications made as part of a qualified retrofit plan shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.~~

~~"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this subparagraph.~~

~~"(46) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply for purposes of this paragraph.~~

~~"(7) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.—~~

~~"(5A) Regulations and guidance.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the IN GENERAL.— A specified tax-exempt entity shall be treated in the same manner as a Federal, State, or local government for purposes of this applying subsection (d)(4).~~

~~"(fB) Regulations.— Not later than 1 year after the date of enactment of this section, the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall issue regulations or other guidance to carry SPECIFIED TAX-EXEMPT ENTITY.— For purposes of this paragraph, the term 'specified tax-exempt entity' means—~~

~~"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any outf~~  
~~the purposes of this section, including regulations or other guidance— "(1) for~~  
~~determining lifecycle greenhouse gas emissions, and "(2) which require~~  
~~verification by unrelated third parties of the production and sale or use of~~  
~~qualified clean hydrogen with respect to which credit is otherwise allowed~~  
~~and foregoing.~~

~~"(ii) any Indian tribal government (within the meaning of section 139E),~~  
~~and~~

~~"(iii) any organization exempt from tax imposed by this chapter.~~

"(8) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT RETROFIT BUILDING PROPERTY.—

~~"(A) IN GENERAL.— In the case of a taxpayer twhis section.— (2) Eleech elects~~  
~~(at such time payment of credit.— Section 6417(b), as added by the preceding~~  
~~provisand in such manner as the Secretary may provide) the applications of this~~  
~~Act, is amended by adding at the end the following new paragraph: "(9) The credit~~  
~~for production of clean hydrogen determined under section 45X." (3) Conforming~~  
~~amendments.— (A) Section 38(b) is amended— (i) in paragraph (38), by striking~~  
~~"plus" at the end, (ii) in paragraph (39), by striking the period at the end and~~  
~~inserting ", plus", and (iii) by adding at the end the following new paragraph: "(40)~~  
~~the clean hydrogen production credit determined under section 45X(a)." (B) The~~  
~~table of sections for subpart D of part IV of subchapter A of chapter 1 amended by~~  
~~adding at the end the following new item: "Sec. 45X. Credit for production of clean~~  
~~hydrogen." (4) Effective date.— The amendments made by this subsection shall~~  
~~apply to hydrogen placed in service after December 31, 2021. (b) Credit for~~  
~~electricity produced from renewable resources allowed if electricity is used to~~  
~~produce clean hydrogen.— (1) In general.— Section 45(e) is amended by adding~~  
~~at the end the following new paragraph: "(13) Special rule for electricity used at a~~  
~~qualified clean hydrogen production facility.— Electricity produced by the taxpayer~~  
~~shall be treated as sold by such taxpayer to an unrelated person during the~~  
~~taxable year if such electricity is used during such taxable year by the taxpayer or~~  
~~a person related to the taxpayer at a qualified clean hydrogen production facility~~  
~~(as defined in section 45X(d)(3)) to produce qualified clean hydrogen (as defined~~  
~~in section 45X(d)(2)) during the 10 year period after such facility is placed in~~  
~~service. The Secretary shall issue such regulations or other guidance as the~~  
~~Secretary determines appropriate to carry out the purposes of this paragraph,~~  
~~including regulations or other guidance to require verification by unrelated third~~  
~~parties of the production and use of electricity to which this paragraph applies.".~~  
~~(2) Effective date.— The amendment made by this subsection shall apply to~~  
~~electricity produced after December 31, 2021. (c) Election to treat clean hydrogen~~  
~~production facilities as energy property.— (1) In general.— Section 48(a) is~~  
~~amended by adding at the end the following new paragraph: "(8) Election to treat~~  
~~clean hydrogen production facilities as energy property.— "(A) In general.— In the~~

~~case of any qualified property (as defined in paragraph (5)(D)) which is part of a specified clean hydrogen production facility— "(i) such property shall be treated as energy property for purposes of this section, and "(ii) the energy percentage with respect to such property is— "(I) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (A) of section 45X(b)(2), 6 percent, "(II) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (B) of such section, 7.5 percent, "(III) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (C) of such section, 10.2 percent, and "(IV) in the case of a facility which is designed and reasonably expected to produce qualified clean hydrogen which is described in a subparagraph (D) of such section, 30 percent. "(B) Denial of production credit.— No credit shall be allowed under section 45X for any taxable year with respect to any specified clean hydrogen production facility. "(C) Specified clean hydrogen production facility.— For purposes of this paragraph, the term 'specified clean hydrogen production facility' means any qualified clean hydrogen production facility (as defined in section 45X(d)(3)) or any portion of such facility— "(i) which is placed in service after December 31, 2021, and "(ii) with respect to which— "(I) no credit has been allowed under section 45X or 45Q, and "(II) the taxpayer makes an irrevocable election to have this paragraph apply. "(D) Qualified clean hydrogen.— For purposes of this paragraph, the term 'qualified clean hydrogen' has the meaning given such term by section 45X(d)(2). "(E) Regulations.— The Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which— "(i) requires verification by one or more unrelated third parties that the facility produces hydrogen which is consistent with the hydrogen that such facility was designed and expected to produce under subparagraph (A)(ii), and "(ii) recaptures so much of any credit allowed under this section as exceeds the amount of the credit which would have been allowed if the expected production were consistent with the actual verified production (or all of the credit so allowed in the absence of such verification).". (2) Effective date.— The amendments made by this section shall apply to periods after December 31, 2021, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990). (d) Termination of excise tax credit for hydrogen.— (1) In general.— Section 6426(d)(2) is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively. (2) Conforming amendment.— Section 6426(e)(2) is amended by striking "(F)" and inserting "(E)". (3) Effective date.— The amendments made by this subsection shall apply to fuel sold or used after December 31, 2024 paragraph with respect to any qualified building, there shall be allowed as a deduction for the~~

taxable year which includes the date of the qualifying final certification with respect to the qualified retrofit plan of such building, an amount equal to the lesser of—

"(i) the excess described in paragraph (3) (determined by substituting 'energy usage intensity' for 'total annual energy and power costs' in subparagraph (B) thereof), or

"(ii) the aggregate adjusted basis (determined after taking into account all adjustments with respect to such taxable year other than the reduction under subsection (e)) of energy efficient retrofit building property placed in service by the taxpayer pursuant to such qualified retrofit plan.

"(B) QUALIFIED RETROFIT PLAN.— For purposes of this paragraph, the term 'qualified retrofit plan' means a written plan prepared by a qualified professional which specifies modifications to a building which, in the aggregate, are expected to reduce such building's energy usage intensity by 25 percent or more in comparison to the baseline energy usage intensity of such building. Such plan shall provide for a qualified professional to—

"(i) as of any date during the 1-year period ending on the date of the first certification described in clause (ii), certify the energy usage intensity of such building as of such date,

"(ii) certify the status of property installed pursuant to such plan as meeting the requirements of clauses (ii) and (iii) subparagraph (C), and

"(iii) as of any date that is more than 1 year after completion of the plan, certify the energy usage intensity of such building as of such date.

"(C) ENERGY EFFICIENT RETROFIT BUILDING PROPERTY.— For purposes of this paragraph, the term 'energy efficient retrofit building property' means property—

"(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(ii) which is installed on or in any qualified building,

"(iii) which is installed as part of—

"(I) the interior lighting systems,

"(II) the heating, cooling, ventilation, and hot water systems, or

"(III) the building envelope, and

"(iv) which is certified in accordance with subparagraph (B)(ii) as meeting the requirements of clauses (ii) and (iii).

"(D) QUALIFIED BUILDING.— For purposes of this paragraph, the term 'qualified building' means any building which—

"(i) is located in the United States, and

"(ii) was originally placed in service not less than 5 years before the establishment of the qualified retrofit plan with respect to such building.

"(E) QUALIFYING FINAL CERTIFICATION.— For purposes of this paragraph, the term 'qualifying final certification' means, with respect to any qualified retrofit plan, the certification described in subparagraph (B)(iii) if the energy usage intensity certified in such certification is not more than 75 percent of the baseline energy usage intensity of the building.

"(F) BASELINE ENERGY USAGE INTENSITY.—

"(i) IN GENERAL.— The term 'baseline energy usage intensity' means the energy usage intensity certified under subparagraph (B)(i), as adjusted to take into account weather as compared to the energy usage intensity determined under subparagraph (B)(iii).

"(ii) DETERMINATION OF ADJUSTMENT.— For purposes of clause (i), the adjustments described in such clause shall be determined in such manner as the Secretary may provide.

"(G) OTHER DEFINITIONS.— For purposes of this paragraph—

"(i) ENERGY USAGE INTENSITY.— The term 'energy usage intensity' means the annualized, measured site energy usage intensity determined in accordance with such regulations or other guidance as the Secretary may provide and measured in British thermal units.

"(ii) QUALIFIED PROFESSIONAL.— The term 'qualified professional' means an individual who is a licensed architect or a licenced engineer and meets such other requirements as the Secretary may provide.

"(H) COORDINATION WITH DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A).—

"(i) IN GENERAL.— In the case of any building with respect to which an election is made under subparagraph (A), the term 'energy efficient commercial building property' shall not include any energy efficient retrofit building property with respect to which a deduction is allowable under this paragraph.

"(ii) CERTAIN RULES NOT APPLICABLE.—

"(I) IN GENERAL.— Except as provided in subclause (II), subsection (d) shall not apply for purposes of this paragraph.

"(II) ALLOCATION OF DEDUCTION BY CERTAIN TAX-EXEMPT ENTITIES.— Rules similar to subsection (d)(4) (determined after application of paragraph (5)) shall apply for purposes of this paragraph."

(c) APPLICATION TO REAL ESTATE INVESTMENT TRUST EARNINGS AND PROFITS.— Section 312(k)(3)(B) is amended—

(1) by striking "for purposes of computing the earnings and profits of a corporation" and inserting the following:

"(i) IN GENERAL.— For purposes of computing the earnings and profits of a corporation, except as provided in clause (ii)", and

(2) by adding at the end the following new clause:



"(ii) SPECIAL RULE.— In the case of a corporation that is a real estate investment trust, any amount deductible under section 179D shall be allowed in the year in which the property giving rise to such deduction is placed in service."

(d) CONFORMING AMENDMENT.— Section 179D(d)(2) is amended by striking "not later than the date that is 2 years before the date that construction of such property begins" and inserting "not later than the date that is 4 years before the date such property is placed in service".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.— Except as otherwise provided in this subsection, the amendment made by this section shall apply to taxable years beginning after December 31, 2021.

(2) ALTERNATIVE DEDUCTION FOR ENERGY EFFICIENT RETROFIT BUILDING PROPERTY.— Paragraph (8) of section 179D(i) of the Internal Revenue Code of 1986 (as added by this section), and any other provision of such section solely for purposes of applying such paragraph, shall apply to property placed in service after December 31, 2021 (in taxable years ending after such date) if such property is placed in service pursuant to qualified retrofit plan (within the meaning of such section) established after such date.

**Sec. 1363034. Energy-efficient commercial buildings deduction (a) Placed in service requirements, extension, increase, and modifications of new energy efficient home credit**

(a) EXTENSION OF CREDIT.— Section 479D(e)(245L)(g) is amended by striking "the date that is 2 years before the date that construction of such property begins" and inserting "the date that is 2 years before the date such property is placed into service". (b) Temporary increase in deduction, etc. ~~December 31, 2021~~ and inserting "December 31, 2031".

(b) INCREASE IN CREDIT AMOUNTS.—

Section 479D45L(a)(2) is amended by adding at the end the following: "(i) Temporary rules.—to read as follows:

"(42) Period of application.— The provisions of this subsection shall apply only to taxable years beginning after December 31, 2021, and before January 1, 2032. "(2) Modification of efficiency standard.— Subsection (e)(1)(D) shall be applied by substituting '25' for '50'. "(3) Maximum amount of deduction. APPLICABLE AMOUNT.— For purposes of paragraph (1), the applicable amount is an amount equal to—

"(A) In general.— The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of— "(i) the product of— "(I) the applicable dollar value, and "(II) the square footage of the building, over the case of a dwelling unit which is eligible to participate in the Energy Star Residential New Construction Program or the Energy Star Manufactured New Homes program—

~~"(ii) the aggregate amount of the deductions under at is described in subsection (a)(1)(A) (and paragraph (6) with respect to the building for the 3 taxable years immediately preceding such taxable year (or, in the case of any such deduction allowable to a person other than the taxpayer, for any taxable year ending during the 4 taxable year period ending with such taxable year). "(B) Applicable dollar value.— For purposes of paragraph bsection (c)(1)(B)), \$2,500, and~~

~~"(ii) that is described in subsection (3c)(A1)(iB), the applicable dollar value shall be an amount equal to \$2.50 increased (but not above \$5.00) by \$0.10 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25 percent. "(C) Application of inflation adjustment.— Subsection (g) shall be applied— "(i) by substituting '2022' for '2020', "(ii) by substituting '\$5000, and "(B) in the case of a dwelling unit which is part of a building eligible to participate in the Energy Star Multifamily New Construction Program—~~

~~"(i) that is described in subsection (ic)(31)(B) for 'subsection (b) or A) (and not described in subsection (dc)(1)(A)B)), \$500, and~~

~~"(iii) by substituting '2024' for '2019'. "(D) Limitation to apply in lieu of current limitation and partial allowance.— That is described in subsections (b) and (d)(1) shall not apply. "(4) Base credit amount and increased credit amount for certain property.— "(A) In general.— In the case of any propc)(1) (B), \$1000."~~

~~(c) MODIFICATION OF ENERGY WHICH DOES NOT SATISFY THE REQUIREMENTS OF SUBPARAGRAPH (B), PARAGRAPH (3)(B) SHALL BE APPLIED BY SUBSTITUTING '\$0.50' FOR '\$2.50', '\$.02' FOR '\$.10', AND '\$1.00' FOR '\$5.00'. "(B) INCREASED CREDIT FOR CERTAIN PROPSAVING REQUIREMENTS.—~~

~~Section 45L(c) is amended to read as follows:~~

~~"(c) ENERGY MEETING PROJECTSAVING REQUIREMENTS.—~~

~~"(i1) Project requirements.— A project meets the requirements of this subparagraph if it is one of the following: "(I) A project which commences construction prior to the date of the enactment of this paragraph. "(II) A project which commences construction after the date of enactment of this paragraph and satisfies IN GENERAL.— A dwelling unit meets the energy saving requirements of this subsection if—~~

~~"(A) such dwelling unit meets the requirements of paragraphs (52) and (6). "(III) A project with respect to which initial construction is completed and building modifications are made as part of a qualified retrofit plan, and which satisfies paragraphs (5) and (6). or (3) (whichever is applicable), or~~

~~"(5B) Prevailing wage requirements.— "(A) In general.— The requirements described in this subparagraph with respect to any project are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the construction of any propsuch dwelling unit is certified as a zero energy ready home under the zero enertgy or with respect to building~~

~~modifications made as part of a qualified retrofit plan shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code ready home program of the Department of Energy (or any successor program determined by the Secretary) as in effect on January 1, 2022.~~

~~"(B2) Correction and penalty related to SINGLE-FAMILY TO SATISFY WAGE REQUIREMENTS.— IN THE CASE OF ANY TAXPAYER WHICH FAILS TO SATISFY THE REQUIREMENT UNDER SUBPARAGRAPH (A) WITH RESPECT TO ANY PROJECT OR ANY BUILDING MODIFICATIONS MADE AS PART OF A QUALIFIED RETROFIT PLAN, RULES SIMILAR TO THE RULES OF SECTION 45(B)(8)(B) SHALL APPLY FOR PURPOSES HOME REQUIREMENTS.— A dwelling unit meets the requirements of this paragraph: if—~~

~~"(6A) Apprenticeship requirements.— The requirements described in this subparagraph with respect to any property are as follows: "(A) Labor hours.—"(i) Percentage of total labor hours.— All contractors and subcontractors engaged in the performance of construction of a project or building modifications made as part of a qualified retrofit plan shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes of paragraph (1), the applicable percentage shall be—such dwelling unit meets—~~

~~"(i) in the case of a dwelling unit acquired before January 1, 2025, the Energy Star Single-Family New Homes National Program Requirements 3.1, and~~

~~"(ii) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent, "(ii) in the case of any applicable project the construction of which begins dwelling unit acquired after December 31, 2024, and before January 1, 2024, 10 percent, and "(iii) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent. "(B) Apprentice to journeyworker ratio.— The requirement under subparagraph (A)(i) shall be subject to any applicable requirements for apprentice-to-journeyworker ratios of the Department of Labor or the applicable State apprenticeship agency. "(C) Participation.— Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work. "(D) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who—the Energy Star Single-Family New Homes National Program Requirements 3.2,~~

~~"(B) such dwelling unit meets the most recent Energy Star Single-Family New Homes Program Requirements applicable to the location of such dwelling unit (as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling unit was acquired), or~~

~~"(C) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and "(H) makes a good faith effort to comply with the requirements of this paragraph. "(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have such dwelling unit meets the most recent Energy Star Manufactured Home National program requirements as in effect on the date satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that on or after January 1, 2022 or January 1 of two calendar years prior to the date such denial is not the result of a refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program."~~(E) Definitions.— For purpose wellington unit is acquired.

~~"(3) MULTI-FAMILY HOME REQUIREMENTS.— A dwelling unit meets the requirements of this paragraph if—~~

~~"(iA) Labor hours.— The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i). "(ii) Qualified apprentice.— The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii). "(7) Allocation of deduction by certain tax-exempt entities.— "(A) In general.— A specified tax-exempt entity shall be treated in the same manner as a Federal, State, or local government for purposes of applying subsection (d)(4). "(B) Specified tax-exempt entity.— For purposes of this paragraph, the term 'specified tax-exempt entity' means— "(i) the United States, any State or political subdivision such dwelling unit meets the most recent Energy Star Multifamily New Construction National Program Requirements (as in effect on either January 1, 2022 or January 1 of three calendar years prior thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, "(ii) any Indian tribal government (within the meaning of section 139E), and "(iii) any organization exempt from tax imposed by this chapter. "(8) Alternative deduction for energy efficient retrofit building property.— "(A) In general.— In the case of a taxpayer which elects (at such time and in such manner as the Secretary, after consultation with the administrator of the Environmental Protection Agency, may provide) the application of this paragraph with respect to any qualified building, there shall be allowed as a deduction for the taxable year which includes the date of the qualifying final certification with respect to the qualified retrofit plan of such building, an amount the date the dwelling was acquired, whichever is later), and~~

~~"(B) such dwelling unit meets the most recent Energy Star Multifamily New Construction Regional Program Requirements applicable to the location of such dwelling unit equal to the lesser of— "(i) the excess described in paragraph (3) (determined by substituting 'energy usage intensity' for 'total annual energy and power costs' in subparagraph (B) thereof), or "(ii) the aggregate adjusted basis (determined after taking into account all adjustments with respect to such taxable~~

~~year other than the reduction under subsection (c)) of energy efficient retrofit building property placed in service by the taxpayer pursuant to such qualified retrofit plan. "(B) Qualified retrofit plan.— For purposes of this paragraph, the term 'qualified retrofit plan' means a written plan prepared by a qualified professional which specifies modifications to a building which, in the aggregate, are expected to reduce such building's energy usage intensity by 25 percent or more in comparison to the baseline energy usage intensity of such bu(as in effect on either January 1, 2022 or January 1 of three calendar years prior to the date the dwelling was acquired, whichever is later)."~~

(d) PREVAILING WAGE REQUIREMENT.—

Section 45L is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) PREVAILING WAGE REQUIREMENT.—

~~"(i) as of any date during the 1-year period ending oIN GENERAL.— In the datcase of the first certification described in clause (ii), certify the energy usage intensity of such building as of such date, "(ii) certify the status of property installed pursuant to such plan as meeta qualifying residence described in subsection (b)(2)(B) meeting the prevailing thwage requirements of clauses (ii) and (iii) subparagraph (G2), and "(iii) as of any date that is more than 1 year after completion of the plan, certify the energy usage intensity of such building as of such date.the credit amount allowed with respect to such residence shall be—~~

~~"(GA) Energy efficient retrofit building property.— For purp\$2,500 in the cases of this paragraph, the term 'energy efficient retrofit building property' means property — "(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, "(ii) which is installed on or in any qualified building, "(iii) which is installed as part of — "(I) the interior lighting systems, "(II) the heating, cooling, ventilation, and hot water systems, or "(III) the building envelope, and "(iv) which is certified in accordance with subparagraph (B)(ii) as meeting the requirements of clauses (ii) and (iii). "(D) Qualified building.— For purposes of this paragraph, the term 'qualified building' means any building which — "(i) is located in the United States, and "(ii) was originally placed in service not less than 5 years before the establishment of the qualified retrofit plan with respect to such building. "(E) Qualifying final certification.— For purposes of this paragraph, the term 'qualifying final certification' means, with respect to any qualified retrofit plg residence described in subparagraph (A) of subsection (c)(1) (and not described in subparagraph (B) of such subsection), and~~

~~"(B) \$5,000 in the case of a residence described in (c)(1)(B).~~

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.— The requirements described in this paragraph with respect to any qualified residence are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the

~~construction of such residence shall be paid wages at rates not less than; the certification described in subparagraph (B)(iii) if the energy usage intensity certified in such certification is not more than 75 percent of the baseline energy usage intensity of the building. "(F) Baseline energy usage intensity.—"(i) In general.— The term 'baseline energy usage intensity' means the energy usage intensity certified under subparagraph (B)(i), as adjusted to take into account weather as compared to the energy usage intensity determined under subparagraph (B)(iii)(I). "(ii) Determination of adjustment.— For purposes of clause (i), the adjustments described in such clause shall be determined in such manner as the Secretary, after consultation with the Administrator of the Environmental Protection Agency, may provide prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.~~

~~"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(8)(B) shall apply.~~

~~"(G) Other definitions.— For purposes of this paragraph— "(i) Energy usage intensity.— The term 'energy usage intensity' means the site energy usage intensity determined in accordance with such regulations or other guidance as the Secretary, after consultation with the Administrator of the Environmental Protection Agency, may provide and measured in British thermal units. "(ii) Qualified professional.— The term 'qualified professional' means an individual who is a licensed architect or a licensed engineer and meets such other requirements as the Secretary may provide. "(H) Coordination with deduction otherwise allowed under subsection (a).— "(i) In general.— In the case of any building with respect to which an election is made under subparagraph (A), the term 'energy efficient commercial building property' shall not include any energy efficient retrofit building property with respect to which a deduction is allowable under this paragraph. "(ii) Certain rules not applicable.— "(i) In general.— Except as provided in subclause (H), subsection (d) shall not apply for purposes of this paragraph. "(H) Allocation of deduction by certain tax-exempt entities.— Rules similar to subsection (d)(4) (determined after application of paragraph (5)) shall apply for purposes of this paragraph REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection."~~

~~(ee) EFFECTIVE DATES.— (1) In general.— Except as otherwise provided in this subsection, ~~t~~The amendments made by this section shall apply to taxable years beginning after December 31, 2021. (2) Alternative deduction for energy efficient retrofit building property.— Paragraph (6) of section 179D(i) of the Internal Revenue Code of 1986 (as added by this section), and any other provision of such section solely for purposes of applying such paragraph, shall apply to property placed in service after December 31, 2021 (in taxable years ending after such date) if such property is placed in service~~

~~pursuant to qualified retrofit plan (within the meaning of such section) established after such date~~dwelling units acquired after December 31, 2021.

**Sec. 136305. Modifications to income exclusion for conservation subsidies**

(a) IN GENERAL.— Section 136(a) is amended—

(1) by striking "any subsidy provided" and inserting any subsidy—

"(1) provided",

(2) by striking the period at the end and inserting a comma, and

(3) by adding at the end the following new paragraphs:

"(2) provided (directly or indirectly) by a public utility to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any water conservation or efficiency measure,

"(3) provided (directly or indirectly) by a storm water management provider to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any storm water management measure, or

"(4) provided (directly or indirectly) by a State or local government to a resident of such State or locality for the purchase or installation of any wastewater management measure, but only if such measure is with respect to the taxpayer's principal residence."

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF WATER CONSERVATION OR EFFICIENCY MEASURE AND STORM WATER MANAGEMENT MEASURE.— Section 136(c) is amended—

(A) by striking "Energy conservation measure" in the heading thereof and inserting "Definitions",

(B) by striking "In general" in the heading of paragraph (1) and inserting "Energy conservation measure", and

(C) by redesignating paragraph (2) as paragraph (5) and by inserting after paragraph (1) the following:

"(2) WATER CONSERVATION OR EFFICIENCY MEASURE.— For purposes of this section, the term 'water conservation or efficiency measure' means any evaluation of water use, or any installation or modification of property, the primary purpose of which is to reduce consumption of water or to improve the management of water demand with respect to one or more dwelling units.

"(3) STORM WATER MANAGEMENT MEASURE.— For purposes of this section, the term 'storm water management measure' means any installation or modification of property primarily designed to reduce or manage amounts of storm water with respect to one or more dwelling units.

"(4) WASTEWATER MANAGEMENT MEASURE.— For purposes of this section, the term 'wastewater management measure' means any installation or modification of property primarily designed to manage wastewater (including septic tanks and cesspools) with respect to one or more dwelling units."

(2) DEFINITION OF PUBLIC UTILITY.— Section 136(c)(5) (as redesignated by paragraph (1)(C)) is amended by striking subparagraph (B) and inserting the following:

"(B) PUBLIC UTILITY.— The term 'public utility' means a person engaged in the sale of electricity, natural gas, or water to residential, commercial, or industrial customers for use by such customers.

"(C) STORM WATER MANAGEMENT PROVIDER.— The term 'storm water management provider' means a person engaged in the provision of storm water management measures to the public.

"(D) PERSON.— For purposes of subparagraphs (B) and (C), the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing."

(3) CLERICAL AMENDMENTS.—

(A) The heading for section 136 is amended—

- (i) by inserting "and water" after "energy", and
- (ii) by striking "provided by public utilities".

(B) The item relating to section 136 in the table of sections of part III of subchapter B of chapter 1 is amended—

- (i) by inserting "and water" after "energy", and
- (ii) by striking "provided by public utilities".

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to amounts received after December 31, 2018.

(d) NO INFERENCE.— Nothing in this Act or the amendments made by this Act shall be construed to create any inference with respect to the proper tax treatment of any subsidy received directly or indirectly from a public utility, a storm water management provider, or a State or local government for any water conservation measure or storm water management measure before January 1, 2019.

**Sec. 1354036306. Credit for qualified wildfire mitigation expenditures**

(a) IN GENERAL.—

Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 27 the following new section:

**"Sec. 28. Qualified wildfire mitigation expenditures**

"(ε) IN GENERAL.— There shall ~~be~~ allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified wildfire



mitigation expenditures paid or incurred by the taxpayer during such taxable year with respect to real property owned or leased by the taxpayer.

"(b) QUALIFIED WILDFIRE MITIGATION EXPENDITURES.— For purposes of this section—

"(1) IN GENERAL.— The term 'qualified wildfire mitigation expenditures' means any specified wildfire mitigation expenditure made pursuant to a qualified State wildfire mitigation program of a State which requires expenditures for wildfire mitigation to be paid both by the taxpayer and such State. Such term shall not include any item of expenditure unless the ratio of the State's expenditure for such item to the sum of the State's and taxpayer's expenditures for such item is not less than 25 percent.

"(2) SPECIFIED WILDFIRE MITIGATION EXPENDITURE.— The term 'specified wildfire mitigation expenditure' means, with respect to any real property owned or leased by the taxpayer, any amount paid or incurred to reduce the risk of wildfire by removing accumulations of vegetation (including establishing, expanding, or maintaining fuel breaks to serve as fire breaks) on such real property.

"(3) QUALIFIED STATE WILDFIRE MITIGATION PROGRAM.— The term 'qualified State wildfire mitigation program' means any program of a State the primary purpose of which is to mitigate the risk of wildfires in such State.

"(4) TREATMENT OF REIMBURSEMENTS.— Any amount originally paid or incurred by the taxpayer which is reimbursed by a State under a qualified wildfire mitigation program of such State shall be treated as paid by such State (and not by such taxpayer).

"(c) APPLICATION WITH OTHER CREDITS.—

"(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.— So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to expenditures made in the ordinary course of the taxpayer's trade or business (or, in the case of expenditures made by a State, would have been expenditures made in the ordinary course of the taxpayer's trade or business if made by the taxpayer) shall be treated as a credit listed in section 38(b) for taxable year (and not allowed under subsection (a)).

"(2) PERSONAL CREDIT.— For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

"(d) REDUCTION OF CREDIT PERCENTAGE WHERE TAXPAYER EXPENDITURES LESS THAN 30 PERCENT.—

"(1) IN GENERAL.— If the expenditure percentage with respect to any item of qualified wildfire mitigation expenditure is less than 30 percent, subsection (a) shall be applied by substituting 'the expenditure percentage' for '30 percent' with respect to such item of expenditure.

"(2) EXPENDITURE PERCENTAGE.— For purposes of this section, the term 'expenditure percentage' means, with respect to any item of qualified wildfire mitigation expenditure any portion of which is paid or incurred by a State, the ratio (expressed as a percentage) of—

"(A) the taxpayer's expenditure for such item, divided by

"(B) the sum of the taxpayer's and such State's expenditures for such item.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF EXPENDITURES RELATED TO MARKETABLE TIMBER.— An expenditure shall not be taken into account for purposes of this section (whether made by the taxpayer or a State pursuant to a qualified State wildfire mitigation program of such State) if such expenditure is properly allocable to timber which is sold or exchanged by the taxpayer. The preceding sentence shall not apply to the extent that such amount exceeds the gain on such sale or exchange.

"(2) BASIS REDUCTION.— For purposes of this subtitle, if the basis of any property would (but for this paragraph) be determined by taking into account any qualified wildfire mitigation expenditure, the basis of such property shall be reduced by the amount of the credit allowed under subsection (a) with respect to such expenditure (determined without regard to subsection (c)).

"(3) DENIAL OF DOUBLE BENEFIT.— The amount of any deduction or other credit allowable under this chapter for any expenditure for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such expenditure (determined without regard to subsection (c))."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by the preceding provisions of this Act, is amended by striking "plus" at the end of paragraph (335), by striking the period at the end of paragraph (346) and inserting ", plus", and by adding at the end the following new paragraph:

"(357) the portion of the qualified wildfire mitigation expenditures credit to which section 28(c)(1) applies."

(2) Section 1016(a) is amended by redesignating paragraphs (35) through (38) as paragraphs (36) through (39), respectively, and by inserting after paragraph (34) the following new paragraph:

"(35) to the extent provided in section 28(e)(2)."

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 27 the following new item:

"Sec. 28. Qualified wildfire mitigation expenditures."

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

**Sec. 136401. Refundable new qualified plug-in electric drive motor vehicle credit for individuals** (l)

(a) IN GENERAL.—

Subpart C of part IV of subchapter A of chapter 1 is amended by inserting after section 36B the following new section:

**"Sec. 36C. New qualified plug-in electric drive motor vehicles**

"(a) ALLOWANCE OF CREDIT.— In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

"(b) PER VEHICLE ~~DOLLAR LIMITATION~~ AMOUNTS.—

"(1) IN GENERAL.— The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) through (5) with respect to such vehicle (not to exceed 50 percent of the purchase price of such vehicle).

"(2) BASE AMOUNT.— The amount determined under this paragraph is \$4,000.

"(3) BATTERY CAPACITY.— In the case of a new qualified plug-in electric drive motor vehicle, the amount determined under this paragraph is \$3,500 if—

"(A) in the case of a vehicle placed in service before January 1, 2027, such vehicle draws propulsion energy from a battery with not less than 40 kilowatt hours of capacity and has a gasoline tank capacity not greater than 2.5 gallons, and

"(B) in the case of a vehicle placed in service after December 31, 2026, such vehicle draws propulsion energy from a battery with not less than 50 kilowatt hours of capacity and has a gasoline tank capacity not greater than 2.5 gallons.

"(4) DOMESTIC ASSEMBLY.— In the case of a new qualified electric drive plug-in vehicle which satisfies the domestic assembly qualifications, the amount determined under this paragraph is \$4,500.

"(5) DOMESTIC CONTENT.— In the case of a new qualified electric drive plug-in vehicle which satisfies domestic content qualifications, the amount determined under this paragraph is \$500.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.— The amount of the credit allowable under subsection (a) for any taxable year shall be reduced (but not below zero) by \$200 for each \$1,000 (or fraction thereof) by which ~~the taxpayer~~—

"(A) the lesser of—

"(i) the taxpayer's modified adjusted gross income for such taxable year,

or

"(ii) the taxpayer's modified adjusted gross income for the preceding taxable year, exceeds

"(B) the threshold amount.

For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

~~"(2) Special rule for determination of modified adjusted gross income.—The modified adjusted gross income of the taxpayer that is taken into account for purposes of paragraph (1) shall be the lesser of—"(A) the modified adjusted gross income for the taxable year in which the credit is claimed, or "(B) the modified adjusted gross income for the immediately preceding taxable year. "(3) THRESHOLD AMOUNT.— For purposes of paragraph (1), the term 'threshold amount' means—~~

~~"(A) \$800,000 in the case of a joint return or surviving spouse (half such amount for married~~*in the case of a married individual filing a separately return*~~),~~

~~"(B) \$600,000 in the case of a head of household, and~~

~~"(C) \$400,000 in any other case.~~

~~"(d) MANUFACTURER'S SUGGESTED RETAIL PRICE LIMITATION.—~~

~~"(1) IN GENERAL.— No credit shall be allowed under subsection (a) for a vehicle with a manufacturer's suggested retail price in excess of the applicable limitation.~~

~~"(2) APPLICABLE LIMITATION.— For purposes of paragraph (1), the applicable limitation for each vehicle classification is as follows:~~

~~"(A) Sedans.— In the case of a sedan, \$55,000. "(B) VANS.— In the case of a van, \$64,000.~~

~~"(B) SPORT UTILITY VEHICLES.— In the case of a sport utility vehicle, \$69,000.~~

~~"(C) PICKUP TRUCKS.— In the case of a pickup truck, \$74,000.~~

~~"(D) OTHER.— In the case of any other vehicle, \$55,000.~~

~~"(3) REGULATIONS AND GUIDANCE.— For purposes of this subsection, the Secretary shall prescribe such regulations or other guidance as the Secretary determines necessary or appropriate for determining vehicle classifications using criteria similar to that employed by the Environmental Protection Agency and the Department of the Energy to determine size and class of vehicles."~~

~~"(e) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.— For purposes of this section—~~

~~"(1) IN GENERAL.— The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—~~

~~"(A) the original use of which commences with the taxpayer,~~

~~"(B) which is acquired for use by the taxpayer and not for resale,~~

~~"(C) which is made by a qualified manufacturer,~~

~~"(D) which is treated as a motor vehicle for purposes of title II of the Clean Air Act.~~

~~"(E) which has a gross <sup>(1)</sup> vehicle weight rating of less than 14,000 pounds,~~

"(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

"(i) has a capacity of— not less than 10 kilowatt hours, and

"(ii) is capable of being recharged from an external source of electricity,

"(G) with respect to which, in the case of a vehicle placed in service in 2022 or after December 31, 2023, not less than 7 kilowatt hours final assembly is within the United States,

"(H) is not of a character subject to an allowance for depreciation, and

"(I) in the case of a vehicle placed in service for which the person who sells or leases any new qualified plug-in electric vehicle after 2023, not less than 10 kilowatt hours, and "(ii) is capable of being recharged from an external source of electricity, "(G) for which, in the case of a vehicle placed into service to the taxpayer furnishes a report to the taxpayer and to the Secretary, at such time and in such manner as the Secretary shall provide, containing—

"(i) the name and taxpayer identification number of the taxpayer,

"(ii) the vehicle identification number of the vehicle, unless, in accordance with any applicable rules promulgated by the Secretary of Transportation, the vehicle is not assigned such a number,

"(iii) the battery capacity of the vehicle,

"(iv) in the case of any new qualified plug-in electric vehicle, verification that original use of the vehicle after December 31, 2026, final assembly is within the United States, and "(H) is not of a character commences with the taxpayer,

"(v) the maximum credit under this section allowable to the taxpayer with respect to the vehicle, and

"(vi) any amount described in subsection (k)(2)(C) which has been provided to the taxpayer.

"(2) MOTOR VEHICLE.— The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) QUALIFIED MANUFACTURER.— The term 'qualified manufacturer' means any manufacturer (within the meaning of the regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.)) which enters into a written agreement with the Secretary under which such manufacturer agrees—

"(A) to ensure that each vehicle manufactured by such manufacturer after the later of the date on which such agreement takes effect or December 31, 2021, and that meets the requirements of subsection (d), subparagraphs (D), (E), and (F) of paragraph (1), and paragraph (6) of subsection (e) is labeled with a unique vehicle identification number, and

"(B) to make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) providing such vehicle identification numbers and such other information related to such vehicle as the Secretary may require.

"(4) BATTERY CAPACITY.— The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

"(f) SPECIAL RULES.—

"(1) BASIS REDUCTION.— For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

"(2) NO DOUBLE BENEFIT.— The amount of any deduction or other credit allowable under this chapter for a vehicle for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such vehicle.

"(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.— No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b) (1).

"(4) RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(5) ELECTION NOT TO TAKE CREDIT.— No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.— A vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) CREDIT ALLOWED FOR 2 AND 3-WHEELED PLUG-IN ELECTRIC VEHICLES.—

"(1) IN GENERAL.— In the case of a qualified 2- or 3-wheeled plug-in electric vehicle—

"(A) there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the applicable amount with respect to each such qualified 2- or 3-wheeled plug-in electric vehicle placed in service by the taxpayer during the taxable year, and

"(B) the amount of the <sup>(1)</sup> credit allowed under subparagraph (A) shall be treated as a credit allowed under subsection (a).

"(2) APPLICABLE AMOUNT.— For purposes of paragraph (1), the applicable amount is an amount equal to the lesser of—

"(A) 430 percent of the cost of the qualified 2- or 3-wheeled plug-in electric vehicle, or

"(B) \$27,500.

"(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLE.— The term 'qualified 2- or 3-wheeled plug-in electric vehicle' means any vehicle which—

"(A) has 2 or 3 wheels,

"(B) meets the requirements of—

~~"(i) subparagraphs (A), (B), (C), (E), (F), (G), and (H) of subsection (e) (1) (determined by substituting '2.5 kilowatt hours' for '710 kilowatt hours' in subparagraph (F)(i)(I) and by substituting '2.5 kilowatt hours' for '10 kilowatt hours' in subparagraph (F)(i)(II)).~~

~~"(ii) paragraphs (3) and (4) of subsection (e), and~~

~~"(iii) subsections (f), (h), (i), and (k),~~

"(C) is manufactured primarily for use on public streets, roads, and highways, and

"(D) is capable of achieving a speed of 45 miles per hour or greater.

"(h) VIN NUMBER REQUIREMENT.— No credit shall be allowed under this section with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(i) TREATMENT OF CERTAIN POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.— The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section (determined without regard to this subsection). Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

"(2) PAYMENTS TO OTHER POSSESSIONS.— The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

"(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.— Rules similar to the rules of paragraphs (3), (4), and (5) of section 21(h) shall apply for purposes of this section

(i)

"(j) ASSEMBLY AND CONTENT QUALIFICATIONS.— For purposes of this section—

"(1) DOMESTIC ASSEMBLY QUALIFICATIONS.— The term 'domestic assembly qualifications' means, with respect to any new qualified plug-in electric vehicle, that the final assembly of such vehicle occurs at a plant, factory, or other place which is located in the United States and operating under a collective bargaining agreement negotiated by an employee organization (as defined in section 412(c)(4)), determined in a manner consistent with section 7701(a)(46).

"(2) DOMESTIC CONTENT QUALIFICATIONS.— The term 'domestic content qualifications' means, with respect to any model of a new qualified plug-in electric vehicle, that vehicles of that model—~~"(A) are assembled by a manufacturer which utilizes not less than 50 percent domestic content in the component parts for final assembly of such vehicles, and "(B) are powered by battery cells which are manufactured in the United States (with such battery cells to be included for purposes of the requirement described in subparagraph (A))~~, are powered by battery cells which are manufactured in the United States as certified by the manufacturer; at such time; and in such form and manner; as the Secretary may prescribe.

"(3) FINAL ASSEMBLY.— The term 'final assembly' means the process by which a manufacturer produces a new qualified plug-in electric drive motor vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.

"(k) TERMINATION.— No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2031. "

(b) TRANSFER OF CREDIT.— Subsection (f) of

(1) IN GENERAL.— Section 36C, as added by subsection 36C(a), is amended by adding at the end the following new paragraphs: redesignating subsection (k) as subsection (l) and by inserting after subsection (j) following new subsection:

"(k) TRANSFER OF CREDIT.—

"(71) IN GENERAL.— Subject to such regulations or other guidance as the Secretary determines necessary or appropriate, if, with respect to the credit allowed under subsection (a) for any taxable year, the taxpayer elects the application of this subparagraph for such taxable year with respect to such credit, the eligible entity specified in such election, and not the taxpayer who has purchased or leased the the taxpayer who acquires a new plug-in electric drive motor vehicle elects the application of this subsection with respect to such vehicle, the credit which would (but for this subsection) be allowed to such taxpayer with respect to such vehicle; shall be ~~treat~~allowed as to the taxpayer for purposes of this title with respect to such credit eligible entity specified in such election (and not to such taxpayer).

"(82) ELIGIBLE ENTITY.— For purposes of this paragraph, the term 'eligible entity' means, with respect <sup>(l)</sup> to the vehicle for which the credit is allowed under subsection (a), the dealer which sold such vehicle to the taxpayer and has—



"(A) subject to paragraph ~~(404)~~, registered with the Secretary for purposes of this paragraph, at such time, and in such form and manner, as the Secretary may prescribe,

"(B) prior to the election described in paragraph ~~(71)~~ and not later than at the time of such sale, disclosed to the taxpayer purchasing such vehicle—

"(i) the manufacturer's suggested retail price,

"(ii) the value of the credit allowed or other incentive available for the purchase ~~or lease~~ of such vehicle,

"(iii) all fees associated with the purchase ~~or lease~~ of such vehicle, and

"(iv) the amount provided by the dealer to such taxpayer as a condition of the election described in paragraph ~~(71)~~,

"(C) made payment to such taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such vehicle) in an amount equal to the credit otherwise allowable to such taxpayer, and

"(D) with respect to any incentive otherwise available for the purchase of a vehicle for which a credit is allowed under this section, including any incentive in the form of a rebate or discount provided by the dealer or manufacturer, ensured that—

"(i) the availability or use of such incentive shall not limit the ability of a taxpayer to make an election described in paragraph ~~(71)~~, and

"(ii) such election shall not limit the value or use of such incentive.

"~~(93)~~ TIMING.— An election described in paragraph ~~(71)~~ shall be made by the taxpayer not later than the date on which the vehicle for which the credit is allowed under subsection (a) is purchased.

"~~(404)~~ REVOCATION OF REGISTRATION.— Upon determination by the Secretary that a dealer has failed to comply with the requirements described in paragraph ~~(82)~~, the Secretary may revoke the registration (as described in subparagraph (A) of such ~~subparagraph~~) of such dealer.

"~~(445)~~ TAX TREATMENT OF PAYMENTS.— With respect to any payment described in paragraph ~~(82)~~(C), such payment—

"(A) shall not be includible in the gross income of the taxpayer, and

"(B) with respect to the dealer, shall not be deductible under this title.

"~~(426)~~ APPLICATION OF CERTAIN OTHER REQUIREMENTS.— In the case of any election under paragraph (1) with respect to any vehicle—

"(A) the amount of the reduction under subsection (c) shall be determined with respect to the modified adjusted gross income of the taxpayer for the taxable year preceding the taxable year in which such vehicle was acquired (and not with respect to such income for the taxable year in which such vehicle was acquired).

"(B) the requirements of paragraphs (1) and (2) of subsection (f) shall apply to the taxpayer who acquired the vehicle in the same manner as if the credit determined under this section with respect to such vehicle were allowed to such taxpayer.

"(C) subsection (f)(5) shall not apply, and

"(D) the requirement of subsection (h) shall be treated as satisfied if the eligible entity provides the vehicle identification number of such vehicle to the Secretary in such manner as the Secretary may provide.

"(Z) ADVANCE PAYMENT TO REGISTERED DEALERS.—

"(A) IN GENERAL.— The Secretary shall establish a program to make advance payments to any eligible entity in an amount equal to the cumulative amount of the credits allowed under subsection (a) with respect to any vehicles sold by such entity for which an election described in paragraph (1) has been made.

"(B) EXCESSIVE PAYMENTS.— Rules similar to the rules of section 6417(c)(8) shall apply for purposes of this subparagraph.

~~"(438)~~ DEALER.— For purposes of this ~~paragraph~~ subsection, the term 'dealer' means a person licensed by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, or an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) to engage in the sale of vehicles."

(2) CONFORMING AMENDMENT.— Section 36C(g)(3)(iii), as added by subsection (a), is amended by striking ", and (k)" and inserting "(k), and (l)".

(c) REPEAL OF NONREFUNDABLE NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.— Subpart B of part IV of subchapter A of chapter 1 is amended by striking section 30D (and by striking the item relating to such section in the table of sections of such subpart).

(d) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(37) is amended by striking "section 30D(f)(1)" and inserting "section 36C(f)(1)".

(2) Section 6211(b)(4)(A) is amended by inserting "36C," after "36B,".

(3) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

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

(B) in subparagraph (S), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(T) an omission of a correct vehicle identification number required under section 36C(f) (relating to credit for new qualified plug-in electric drive motor vehicles) to be included on a return."

(4) Section 6501(m) is amended by striking "30D(e)(4)" and inserting "36C(f)(5)".

(5) Section 166(b)(5)(A)(ii) of title 23, United States Code, is amended by striking "section 30D(d)(1)" and inserting "section 36C(e)(1)".

(6) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "36C," after "36B,".

(7) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 36B the following new item:

"Sec. 36C. New qualified plug-in electric drive motor vehicles."

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to vehicles acquired after December 31, 2021.

(2) The amendments made by subsection (b) shall apply to vehicles ~~purchased or leased~~acquired after December 31, 2022.

#### **Sec. 136402. Credit for previously-owned qualified plug-in electric drive motor vehicles**

(a) IN GENERAL.—

Subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after section 36C the following new section:

##### **"Sec. 36D. Previously-owned qualified plug-in electric drive motor vehicles**

"(a) ALLOWANCE OF CREDIT.— In the case of a qualified buyer who during a taxable year places in service a previously-owned qualified plug-in electric drive motor vehicle, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

"(1) \$~~1,252,000~~, plus

"(2) ~~in the case of a vehicle which~~the supplemental credit amount.

"(b) SUPPLEMENTAL CREDIT AMOUNT.— For purposes of subsection (a), the term 'supplemental credit amount' means—

"(1) \$2,000, if—

"(A) in the case of a vehicle placed in service before January 1, 2027, such vehicle draws propulsion energy from a battery which ~~exceeds 4~~with not less than 40 kilowatt hours of capacity ~~(determined at~~and has a gasoline tank capacity not greater than 2.5 gallons, and

"(B) in the ~~time~~case of sale), the lesser of— "(A) \$1,250, and "(B) the product of \$~~208.50~~ and such excess kilowatt hours. "~~(b) a vehicle placed in service after December 31, 2026, such vehicle draws propulsion energy from a battery with not less than 50 kilowatt hours~~ of capacity and has a gasoline tank capacity not greater than 2.5 gallons, and

"(2) \$0 in any other case.

"(c) LIMITATIONS.—

"(1) SALE PRICE.— The credit allowed under subsection (a) with respect to sale of a vehicle shall not exceed ~~350~~ percent of the sale price.

"(2) ~~A~~ LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.— The amount which would (but for this paragraph) be allowed as a credit under subsection (a) shall be reduced (but not below zero) by \$200 for each \$1,000 (or fraction thereof) by which the lesser of—

"(A) the taxpayer's *modified* adjusted gross income *for such taxable year, or*

"(B) the taxpayer's *modified adjusted gross income for the preceding taxable year*, exceeds—

"(A*i*) \$150,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(B*ii*) \$112,500 in the case of a head of household (as defined in section 2(b)), and

"(C*iii*) \$75,000 in the case of a taxpayer not described in paragraph (1) or (2).

"(ed) DEFINITIONS.— For purposes of this section—

"(1) PREVIOUSLY-OWNED QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.— The term 'previously-owned qualified plug-in electric drive motor vehicle' means, with respect to a taxpayer, a motor vehicle—

"(A) the model year of which is at least 2 years earlier than the calendar year in which the taxpayer acquires such vehicle,

"(B) the original use of which commences with a person other than the taxpayer,

"(C) which is acquired by the taxpayer in a qualified sale, and

"(D) registered by the taxpayer for operation in a State or possession of the United States, and "(E) which meets the requirements of subparagraphs (C), (D), (E), (F), (G), (H), and (I) of section 36C(e)(1) (determined by applying 'previously-owned qualified plug-in electric drive motor vehicle' for 'new qualified plug-in electric drive motor vehicle'), or which is a new qualified fuel cell motor vehicle (as defined in subparagraphs (A) and (B) of section 36C(e)(1)(B)(b)(3)) which has a gross vehicle weight rating of less than 14,000 pounds.

"(2) QUALIFIED SALE.— The term 'qualified sale' means a sale of a motor vehicle

"(A) by a seller who holds such vehicle in inventory (within the meaning of section 471) for sale or lease,

"(B) for a sale price not to exceed \$25,000, and

"(C) which is the first transfer since the date of the enactment of this section to a person other than the person with whom the original use of such vehicle commenced.

"(3) QUALIFIED BUYER.— The term 'qualified buyer' means, with respect to a sale of a motor vehicle, a taxpayer—

"(A) who is an individual,

"(B) who purchases such vehicle for use and not for resale,

"(C) with respect to whom no deduction is allowable with respect to another taxpayer under section 151,

"(D) who has not been allowed a credit under this section for any sale during the 3-year period ending on the date of the sale of such vehicle, and

"(E) who possesses a certificate issued by the seller that certifies—

"(i) that the vehicle is a previously-owned qualified plug-in electric drive motor vehicle,

"(ii) the vehicle identification number of such vehicle,

"(iii) the capacity of the battery at time of sale, and

"(iv) such other information as the Secretary may require.

"(4) MOTOR VEHICLE; CAPACITY.— The terms 'motor vehicle' and 'capacity' have the meaning given such terms in paragraphs (2) and (4) of section 36C(e), respectively.

"(de) VIN NUMBER REQUIREMENT.— No credit shall be allowed under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(ef) APPLICATION OF CERTAIN RULES.— For purposes of this section, rules similar to the rules of paragraphs (1), (2), (4), (5), ~~(6)~~ and ~~(7)~~ of section 36C(f) shall apply for purposes of this section.

"(fg) CERTIFICATE SUBMISSION REQUIREMENT.— The Secretary may require that the issuer of the certificate described in subsection (c)(3)(E) submit such certificate to the Secretary at the time and in the manner required by the Secretary.

"(gh) TREATMENT OF CERTAIN POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.— The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

"(2) PAYMENTS TO OTHER POSSESSIONS.— The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the

provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

"(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.— Rules similar to the rules of paragraphs ~~(3)~~, (4), and (5) of section 21(h) shall apply for purposes of this section.

~~"(h) TRANSFER OF CREDIT.— Rules similar to the rules of section 36C(k) shall apply.~~

~~"(j) TERMINATION.— No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2031."~~

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A), as amended by the preceding provisions of this Act, is amended by inserting "36D," after "36C,".

(2) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

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

(B) in subparagraph (T), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(U) an omission of a correct vehicle identification number required under section 36D(d) (relating to credit for previously-owned qualified plug-in electric drive motor vehicles) to be included on a return."

(3) Paragraph (2) of section 1324(b) of title 31, United States Code, as amended by the preceding provisions of this Act, is amended by inserting "36D," after "36C,".

(c) CLERICAL AMENDMENT.—

The table of sections for subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after the item relating to section 36C the following new item:

"Sec. 36D. Previously-owned qualified plug-in electric drive motor vehicles."

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to vehicles acquired after December 31, 2021.

### **Sec. 136403. Qualified commercial electric vehicles**

(a) IN GENERAL.—

Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**"Sec. 55Y. Credit for qualified commercial electric vehicles**

"(a) IN GENERAL.— For purposes of section 38, the qualified commercial electric vehicle credit for any taxable year is an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified commercial electric vehicle placed in service by the taxpayer during the taxable year.

"(b) PER VEHICLE AMOUNT.—

"(1) IN GENERAL.— The amount determined under this subsection with respect to any qualified commercial electric vehicle shall be equal to 30 percent of the basis of such vehicle the lesser of—

"(A) 15 percent of the basis of such vehicle (30 percent in the case of a vehicle not powered by a gasoline or diesel internal combustion engine), or

"(B) the incremental cost of such vehicle.

"(2) INCREMENTAL COST.— For purposes of paragraph (1)(B), the incremental cost of any qualified commercial electric vehicle is an amount equal to the excess of the purchase price for such vehicle over such price of a comparable vehicle.

"(3) COMPARABLE VEHICLE.— For purposes of this paragraph, the term 'comparable vehicle' means, with respect to any qualified commercial electric vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in size and use to such vehicle.

"(4) VEHICLES FOR LEASE TO INDIVIDUALS.—

"(A) IN GENERAL.— In the case of a commercial electric vehicle which is acquired by the taxpayer for the purpose of leasing such vehicle to any individual, the amount determined under this subsection with respect to such vehicle shall, at the election of such taxpayer, be equal to the amount of the credit that would otherwise be allowed under section 36C(a) with respect to such vehicle, as determined as if such vehicle—

"(i) is a new qualified plug-in electric drive motor vehicle, and

"(ii) has been acquired and placed in service by an individual.

"(B) ELECTION REQUIREMENTS.—

"(i) IN GENERAL.— An election under subparagraph (A) shall be made at such time and in such manner as the Secretary prescribes by regulations or other guidance.

"(ii) DISCLOSURE REQUIREMENT.— For purposes of any regulations or other guidance prescribed under clause (i), the Secretary shall require that, as a condition of an election under subparagraph (A), the taxpayer making such election shall be required to disclose to the lessee of the commercial electric vehicle the value of the credit allowed under this section.

"(c) QUALIFIED COMMERCIAL ELECTRIC VEHICLE.— For purposes of this section, the term 'qualified commercial electric vehicle' means any vehicle which—

"(1) meets the requirements of subparagraphs (A) and (C) of section 36C(e)(1) without regard to any gross vehicle weight rating, and is acquired for use or lease by the taxpayer and not for resale,

"(2) either—

"(A) meets the requirements of subparagraph (D) of section 36C(e)(1), or "(B) is mobile machinery, as defined in section 4053(8), "(3) is primarily propelled and is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails), or

"(B) is mobile machinery, as defined in section 4053(8) (including vehicles that are not designed to perform a function of transporting a load over the public highways).

"(3) either—

"(A) is propelled to a significant extent by an electric motor which draws electricity from a battery which—"(A) has a capacity of not less than ~~30~~<sup>15</sup> kilowatt hours, "(B) and is capable of being recharged from an external source of electricity, "(C) is not powered or charged by an internal combustion engine; or

"(B) is a new qualified fuel cell motor vehicle described in subparagraphs (A) and (B) of section 30B(b)(3), and

"(4) is of a character subject to the allowance for depreciation.

"(d) SPECIAL RULES.—

"(1) IN GENERAL.— ~~R~~Subject to paragraph (2), rules similar to the rules under subsection (f) of section 36C shall apply for purposes of this section.

"(2) ~~Property used by tax-exempt entity.— In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and~~ RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any credit allowed under subsection (a) with respect to any property which ceases to be property eligible for such credit, including regulations or other guidance which, is not subject to a lease, the person who sold such vehicle to the person or entity using the case of any commercial electric vehicle for which an election was made under subsection (b)(4)—

"(A) recaptures the credit allowed under subsection (a) if—

"(i) such vehicle shall be ~~tr~~<sup>was not</sup> leased as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document ~~to an individual, or~~

"(ii) the taxpayer failed to comply with the requirements described in subsection (b)(4)(B)(ii), and

"(B) in the case of a commercial electric vehicle which is leased by an individual whose modified adjusted gross income exceeds the threshold amount under section 36C(c)(2), recaptures so much of the credit allowed under subsection (a) as exceeds the amount of the credit which would have otherwise been allowable under such subsection if, for purposes of subsection (b)(4)(A), the amount of ~~any~~<sup>the</sup> credit allowable ~~that would otherwise be allowed~~ under ~~section 36C(a) with respect to such vehicle.~~ "(e) VIN number requirement.— No credit shall be determined under subsection (a) with respect to any vehicle



~~unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year. "(f) Termination.— No credit shall be determined under this section with respect to any vehicle acquired after December 31, 2031." (b had been determined as if such vehicle was acquired and placed in service by such individual and subject to reduction under section 36C(c).~~

"(3) VEHICLES PLACED IN SERVICE BY TAX-EXEMPT ENTITIES.— Subsection (c)(4) shall not apply to any vehicle which is not subject to a lease and which is placed in service by a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2) (A).

"(e) VIN NUMBER REQUIREMENT.— No credit shall be determined under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

"(f) TERMINATION.— No credit shall be determined under this section with respect to any vehicle acquired after December 31, 2031."

(b) ELECTIVE PAYMENT OF CREDIT IN CASE OF CERTAIN TAX-EXEMPT ENTITIES.— Section 6417(b), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(9) In the case of a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2)(A), the credit for qualified commercial vehicles determined under section 45Y by reason of subsection (d)(2) thereof."

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended by striking paragraph (30) and inserting the following:

"(30) the qualified commercial electric vehicle credit determined under section 45Y,".

(2) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

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

(B) in subparagraph (U), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(V) an omission of a correct vehicle identification number required under section 45Y(e) (relating to commercial electric vehicle credit) to be included on a return."

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45Y. Qualified commercial electric vehicle credit."  
(1)

(ed) EFFECTIVE DATE.— The amendments made by this section shall apply to vehicles acquired after December 31, 2021.

#### **Sec. 136404. Qualified fuel cell motor vehicles**

(a) IN GENERAL.— Section 30B(k)(1) is amended by striking "December 31, 2021" and inserting "December 31, 2031".

(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—

Section 30B(b) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following new subparagraph:

"(F) which is not property of a character subject to an allowance for depreciation.

".

(c) CONFORMING AMENDMENT.—

Section 30B(g) is amended to read as follows:

"(g) PERSONAL CREDIT.— For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year."

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to property placed in service after December 31, 2021.

#### **Sec. 136304. Extension, increase, and modifications of new energy efficient home credit (a) Extension of credit 405. Alternative fuel refueling property credit**

(a) IN GENERAL.— Section 45L~~(a)~~~~(2)~~~~30C(g)~~ is amended by striking "December 31, 2021" and inserting "December 31, 2031".

(b) ~~Increase in credit amounts~~ ADDITIONAL CREDIT FOR CERTAIN ELECTRIC CHARGING PROPERTY.—

~~(1) IN GENERAL.— Section 45L(a)(2)30C(a) is amended to read as follows: "(2) Applicable amount.— For purposes of paragraph (1), the applicable amount is an amount equal to—~~

~~(A) by striking "equal to 30 percent" and inserting the following:~~  
equal to the sum of—

~~"(A1) in the case of a dwelling unit which is eligible to participate 30 percent (6 percent in the case of property described in subsection (b)(2))".~~

~~(B) by striking the Energy Star Residential New Construction Program or the Energy Star Manufactured New Homes program—period at the end and inserting "... plus", and~~

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

~~"(i2) the 4 percent of so much of such cost as described in exceeds the limitation under subsection (e)(1)(A) (and not described in subsection (e)(1)~~

~~(B)), \$2,500, and "(ii) that is described in subsection (c)(1)(B), \$5000, and "(B) in the case of a dwelling which are part of a building eligible to participate in the Energy Star Multifamily New Construction Program— that does not exceed the amount of cost attributable to qualified alternative vehicle refueling property (determined without regard to subsection (c)(1) and as if only electricity, and fuel at least 85 percent of the volume of which consists of hydrogen, were treated as clean-burning fuels for purposes of section 179A(d)) which—~~

"(A) is intended for general public use with no associated fee or payment arrangement,

"(iB) that is described in subsection (c)(1)(A) (and not described in subsection (c)(1)(B)), \$500, and "(ii) that is described in subsection (c)(1)(B), \$1000 is intended for general public use and accepts payment via a credit card reader, including a credit card reader that uses contactless technology, or

"(C) is intended for use exclusively by commercial or governmental vehicles."

(e2) Modification of energy saving require CONFORMING AMENDMENTS.— Section 45L(e30C(b) is amended to read as follows: "(e) Energy saving requirements.—"(1) In general.— A dwelling —

(A) by striking "The credit allowed under subsection (a)" and inserting "The amount meets the energy saving requirements of this subsection if—"(A) such dwelling unit meets the requirements of paragraph of cost taken into account under subsection (a)(1)",

(B) by striking "\$30,000" and inserting "\$100,000", and

(2C) or (3) (whichever is applicable), or "(B) such dwelling unit is certified as a zero energy ready home under the zero energy ready home program of the Department of Energy (or any successor program determined by the Secretary, after consultation with the Secretary of Energy) as in eff by striking "\$1,000" and inserting "\$3,333.33".

(3) BIDIRECTIONAL CHARGING EQUIPMENT INCLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.— Section 30C(c) is amended—

(A) by striking "For purposes of this section, the term" and inserting "For purposes of this section January 1, 2022.—

"(21) Single-family home requirements.— A dwelling unit meets the requirements of this IN GENERAL.— The term", and

(B) by adding at the end the following new paragraph if—:

"(A2) such dwelling unit meets—"(i) in the case of a dwelling unit acquired before January 1, 2025, the Energy Star Single-Family New Homes National Program Requirements 3.1, and BIDIRECTIONAL CHARGING

EQUIPMENT.— Property shall not fail to be treated as qualified alternative vehicle refueling property solely because such property—

~~"(A) in the case of a dwelling unit acquired after December 31, 2024, the Energy Star Single-Family New Homes National Program Requirements 3.2, "(B) such dwelling unit meets the most recent Energy Star Single-Family New Homes Program Requirements applicable to the location of such dwelling unit (as in effs capable of charging the battery of a motor vehicle propelled by electricity, and~~

~~"(B) allows discharging electricity from such battery to an electric load external to such motor vehicle."~~

(c) CERTAIN ELECTRIC CHARGING STATIONS INCLUDED AS QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

Section 30C is amended by redesignating subsection the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling was acquired), ors (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following:

~~"(G) such dwelling unit meets the most recent Energy Star Manufactured Home National program requirements as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date such dwelling unit is acquired. "(3) Multi-family home requirements.— A dwelling unit meets the requirements of this paragraph if —"(A) such dwelling unit meets the most recent Energy Star Multifamily New Construction National Program RSPECIAL RULE FOR ELECTRIC CHARGING STATIONS FOR CERTAIN VEHICLES WITH 2 OR 3 WHEELS.— For purposes of this section—~~

"(1) IN GENERAL.— The term 'qualified alternative fuel vehicle refueling property' includes any property described in subsection (c) for the recharging of a motor vehicle described in paragraph (2) that is propelled by electricity, but only if the property—

~~"(A) meets the requirements (as in effof subsection either January 1, 2022 or January 1 of three calendar years prior to the date the dwelling was acquired; whichever is later), and "(B) such dwelling unit meets the most recent Energy Star Multifamily New Construction Regional Program Requirements applicable to the location of such dwelling unit (as in effect on either January 1, 2022 or January 1 of three calendar years prior to the date the dwelling was acquired, whichever is later)". (d) Prevailing wage(a)(2), and~~

~~"(B) is of a character subject to depreciation.~~

"(2) MOTOR VEHICLE.— A motor vehicle is described in this paragraph if the motor vehicle—

~~"(A) is manufactured primarily for use on public streets, roads, or highways (not including a vehicle operated exclusively on a rail or rails), and~~

~~"(B) has at least 2, but not more than 3, wheels."~~

(d) WAGE AND APPRENTICESHIP REQUIREMENTS.—

(l)

Section ~~45L~~ ~~is~~ ~~30C~~, *as amended by this section, is further* amended by redesignating subsections (g) *and* (h) as subsections (h) *and* (i) and by inserting after subsection (f) the following new subsection:

"(g) ~~Prevailing wage~~ WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) INCREASED CREDIT AMOUNT.—

~~"(A) IN GENERAL.— In the case of any qualifying residence described in subsection (b)(2)(B) meeting the prevailing wage~~ alternative fuel vehicle refueling project which satisfies the requirements of subparagraph (2C), the credit amount allowed with respect to such residence shall be—"(A) \$2,500 in the case of a residence described in subparagraph (A) of subsection (c)(1) (and not described in subparagraph (B) of such subsection), and "(B) \$5,000 in the case of ~~a res~~amount of the credit determined under subsection (a) shall be equal to such amount multiplied by 5 (determined without regard to this sentence).

"(B) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROJECT.— For purposes of this subsection, the term 'qualified alternative fuel vehicle refueling project' means a project consisting of multiple properties that are part of a single project. The requirements of this paragraph shall be applied to such project.

"(C) PROJECT REQUIREMENTS.— A project meets the requirements of this subparagraph if it is one of the following:

"(i) A project the construction of which begins prior to the date that is 60 days after the Secretary publishes guidance described in (e)(1)(B) with respect to the requirements of paragraphs (2) and (3).

"(ii) A project which satisfies the requirements of paragraphs (2) and (3).

"(2) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.— The requirements described in this subparagraph with respect to any qualified ~~residence~~ alternative fuel vehicle refueling project are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the construction of such ~~residence~~ property shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to any qualified residence, Rules similar to the rules of section 45(b)(8)(B) shall apply.

"(3) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b) (8)(B) shall apply for purposes of this paragraph.

"(3.4) REGULATIONS AND GUIDANCE.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which

provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this subsection."

(e) EFFECTIVE DATES.— The amendments made by this section shall apply to ~~dwelling units acquired~~ property placed in service after December 31, 2021.

**Sec. 136406. Reinstatement and expansion of employer-provided fringe benefits for bicycle commuting**

(a) REPEAL OF SUSPENSION OF EXCLUSION FOR QUALIFIED BICYCLE COMMUTING BENEFITS.— Section 132(f) is amended by striking paragraph (8).

(b) EXPANSION OF BICYCLE COMMUTING BENEFITS.—  
Section 132(f)(5)(F) is amended to read as follows:

"(F) DEFINITIONS RELATED TO BICYCLE COMMUTING BENEFITS.—

"(i) QUALIFIED BICYCLE COMMUTING BENEFIT.— The term 'qualified bicycle commuting benefit' means, with respect to any calendar year—

"(I) any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase (including associated finance charges), lease, rental (including a bikeshare), improvement, repair, or storage of qualified commuting property, or

"(II) the direct or indirect provision by the employer to the employee during such calendar year of the use (including a bikeshare), improvement, repair, or storage of qualified commuting property,

if the employee regularly uses such qualified commuting property for travel between the employee's residence, place of employment, a qualified parking facility, or a mass transit facility that connects the employee to their residence or place of employment.

"(ii) QUALIFIED COMMUTING PROPERTY.— The term 'qualified commuting property' means—

"(I) any bicycle (other than a bicycle equipped with any motor),

"(II) any electric bicycle which meets the requirements of section 36E(c) (5),

"(III) any 2- or 3-wheel scooter (other than a scooter equipped with any motor), and

"(IV) any 2- or 3-wheel scooter propelled by an electric motor if such motor does not provide assistance if the speed of such scooter exceeds 20 miler per hour (or if the speed of such scooter is not capable of exceeding 20 miles per hour) and the weight of such scooter does not exceed 100 pounds.

"(iii) BIKESHARE.— The term 'bikeshare' means a rental operation at which qualified commuting property is made available to customers to pick up and drop off for point-to-point use within a defined geographic area."

## (c) LIMITATION ON EXCLUSION.—

Section 132(f)(2)(C) is amended to read as follows:

"(C) 30 percent of the dollar amount in effect under subparagraph (B) per month in the case of any qualified bicycle commuting benefit."

(d) NO CONSTRUCTIVE RECEIPT.— Section 132(f)(4) is amended by striking "(other than a qualified bicycle commuting reimbursement)".

## (e) CONFORMING AMENDMENTS.—

(1) Section 132(f)(1)(D) is amended by striking "reimbursement" and inserting "benefit".

(2) Section 274(l) is amended by striking paragraph (2).

(f) EFFECTIVE DATE.— The amendments made by this section shall apply to taxable years beginning after December 31, 2021.

**Sec. 136407. Credit for certain new electric bicycles**

## (a) IN GENERAL.—

Subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after section 36D the following new section:

**"Sec. 36E. Electric bicycles**

"(a) ALLOWANCE OF CREDIT.— There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to ~~45~~30 percent of the cost of each qualified electric bicycle placed in service by the taxpayer during such taxable year.

## (b) LIMITATIONS.—

"(1) LIMITATION ON COST PER ELECTRIC BICYCLE TAKEN INTO ACCOUNT.— The amount taken into account under subsection (a) as the cost of any qualified electric bicycle shall not exceed \$5,000.

## (2) BICYCLE LIMITATION WITH RESPECT TO CREDIT.—

"(A) LIMITATION ON NUMBER OF PERSONAL-USE BICYCLES.— In the case of any taxpayer for any taxable year, the number of personal-use bicycles taken into account under subsection (a) shall not exceed the excess (if any) of—

"(i) 1 (2 in the case of a joint return), reduced by

"(ii) the aggregate number of bicycles taken into account by the taxpayer under subsection (a) for the 2 preceding taxable years.

"(B) PHASEOUT BASED ON MODIFIED ADJUSTED GROSS INCOME.— ~~So much of the credit allowed under subsection (a) to any taxpayer for any taxable year as would (but for this subparagraph) be treated under subsection (c)(2) as a credit allowable under subpart E shall be reduced by \$200 for each \$1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds—~~

"(i) \$150,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(ii) \$112,500 in the case of a head of household (as defined in section 2(b)), and

"(iii) \$75,000 in the case of a taxpayer not described in clause (i) or (ii).

"(C) MODIFIED ADJUSTED GROSS INCOME.— For purposes of subparagraph (B), the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

"(D) SPECIAL RULE FOR ~~DETERMINATION OF~~ MODIFIED ADJUSTED GROSS INCOME TAKEN INTO ACCOUNT.— The modified adjusted gross income of the taxpayer that is taken into account for purposes of this paragraph shall be the lesser of—

"(i) the modified adjusted gross income for the taxable year in which the credit is claimed, or

"(ii) the modified adjusted gross income for the immediately preceding taxable year.

"(c) QUALIFIED ELECTRIC BICYCLE.— For purposes of this section, the term 'qualified electric bicycle' means a bicycle—

"(1) the original use of which commences with the taxpayer,

"(2) which is acquired for use by the taxpayer and not for resale,

"(3) which is made by a qualified manufacturer and is labeled with the qualified vehicle identification number assigned to such bicycle by such manufacturer,

"(4) with respect to which the aggregate amount paid for such acquisition does not exceed \$8,000, and

"(5) which is equipped with—

"(A) fully operable pedals,

"(B) a saddle or seat for the rider, and

"(C) an electric motor of less than 750 watts which is designed to provide assistance in propelling the bicycle and—

"(i) does not provide such assistance if the bicycle is moving in excess of 20 miles per hour, or

"(ii) if such motor only provides such assistance when the rider is pedaling, does not provide such assistance if the bicycle is moving in excess of 28 miles per hour.

"(d) VIN NUMBER REQUIREMENT.—

"(1) IN GENERAL.— No credit shall be allowed under subsection (a) with respect to any qualified electric bicycle unless the taxpayer includes the qualified vehicle identification number of such bicycle on the return of tax for the taxable year.



"(2) QUALIFIED VEHICLE IDENTIFICATION NUMBER.— For purposes of this section, the term 'qualified vehicle identification number' means, with respect to any bicycle, the vehicle identification number assigned to such bicycle by a qualified manufacturer pursuant to the methodology referred to in paragraph (3).

"(3) QUALIFIED MANUFACTURER.— For purposes of this section, the term 'qualified manufacturer' means any manufacturer of qualified electric bicycles which enters into an agreement with the Secretary which provides that such manufacturer will—

"(A) assign a vehicle identification number to each qualified electric bicycle produced by such manufacturer utilizing a methodology that will ensure that such number (including any alphanumeric) is unique to such bicycle (by utilizing numbers or letters which are unique to such manufacturer or by such other method as the Secretary may provide),

"(B) label such bicycle with such number in such manner as the Secretary may provide, and

"(C) make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) of the vehicle identification numbers so assigned and including such information as the Secretary may require with respect to the qualified electric bicycle to which such number was so assigned.

"(e) SPECIAL RULES.—

"(1) BASIS REDUCTION.— For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed ~~(determined without regard to subsection (e))~~.

"(2) NO DOUBLE BENEFIT.— The amount of any deduction or other credit allowable under this chapter for a qualified electric bicycle for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such vehicle ~~(determined without regard to subsection (e))~~ bicycle.

"(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.— No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b) (1).

"(4) RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(5) ELECTION NOT TO TAKE CREDIT.— No credit shall be allowed under subsection (a) for any bicycle if the taxpayer elects to not have this section apply to such bicycle.

"(f) TREATMENT OF CERTAIN POSSESSIONS.—

"(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.— The Secretary shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section (determined without regard to this subsection). Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession.

"(2) PAYMENTS TO OTHER POSSESSIONS.— The Secretary shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan which has been approved by the Secretary under which such possession will promptly distribute such payments to its residents.

"(3) MIRROR CODE TAX SYSTEM; TREATMENT OF PAYMENTS.— Rules similar to the rules of paragraphs ~~(3)~~, (4), and (5) of section 21(h) shall apply for purposes of this section.

"(g) TERMINATION:—~~TRANSFER OF CREDIT.—~~

~~"(1) IN GENERAL.— Subject to such regulations or other guidance as the Secretary determines necessary or appropriate, if the taxpayer who acquires a qualified electric bicycle after December 31, 2022 elects the application of this subsection shall not apply to bicycles placed in service after December 31, 2031." (b) Conforming amendments.— (1) Section 38(b) is amended by striking "plus" at the end of with respect to such qualified electric bicycle, the credit which would (but for this subsection) be allowed to such taxpayer with respect to such qualified electric bicycle shall be allowed to the eligible entity specified in such election (and not to such taxpayer).~~

~~"(2) ELIGIBLE ENTITY.— For purposes of this paragraph, the term 'eligible entity' means, with respect to the qualified electric bicycle for which the credit is allowed under subsection (a), the retailer which sold such qualified electric bicycle to the taxpayer and has—~~

~~"(A) subject to paragraph (4), registered with the Secretary for purposes of this paragraph, at such time, and in such form and manner, as the Secretary may prescribe,~~

~~"(B) prior to the election described in paragraph (1) and no later than at the time of such sale, disclosed to the taxpayer purchasing such qualified electric bicycle—~~

~~"(i) the retail price,~~

~~"(ii) the value of the credit allowed or other incentive available for the purchase of such qualified electric bicycle,~~

~~"(iii) all fees associated with the purchase of such qualified electric bicycle, and~~

~~"(iv) the amount provided by the retailer to such taxpayer as a condition of the election described in paragraph (1),~~

~~"(C) made payment to such taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such qualified electric bicycle) in an amount equal to the credit otherwise allowable to such taxpayer, and~~

"(D) with respect to any incentive otherwise available for the purchase of a qualified electric bicycle for which a credit is allowed under this section, including any incentive in the form of a rebate or discount provided by the retailer or manufacturer, ensured that—

"(i) the availability or use of such incentive shall not limit the ability of a taxpayer to make an election described in paragraph (1), and

"(ii) such election shall not limit the value or use of such incentive.

"(3) TIMING.— An election described in paragraph (1) shall be made by the taxpayer not later than the date on which the qualified electric bicycle for which the credit is allowed under subsection (a) is purchased.

"(4) REVOCATION OF REGISTRATION.— Upon determination by the Secretary that a retailer has failed to comply with the requirements described in paragraph (392), by striking the period at the end of paragraph (40) and inserting ", plus", and by adding at the end the following new paragraph: "(41) the portion of the electric bicycles credit to which section 36E(e)(1) applies." (2) the Secretary may revoke the registration (as described in subparagraph (A) of such paragraph) of such retailer.

"(5) TAX TREATMENT OF PAYMENTS.— With respect to any payment described in paragraph (2)(C), such payment—

"(A) shall not be includible in the gross income of the taxpayer, and

"(B) with respect to the retailer, shall not be deductible under this title.

"(6) APPLICATION OF CERTAIN OTHER REQUIREMENTS.— In the case of any election under paragraph (1) with respect to any qualified electric bicycle—

"(A) the amount of the reduction under subsection (b) shall be determined with respect to the modified adjusted gross income of the taxpayer for the taxable year preceding the taxable year in which such qualified electric bicycle was acquired (and not with respect to such income for the taxable year in which such qualified electric bicycle was acquired),.

"(B) the requirements of paragraphs (1) and (2) of subsection (e) shall apply to the taxpayer who acquired the qualified electric bicycle in the same manner as if the credit determined under this section with respect to such qualified electric bicycle were allowed to such taxpayer, and

"(C) subsection (e)(5) shall not apply.

"(7) ADVANCE PAYMENT TO REGISTERED RETAILERS.—

"(A) IN GENERAL.— The Secretary shall establish a program to make advance payments to any eligible entity in an amount equal to the cumulative amount of the credits allowed under subsection (a) with respect to any qualified electric bicycles sold by such entity for which an election described in paragraph (1) has been made.

"(B) EXCESSIVE PAYMENTS.— Rules similar to the rules of section 6417(c)(8) shall apply for purposes of this paragraph.

"(8) RETAILER.— For purposes of this subsection, the term 'retailer' means a person engaged in the trade or business of selling qualified electric bicycles in a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, or an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304))."

"(h) TERMINATION.— This section shall not apply to bicycles placed in service after December 31, 2026."

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (378), by striking the period at the end of paragraph (389) and inserting ", and", and by adding at the end the following new paragraph:

"(3940) to the extent provided in section 36E(f)(1)."

(2) Section 6211(b)(4)(A) of such Code is amended by inserting "36E by reason of subsection (c)(2) thereof," before "32,".

(3) Section 6213(g)(2), as amended by the preceding provisions of this Act, is amended—

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

(B) in subparagraph (V), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(W) an omission of a correct vehicle identification number required under section 36E(ed) (relating to electric bicycles credit) to be included on a return."

(4) Section 6501(m) is amended by inserting "36E(f)(4)," after "35(g)(11),".

(5) Section 1324(b)(2) of title 31, United States Code, is amended by inserting "36E," after "36B,".

(c) CLERICAL AMENDMENT.—

The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 36E. Electric bicycles."

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act December 31, 2021, in taxable years ending after such date.

**Sec. 136405. Alternative fuel refueling property credit (a) In general 501. Extension of the advanced energy project credit**

(g) EXTENSION OF CREDIT.— (l)

Section ~~30C(g)48C~~ is amended by striking "~~December 31, 2021~~" *redesignating subsection (e) as subsection (f)*, and by inserting "~~December 31, 2031~~". (b) *Additional credit for certain electric-charging property* after subsection (d) the following new subsection:

"(e) ADDITIONAL ALLOCATIONS.—

"(1) IN GENERAL.— Section 30C(a) is amended— (A) by striking "equal to 30 percent" and in *Not later than 270 days after the date of enactment of this subsercting on*, the following: equal to the sum of— "(1) 30 percent", (B) by striking the period at the end and inserting ", plus", and (C) by adding at the end the following new paragraph: "(2) 20 percent of so much of such cost as exceeds the limitation *Secretary shall establish a program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors.*

"(2) ANNUAL LIMITATION.—

"(A) IN GENERAL.— *The amount of credits that may be allocated under this subsection (b)(1) that does not exceed the amount of cost attributable to qualified alternative vehicle refueling property (determined without regard to subsection (e) (1) and as if only electricity, and fuel at least 85 percent of the volume of which consists of hydrogen, wduring any calendar year shall not exceed the annual credit limitation with respect to such year.*

"(B) ANNUAL CREDIT LIMITATION.—

"(i) IN GENERAL.— *For purposes of this subsection, the term 'annual credit limitation' means \$5,000,000,000 for each of calendar years 2022 through 2023, \$1,875,000,000 for each of calendar years 2024 through 2031, and zero thereafter as clean-burning fuels for purposes of section 179A(d)) whichr.*

"(ii) AMOUNT SET ASIDE FOR AUTOMOTIVE COMMUNITIES.—

"(A) is intended for general public use with no associated fee or payment arrangement, "(B) is intended for general public use and accepts payment via a credit card reader, including a credit card reader that uses contactless technology, or "(C) is intended for use ex/IN GENERAL.— *For purposes of clause (i), \$800,000,000 of the annual credit limitation for each of calendar years 2022 through 2023 and \$300,000,000 for each of calendar years 2024 through 2031 shall be allocated to qualified investments located within automotive communities.*

"(II) AUTOMOTIVE COMMUNITIES.— *For purposes of this clausively by fleets of commercial or governmental vehicles. ". (2) Conforming amendment.—* Section 30C(b) is ame, the term 'automotive communities' means a census tract and any directly adjoining census tract, including a no-population census tract, that has experied— (A) by striking "The credit allowed under subsection (a)" and inserting "The amount of cost taken into account under subsection (a)(1)", (B) by striking "\$30,000" and inserting "\$100,000", and (C) by striking "\$1,000"

and inserting "\$3,333.33". (3) Bidirectional charging equipment include major job losses in the automotive manufacturing sector since January 1, 1994, as determined by the Secretary.

"(iii) AMOUNT SET ASIDE FOR ENERGY COMMUNITIES.—

"(I) IN GENERAL.— For purposes of clause (i), \$800,000,000 of the annual credit limitation for each of calendar years 2022 through 2023 and \$300,000,000 for each of calendar years 2024 through 2031 shall be allocated as to qualified alternative fuel vehicle refueling property.— Section 30C(e) is amended— (A) by striking "investments located within energy communities.

"(II) ENERGY COMMUNITIES.— For purposes of this section clause, the term " and inserting For purposes of this section— "(1) In general.— The term", and (B) by adding at the end the following new paragraph: 'energy communities' means a census tract or any directly adjoining census tract in which—

"(aa) after December 31, 1999, a coal mine has closed, or

"(bb) after December 31, 2009, a coal-fired electric generating unit has been retired.

"(2C) Bidirectional charging equipment.— Property shall not fail to be tCARRYOVER OF UNUSED LIMITATION.— If the annual credit limitation for any calendar year exceeds the aggregated as qualified alternative vehicle refueling property solely because such property— "(A) is capable of charging the battery of a motor vehicle propelled by electricity, and mount designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2036.

"(B3) allows discharging electricity from such battery to an electric load external to such motor vehicle CERTIFICATIONS.—

"(A) APPLICATION REQUIREMENT.— Each applicant for certification under this subsection shall submit an application at such time and containing such information as the Secretary may require.

"(e) Certain electric charging stations included as qualified alternative fuel vehicle refueling property.— Section 30C is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following: "(f) Special rule for electric charging stations for certain vehicles with 2 or 3 wheels.— For purposes of this section— "(1) In general.— The term 'qualified alterna(B) TIME TO MEET CRITERIA FOR CERTIFICATION.— Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met.

"(C) PERIOD OF ISSUANCE.— An applicant which receives a certification shall have 2 years from the date of issuance of the certification in order to place the

project in service and to notify the Secretary that such project has been so placed in service, and if such project is not placed in service (and the Secretary so notified) by that time fuel vehicle refueling property' includes any property described in subsection (c) for the recharging of period, then the certification shall no longer be valid. If any certification is revoked under this subparagraph, the a motor vehicle described in paragraph (2) that is propelled by electricity, but only if the property—unt of the annual credit limitation under paragraph (2) for the calendar year in which such certification is revoked shall be increased by the amount of the credit with respect to such revoked certification.

"(A4) meets the requirements of subsection (a)(2), and "(B) is of a characterSELECTION CRITERIA.— Selection criteria similar to those in subsection (d)(3) shall apply, except that in determining designations under this subject to depreciation ion, the Secretary shall—

"(2A) Motor vehicle.— A motor vehicle is described in this paragraph if the motor vehicle in addition to the factors described in subsection (d)(3)(B), take into consideration which projects—

"(A) is manufactured primarily for use on public streets, roads, or highways (not including a vehicle operated exclusively on a rail or rails), and "(B) has at least 2, but not more than 3, wheels." (d) Wage and apprenwill provide the greatest net impact in avoiding or reducing anthropogenic emissions of greenhouse gases, as determined by the Secretary.

"(ii) will provide the greatest domestic job creation (both direct and indirect) during the credit period,

"(iii) will provide the greatest job creation within the vicinity of the project, particularly with respect to—

"(I) low-income communitieship requirements.— Section 30G, as amended by this section, is further amended by redesignating subsections (g) and (h) as subsections (h) (as described in section 45D(e)), and

"(II) dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining, and

"(iv) and by inserting after subsection (f) the following new subsection: "(g) Wage and apprenticeship requirements.— "(1) Base credit amount and increased credit amount.— "(A) will provide the greatest job creation in areas with a population that is at risk of experiencing higher or more adverse human health or environmental effects and a significant portion of such population is comprised of communities of color, low-income communities, Tribal and In-digenous.— In the case of any qualified alternative fuel vehicle refueling property which does not satisfy the requirements of subparagraph (B), the amount of the credit determined under subsection (a) shall be 20 percent of such amount (determined without regard to this sentence). "(B) Increased credit for certain qualified alternative fuel vehicle refueling property

~~meeting project requirements.—"(i) In general.—In the case of any qualified alternative fuel vehicle refueling property which meets the project requirements of this subparagraph, subparagraph (A) shall not apply. "(ii) Project requirements.— A project meets the requirements of this subparagraph if it is one of the following: "(1) A project which commences construction prior to those communities, or individuals formerly employed in the fossil fuel industry, and~~

~~"(B) give the highest priority to projects which—~~

~~"(i) manufacture (other than primarily assembly of components) property described in a subclause of subsection (c)(1)(A)(i) (or components thereof), and~~

~~"(ii) have the greatest potential for commercial deployment of new applications.~~

~~"(5) DISCLOSURE OF ALLOCATIONS.— The Secretary shall, upon allocating a credit under this subsection, publicly disclose the identity of the applicant, the amount of the credit with respect to such applicant, and the project location for which such credit was allocated.~~

~~"(6) CREDIT CONDITIONED UPON WAGE AND APPRENTICESHIP REQUIREMENTS.—~~

~~"(A) BASE RATE.— For purposes of allocations under this subsection, the amount of the credit determined under subsection (a) shall be ~~date of the enactment of this paragraph~~ mined by substituting '6 percent' for '30 percent'.~~

~~"(B) ALTERNATIVE RATE.— In the case of any project which satisfies the requirements of paragraphs (27) and (3)8), the amount of the credit determined under subsection (a) shall be equal to such amount multiplied by 5.~~

~~"(27) PREVAILING WAGE REQUIREMENTS.—~~

~~"(A) IN GENERAL.— The requirements described in this subparagraph with respect to any qualified alternative fuel vehicle refueling property project are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the ~~construct~~ re-equipping, expansion, of such proper establishment of a manufacturing facility shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.~~

~~"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to ~~such qualified alternative fuel vehicle refueling property,~~ any project—~~

~~"(i) rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this paragraph. "(3) Apprenticeship requirements.— The requirements described in this subparagraph with respect to the construction of any qualified alternative fuel vehicle refueling property are as follows: "(A)~~



Labor hours.— ~~"(i) Percentage of total labor hours.— All contractors and subcontract, and~~

~~"(ii) if the failure to satisfy the requirement under subparagraph (A) is not corrected pursuant to the rules described in clause (i), the certification with respect to the re-equipping, expansion, ors engaged in the performance of construction on any project shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes of paragraph (1), the applicable percentage shall be—"(i) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent, "(ii) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and "(iii) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percent. "(B) Apprentice to journeyworker ratio.— The re-establishment of a manufacturing facility shall no longer be valid.~~

~~"(8) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply. "~~

~~(b) MODIFICATION OF QUALIFYING ADVANCED ENERGY PROJECTS.—~~

~~(1) INCLUSION OF WATER AS A RENEWABLE RESOURCE.— Section 48C(c)(1)(A)(i)(I) is amended by inserting "water," after "sun,".~~

~~(2) ENERGY STORAGE SYSTEMS.— Section 48C(c)(1)(A)(i)(II) is amended by striking "an energy storage system for use with electric or hybrid-electric motor vehicles" and inserting "energy storage systems and components".~~

~~(3) MODIFICATION OF QUALIFYING ELECTRIC GRID PROPERTY.— Section 48C(c)(1)(A)(i)(III) is amended to read as follows:~~

~~"(III) electric grid modernization equipment under subparagraph (A)(i) shall or components,".~~

~~(4) USE OF CAPTURED CARBON.— Section 48C(c)(1)(A)(i)(IV) is amended by subject to any applicable requirements for apprentice to journeyworker ratios of the Department of Labor or the applicable State ~~apprent~~striking "sequester" and insert "use or sequester".~~

~~(5) ELECTRIC VEHICLES AND BICYCLES.— Section 48C(c)(1)(A)(i)(VI) is amended—~~

~~(A) by striking "new qualified plug-in electric drive motor vehicle"ship agency. "(C) Participation.— Each contractor and subcontractor who employs 4 or more individuals to perform (as defined by section 30D)" and inserting "vehicles described in sections 36C and 45Y, and bicycles described in section 36E", and~~

~~(B) and striking "and power construction, altol units" and insertion, or repair work on an applicable project shall employ 1 or more qualified apprentices to perform such work. "(D) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a~~

taxpayer who ~~ng~~ "power control units, and equipment used for charging or refueling".

(6) PROPERTY FOR PRODUCTION OF HYDROGEN.— Section 48C(c)(1)(A)(i) is amended by striking "or" at the end of subclause (VI), by redesignating subclause (VII) as subclause (VIII), and by inserting after subclause (VI) the following new subclause:

"(VII) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and "(II) makes a good faith effort to comply with the requirements of this property designed to be used to produce qualified clean hydrogen (as defined in section 45X), or".

(7) RECYCLING OF ADVANCED ENERGY PROPERTY.— Section 48C(c)(1) is amended by adding at the end the following new subparagraph:

"(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3134(e)(3)(B), and such request has been denied, provided that such denial is not the result of C) SPECIAL RULE FOR CERTAIN RECYCLING FACILITIES.— A facility which recycles batteries or similar energy storage property described in subparagraph (A)(i) shall be treated as part of a manufacturing facility described in such subparagraph. "

(c) DENIAL OF DOUBLE BENEFIT.— 48C(f), as refusal by the contractors or subcontractors engaged in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program. "(E) Definitions.— For purposes of this paragraph— "(i) Labor hours.— The term 'labor hours' has the meaning given such term in section 45(b)(9)(E)(i). "(ii) Qualified apprentice.— The term 'qualified apprentice' has the designated by this section, is amended by striking "or 48B" and inserting "48B, 48F, 45Q, or 45X".

(d) QUALIFYING ADVANCED ENERGY PROJECT.—

Section 48C(c)(1)(A) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which re-equips a meaning given such term in section 45(b)(9)(E)(ii). "(4) Regulations and guidance.— The Secretary shall issue such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this subsection. ufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20 percent, as determined by the Secretary, and".

(e) EFFECTIVE DATE.— The amendments made by this section shall apply to property placed in service after December 31, 2021, and take effect on January 1, 2022.

## Sec. 13656<sup>(1)</sup>2. Labor costs of installing mechanical insulation property

(a) IN GENERAL.—

Subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

**"Sec. 45Z. Labor costs of installing mechanical insulation property**

"(a) IN GENERAL.— For purposes of section 38, the mechanical insulation labor costs credit determined under this section for any taxable year is an amount equal to ~~40~~2 percent of the mechanical insulation labor costs paid or incurred by the taxpayer during such taxable year.

"(b) MECHANICAL INSULATION LABOR COSTS.— For purposes of this section—

"(1) IN GENERAL.— The term 'mechanical insulation labor costs' means the labor cost of installing mechanical insulation property with respect to a mechanical system referred to in paragraph (2)(A) which was originally placed in service not less than 1 year before the date on which such mechanical insulation property is installed.

"(2) MECHANICAL INSULATION PROPERTY.— The term 'mechanical insulation property' means insulation materials, and facings and accessory products installed in connection to such insulation materials—

"(A) placed in service in connection with a mechanical system which—

"(i) is located in the United States,

"(ii) is of a character subject to an allowance for depreciation, and

"(iii) meets the requirements of section 434.403 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this section), and

"(B) which result in a reduction in energy loss from the mechanical system which is greater than the expected reduction from the installation of insulation materials which meet the minimum requirements of Reference Standard 90.1 (as defined in section 179D(c)(2)).

"(c) WAGE AND APPRENTICESHIP REQUIREMENTS.—

"(1) IN GENERAL.— In the case of any project which meets the prevailing wage and apprenticeship requirements of this subsection, the amount of credit determined under subsection (a) shall be multiplied by 5.

"(2) WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(8) shall apply.

"(3) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(d) TERMINATION.— This section shall not apply to mechanical insulation labor costs paid or incurred after December 31, 2034~~27~~."

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—

Section 38(b), as amended by the preceding provisions of this Act, is further amended by striking "plus" at the end of paragraph (~~4036~~), by striking the period at the end of paragraph (~~4437~~) and inserting ", plus", and by adding at the end the following new paragraph:

~~"(4238)~~ the mechanical insulation labor costs credit determined under section 45Z(a)."

(c) CONFORMING AMENDMENTS.—

(1) Section 280C is amended by adding at the end the following new subsection:

"(i) MECHANICAL INSULATION LABOR COSTS CREDIT.—

"(1) IN GENERAL.— No deduction shall be allowed for that portion of the mechanical insulation labor costs (as defined in section 45Z(b)) otherwise allowable as deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45Z(a).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.— If—

"(A) the amount of the credit determined for the taxable year under section 45Z(a), exceeds

"(B) the amount of allowable as a deduction for such taxable year for mechanical insulation labor costs (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such costs shall be reduced by the amount of such excess."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new item:

"Sec. 45Z. Labor costs of installing mechanical insulation property."

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to amounts paid or incurred after December 31, 2021, in taxable years ending after such date.

**Sec. 1365043. Extension of the advanced energy project Advanced Manufacturing Investment Credit**

(a) Extension of credit.— Section 48C is amended by redesignating subsection (e) as subsection (f) and IN GENERAL.—

Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after subsection (d) 48D the following new subsection:

~~"(e) Additional allocations.—"(1) In general.— Not later than 180 days after the date of enactment of this sub~~**Sec. 48E. Advanced manufacturing investment credit**

"(a) ESTABLISHMENT OF CREDIT.—

"(1) IN GENERAL.— For purposes of section 46, the Secretary, after consultation with the Secretary of Energy, shall establish a program to consider and award certifications for qualified investments eligible for credits under this section to qualifying advanced energy project sponsors."(2) Annual limitation.—"(A) In general.— The amount of credits that

~~may be allocated under this subsection during any calendar year shall not *exn amount equal to the applicable percentage of the qualified investment for such taxable year with respect to any advanced manufacturing facility.*~~

~~"(2) APPLICABLE PERCENTAGE.—~~

~~"(A) BASE AMOUNT.— In the case of any advanced the annual credit limitation with respect to such year. "(B) Annual credit limitation.— "(i) In general.— For purposes of this subsection, the term 'annual credit limitation' means \$2,500,000,000 for each of calendar years 2022 through 2031, and zero thereafter *manufacturing facility which does not satisfy the requirements described in clauses (i) and (ii) of subparagraph (B), the applicable percentage shall be 5 percent.*~~

~~"(ii) AMOUNT SET ASIDE FOR AUTOMOTIVE COMMUNITIES.— "(I) IN GENERAL.— FOR PURPOSES OF CLAUSE (i), \$400,000,000 OF THE ANNUAL CREDIT LIMITATION FOR EACH OF CALENDAR YEARS 2022 THROUGH 2031 SHALL BE ALLOCATED TO QUALIFIED INVESTMENTS LOCATED WITHIN AUTOMOTIVE COMMUNITIES. "(II) AUTOMOTIVE COMMUNITIES.— FOR PURPOSES OF THIS CLAUSE, THE TERM 'AUTOMOTIVE COMMUNITIES' MEANS A CENSUS TRACT AND ANY DIRECTLY ADJOINING CENSUS *TERNATIVE AMOUNT.— In the case of any advanced manufacturing facility which—*~~

~~*"(i) subject to subparagraph (B) of subsection (c)(2), satisfies the requirements under subparagraph (A) of such subsection, and*~~

~~*"(ii) with respect to the construct, including a no-population census tract, that has experienced major job losses in the automotive manufacturing sector since January 1, 1994, as determined by the Secretary after consultation with the Secretary of Energy and Secretary of Labor: *ion of such facility, satisfies the apprenticeship requirements under subsection (c)(3),.**~~

~~*the applicable percentage shall be 25 percent.*~~

~~"(b) QUALIFIED INVESTMENT.—~~

~~"(E1) Carryover of unused limitation.— If the annual credit limitation for any calendar year exceeds the aggregate amount designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2036 *IN GENERAL.— For purposes of subsection (a)(1), the qualified investment with respect to any advanced manufacturing facility for any taxable year is the basis of any qualified property placed in service by the taxpayer during such taxable year which is part of an advanced manufacturing facility.*~~

~~"(32) Certifications.— "(A) Application requirement.— Each applicant for certification under this subsection shall submit an application at such *ti* *QUALIFIED PROPERTY.—*~~

~~*"(A) IN GENERAL.— For purposes of this subsection, the term 'qualified property' me- and containing such information as the Secretary may require. "(B) Time to meet criteria for certification.— Each applicant for certification shall have*~~

~~2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the requirements of the certification have been met. "(C) Period of issuance.— An applicant which receives a certification shall have 2 years from the date of issuance of the certification in order to place the project in service and to notify the Secretary that such project has been so placed in service, and if such project is not placed in service (and the Secretary so notified) by that time period, then the certification shall no longer be valid. If any certification is revoked under this subparagraph, the amount of the annual credit limitations property—~~

~~"(i) which is tangible property,~~

~~"(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,~~

~~"(iii) which is—~~

~~"(I) constructed, reconstructed, or erected by the taxpayer, or~~

~~"(II) acquired by the taxpayer if the original use of such property commences with the taxpayer, and~~

~~"(iv) which is integral to the operation of the advanced manufacturing facility.~~

~~"(B) BUILDINGS AND STRUCTURAL COMPONENTS.—~~

~~"(i) IN GENERAL.— The term 'qualified property' shall include any building or its structural components which otherwise satisfy the requirements under subparagraph (2) for the calendar year in which such certification is revoked shall be increased by the amount of the credit with respect to such revoked certification. "(4) Selection criteria.— Selection criteria similar to those in subsection (d)(3) shall apply, except that in determining designations under this subsection, the Secretary, after consultation with the Secretary of Energy, shall—"(A) in addition to the factors described in subsection (d)(3)(B), take into consideration which projects—"(i) will provide the greatest net impact in avoiding or reducing anthropogenic emissions of greenhouse gases, as determined by the Secretary after consultation with the Administrator of the Environmental Protection Agency, "(ii) will provide the greatest domestic job creation (both direct and indirect) during the credit period, "(iii) will provide the greatest job creation within the vicinity of the project, particularly with respect to—"(I) low-income communities (as described in section 45D(e)), and "(II) dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining, and "(iv) will provide the greatest job creation in areas with a population that is at risk of experiencing higher or more adverse human health or environmental effects and a significant portion of such population is comprised of communities of color, low-income communities, Tribal and Indigenous communities, or individuals formerly employed in the fossil fuel industry, and <sup>(1)</sup>(B) give the highest priority to projects which—"(i) manufac~~A~~.~~

"(ii) EXCEPTION.— Clause (i) shall not apply with respect to any offices or other administrative buildings.

"(3) ADVANCED MANUFACTURING FACILITY.— For purposes of this subpart, the term 'advanced manufacturing facility' means a facility—

"(A) for which the primary purpose is the manufacturing of semiconductors and semiconductor tooling equipment, and

"(B) the construction of which begins before January 1, 2027.

"(4) COORDINATION WITH REHABILITATION CREDIT.— The qualified investment with respect to any advanced manufacturing facility for any taxable year shall not include that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (other than primarily assembly of components) property described in a subclause of suba defined in section 47(c)(4)(A)(i) (or components thereof), and "(ii) have the greatest potential for commercial deployment of new applications.—"(5) Disclosure of allocations.— The Secretary shall, upon allocating a credit under this subsection, publicly disclose the identity of the applicant, the amount of the credit with respect to such applicant, and the project location for which such credit was allocated.

"(6) Credit conditioned upon wage and apprenticeship requirements.— No credit shall be allocated for a project under this subsection unless the project meets the prevailing wage requirements of paragraph (7) and the apprenticeship requirements of paragraph 2).

"(c) SPECIAL RULES.—

"(1) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.— Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of subsection (8a).

"(7) Prevailing wWAGE REQUIREMENTS.—

"(A) IN GENERAL.— The requirements described in this subparagraph with respect to a projectny facility are that the taxpayer shall ensure that any laborers and mechanics employed by contractors and subcontractors in the re-equipping, expansion, or establishment of an industrial or manufacturing—

"(i) the construction of such facility, and

"(ii) for any year during the 5-year period beginning on the date the facility is originally placed in service, the alteration or repair of such facility,

shall be paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

"(B) CORRECTION AND PENALTY RELATED TO FAILURE TO SATISFY WAGE REQUIREMENTS.— "(i) In general.— In the case of any taxpayer which fails to satisfy the requirement under subparagraph (A) with respect to any project—"(1) rules similar to the rules of section 45(b)(8)(B) shall apply for purposes of this

paragraph, and "(II) if the failure to satisfy the requirement under subparagraph (A) is not corrected pursuant to the rules described in subclause (I), the certification with respect to the re-equipping, expansion, or establishment Rules similar to the rules of section 45(b)(8)(B) shall apply.

"(C) RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any industrial or manufacturing facility shall no longer be valid. "(8) Apprenticeship requirements.— The requirements described in this subparagraph crease in the credit allowed under paragraph (2) (B) of subsection (a)., with respect to any project are as follows: "(A) Labor hours:— "(i) Percentage of total labor hours.— All contractors and subcontractors engaged in the performance of construction, alteration, or repair work on any project shall, subject to subparagraph (B), ensure that not less than the applicable percentage of the total labor hours of such work be performed by qualified apprentices. "(ii) Applicable percentage.— For purposes which does not satisfy the requirements under subparagraph (A) (after application of subparagraph (B)) for the period described in clause (ii) of subparagraph (4), the applicable percentage shall be— "(I) in the case of any applicable project the construction of which begins before January 1, 2023, 5 percent, "(II) in the case of any applicable project the construction of which begins after December 31, 2022, and before January 1, 2024, 10 percent, and "(III) in the case of any applicable project the construction of which begins after December 31, 2023, 15 percentA) (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a).

"(B3) APPRENTICE TO JOURNEYWORKER RATIO.— THE REQUIREMENT UNDER SUBPARAGRAPH (A)(i) SHALL BE SUBJECT TO ANY APPLICABLE REQUIREMENTS FOR APPRENTICE TO JOURNEYWORKER RATIOS OF THE DEPARTMENT OF LABOR OR THE APPLICABLE STATE APPRENTICESHIP AGENESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(G4) Participation.— Each contractor and subcontractor who employs 4 or more individuals to perform construction, alteration, or repair wREGULATIONS AND GUIDANCE. — The Secretary shall issue such regulations ork on an applicable project shall employ 1 or more qualified apprentices to perform such work. "(D) Exception.— "(i) In general.— Notwithstanding any other provision of this paragraph, this paragraph shall not apply in the case of a taxpayer who— "(I) demonstrates a lack of availability of qualified apprentices in the geographic area of the construction, alteration, or repair work, and "(II) makes a good faith effort to comply with the requirements of this paragraph. "(ii) Good faith effort.— For purposes of clause (i), a taxpayer shall be deemed to have satisfied the requirements under such paragraph with respect to an applicable project if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in section 3131(e)(3)(B), and such request has been denied, provided that such denial is not the result of a refusal by the contractors or subcontractors engagther guidance as the Secretary determines



necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of establishing the requirements of this section."

(b) ELECTIVE PAYMENT OF CREDIT.—

Section 6417(b), as amended by the prece~~d~~ in the performance of construction, alteration, or repair work on such applicable project to comply with the established standards and requirements of such apprenticeship program. "(E) Definitions.— For purposes of this provisions of this Act, is amended by adding at the end the following new paragraph—:

"(i) Labor hours.— The term 'labor hours' has the~~10)~~ The advanced meaning given such term in section 45(b)(9)(E)(i). "(ii) Qualified apprentice.— The term 'qualified apprentice' has the meaning given such term in section 45(b)(9)(E)(ii):  
ufacturing investment credit determined under section 48E."

(b) Modification of qualifying advanced energy projects.— (1) Inclusion of water as a renewable resource.— Section 48C(e)(1)(A)(i)(I) is amended by inserting "water," after "sun,". (2) Energy storage systems.— Section 48C(e)(1)(A)(i)(II) is amended by striking "an energy storage system for use wi  
CONFIRMING AMENDMENTS.—

(1) Section 46 is amended—

(A) by striking "and" at the end of paragraph (6),.

(B) by striking the period at the electric or hybrid electric motor vehicles" and inserting "energy storage systems and components". (3) Modification of qualifying electric grid property.— Section 48C(e)(1)(A)(i)(III) is amended to read as follows: "(III) electric grid modernization equipment or components;  
nd of paragraph (7) and inserting ", and", and

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

"(8) the advanced manufacturing investment credit."

(4) Use of captured carbon.— Section 48C(e)(2)(1)(A)(i)(IV) is amended—

(A) by striking "sequester" and insert "use or sequester". (5) Electric and fuel cell vehicles.— Section 48C(e)(1)(A)(i)(VI) is amended—and" at the end of clause (vi),.

(AB) by striking "new qualified plug-in electric drive motor vehicles (as defined by section 30D)" and inserting "vehicles described in section 36C, 45Y  
the period at the end of clause (vii) and inserting ", and 36E", and

(BC) and striking "and power control units" and inserting "power control units, and equipment used for charging or refueling". (6) Property for production of hydrogen.—by adding at the end the following new clause:

"(viii) the basis of any qualified property (as defined in section 48E(b)(2)), which is part of an advanced manufacturing facility."

(3) Section 48C(e)(150(a)(2)(i)E) is amended by striking "or" at the end of subclause (VI), by redesignating subclause (VII) as subclause (VIII), and by inserting after subclause (VI) the following new subclause: "(VII) property designed to be used

~~to produce qualified clean hydrogen (as defined in section 45X), or 48D(e)" and inserting "48D(e), or 48E(c)(1)".~~

~~(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48D the following new item:~~

~~"48E. Advanced manufacturing investment credit."~~

~~(7d) Recycling of advanced energy property.— Section 48C(e)(1) is amended by adding at the end the following new subparagraph: "(G) Special rule for certain recycling facilities.— A facility which recycles batteries or similar energy storage property described in subparagraph (A)(i) shall be treated as part of a manufacturing facility described in such subparagraph. ". (c) Effective date.— The amendments made by this section shall take effect EFFECTIVE DATE.— The amendments made by this section shall apply to property placed in service after December 31, 2021 and, for any property the construction of which begins prior to January 1, 2022, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection on the date of the enactment of this Act after December 31, 2021.~~

**Sec. 136504. Advanced manufacturing production credit**

~~(a) IN GENERAL.—~~

~~Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:~~

**"Sec. 45AA. Advanced manufacturing production credit**

~~"(a) IN GENERAL.—~~

~~"(1) ALLOWANCE OF CREDIT.— For purposes of section 38, the advanced manufacturing production credit for any taxable year is an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each eligible component which is—~~

~~"(A) produced by such taxpayer, and~~

~~"(B) during the taxable year, sold by the taxpayer to an unrelated person for the use of such person in their trade or business.~~

~~"(2) PRODUCTION AND SALE MUST BE IN TRADE OR BUSINESS.— Any eligible component produced and sold by the taxpayer shall be taken into account only if the production and sale described in paragraph (1) is in a trade or business of the taxpayer.~~

~~"(b) CREDIT AMOUNT.—~~

~~"(1) IN GENERAL.— Subject to paragraph (3), the amount determined under this subsection with respect to any eligible component, including any eligible component it incorporates, shall be equal to—~~

~~"(A) in the case of a<sup>(1)</sup> thin film photovoltaic cell, an amount equal to the product of—~~

"(i) 5 cents, multiplied by

"(ii) the capacity of such cell (expressed on a per direct current watt basis)

"(B) in the case of a crystalline photovoltaic cell, an amount equal to the product of—

"(i) 4 cents, multiplied by

"(ii) the capacity of such cell (expressed on a per direct current watt basis),.

"(C) in the case of a photovoltaic wafer, \$12 per square meter,

"(D) in the case of solar grade polysilicon, \$3 per kilogram,

"(E) in the case of a solar module, an amount equal to the product of—

"(i) 7 cents, multiplied by

"(ii) the capacity of such module (expressed on a per direct current watt basis), and

"(E) in the case of a wind energy component, an amount equal to the product of—

"(i) the applicable amount with respect to such component, multiplied by

"(ii) the total rated capacity (expressed on a per watt basis) of the completed wind turbine for which such component is designed.

"(2) APPLICABLE AMOUNT.— For purposes of paragraph (1)(F), the applicable amount with respect to any wind energy component shall be—

"(A) in the case of a blade, 2 cents,

"(B) in the case of a nacelle, 5 cents,

"(C) in the case of a tower, 3 cents, and

"(D) in the case of an offshore wind foundation—

"(i) which uses a fixed platform, 2 cents, or

"(ii) which uses a floating platform, 4 cents.

"(3) PHASE OUT.—

"(A) IN GENERAL.— In the case of any eligible component sold after December 31, 2026, the amount determined under this subsection with respect to such component shall be equal to the product of—

"(i) the amount determined under paragraph (1) with respect to such component, as determined without regard to this paragraph, multiplied by

"(ii) the phase out percentage under subparagraph (B).

"(B) PHASE OUT PERCENTAGE.— The phase out percentage under this subparagraph is equal to—

"(i) in the case of an eligible component sold during calendar year 2027, 75 percent,

"(ii) in the case of an eligible component sold during calendar year 2028, 50 percent,

"(iii) in the case of an eligible component sold during calendar year 2029, 25 percent,

"(iv) in the case of an eligible component sold after December 31, 2029, 0 percent.

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

"(1) ELIGIBLE COMPONENT.—

"(A) IN GENERAL.— The term 'eligible component' means—

"(i) any solar energy component, and

"(ii) any wind energy component.

"(B) APPLICATION WITH OTHER CREDITS.— With respect to any taxable year, the term 'eligible component' shall not include any property which is produced at a facility which, for such taxable year or any previous taxable year, the basis of any property which is part of such facility is taken into account for purposes of the credit allowed under section 48C or 48E.

"(2) SOLAR ENERGY COMPONENT.—

"(A) IN GENERAL.— The term 'solar energy component' means any of the following:

"(i) Solar modules.

"(ii) Photovoltaic cells.

"(iii) Photovoltaic wafers.

"(iv) Solar grade polysilicon.

"(B) ASSOCIATED DEFINITIONS.—

"(i) PHOTOVOLTAIC CELL.— The term 'photovoltaic cell' means the smallest semiconductor element of a solar module which performs the immediate conversion of light into electricity.

"(ii) PHOTOVOLTAIC WAFER.— The term 'photovoltaic wafer' means a thin slice, sheet, or layer of semiconductor material of at least 240 square centimeters produced by a single manufacturer—

"(I) either—

"(aa) directly from molten or evaporated solar grade polysilicon or deposition of solar grade thin film semiconductor photon absorber layer, or

"(bb) through formation of an ingot from molten polysilicon and subsequent slicing, and

"(II) which comprises the substrate or absorber layer of one or more photovoltaic cells. (I)

"(iii) SOLAR GRADE POLYSILICON.— The term 'solar grade polysilicon' means silicon which is—

"(I) suitable for use in photovoltaic manufacturing, and

"(II) purified to a minimum purity of 99.999999 percent silicon by mass.

"(iv) SOLAR MODULE.— The term 'solar module' means the connection and lamination of photovoltaic cells into an environmentally protected final assembly which is—

"(I) suitable to generate electricity when exposed to sunlight, and

"(II) ready for installation without an additional manufacturing process.

"(3) WIND ENERGY COMPONENT.—

"(A) IN GENERAL.— The term 'wind energy component' means any of the following:

"(i) Blades.

"(ii) Nacelles.

"(iii) Towers.

"(iv) Offshore wind foundations.

"(B) ASSOCIATED DEFINITIONS.—

"(i) BLADE.— The term 'blade' means an airfoil-shaped blade which is responsible for converting wind energy to low-speed rotational energy.

"(ii) OFFSHORE WIND FOUNDATION.— The term 'offshore wind foundation' means the component which secures an offshore wind tower and any above-water turbine components to the seafloor using—

"(I) fixed platforms, such as offshore wind monopiles, jackets, or gravity-based foundations, or

"(II) floating platforms and associated mooring systems.

"(iii) NACELLE.— The term 'nacelle' means the assembly of the drivetrain and other tower-top components of a wind turbine (with the exception of the blades and the hub) within their cover housing.

"(iv) TOWER.— The term 'tower' means a tubular or lattice structure which supports the nacelle and rotor of a wind turbine.

"(d) SPECIAL RULES.— In this section—

"(1) RELATED PERSONS.— Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling components to an unrelated person if such component is sold to such a person by another member of such group.

"(2) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.— Sales shall be taken into account under this section only with respect to eligible components the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.— Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(4) CREDIT EQUAL TO 10 PERCENT OF THE CREDIT AMOUNT FOR UNION FACILITIES.— In the case of a facility operating under a collective bargaining agreement negotiated by an employee organization (as defined in section 412(c)(4)), determined in a manner consistent with section 7701(a)(46), for purposes of determining the amount of the credit under subsection (a) with respect to eligible components produced by such facility, the applicable amount under subsection (b) of such subsection shall be increased by an amount equal to 10 percent of the amount otherwise in effect under such subsection. "

(b) ELECTIVE PAYMENT OF CREDIT.—

Section 6417(b), as amended by the preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(11) The credit for advanced manufacturing production under section 45AA. "

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (37), by striking "plus" at the end,

(B) in paragraph (38), by striking the period at the end and inserting ", plus",

and

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

"(39) the advanced manufacturing production credit determined under section 45AA(a)."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45AA. Advanced manufacturing production credit."

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to components produced and sold after December 31, 2021.

## **Sec. 136601. Qualified environmental justice program credit**

**(a) IN GENERAL.—**

(i)

Subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after section 36EE the following new section:

**"Sec. 36FG. Qualified environmental justice programs**

"(a) ALLOWANCE OF CREDIT.— In the case of an eligible educational institution, there shall be allowed as a credit against the tax imposed by this subtitle for any taxable year an amount equal to the applicable percentage of the amounts paid or incurred by such taxpayer during such taxable year which are necessary for a qualified environmental justice program.

"(b) QUALIFIED ENVIRONMENTAL JUSTICE PROGRAM.— For purposes of this section—

"(1) IN GENERAL.— The term 'qualified environmental justice program' means a program conducted by one or more eligible educational institutions that is designed to address, or improve data about, qualified environmental stressors for the primary purpose of improving, or facilitating the improvement of, health and economic outcomes of individuals residing in low-income areas or areas that experience, or are at risk of experiencing, multiple exposures to qualified environmental stressors.

"(2) QUALIFIED ENVIRONMENTAL STRESSOR.— The term 'qualified environmental stressor' means, with respect to an area, a contamination of the air, water, soil, or food with respect to such area or a change relative to historical norms of the weather conditions of such area, including—

"(A) toxic pollutants (such as lead, pesticides, or fine particulate matter) in air, soil, food, or water,

"(B) high rates of asthma prevalence and incidence, and

"(C) such other adverse human health or environmental effects as are identified by the Secretary.

"(c) ELIGIBLE EDUCATIONAL INSTITUTION.— For purposes of this section, the term 'eligible educational institution' means an institution of higher education (as such term is defined in section 101 or 102(c) of the Higher Education Act of 1965) that is eligible to participate in a program under title IV of such Act.

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

"(1) in the case of a program involving material participation of faculty and students of an institution described in section 371(a) of the Higher Education Act of 1965, 30 percent, and

"(2) in all other cases, 20 percent.

"(e) CREDIT ALLOCATION.—

"(1) ALLOCATION.—

"(A) IN GENERAL.— The Secretary shall allocate credit dollar amounts under this section to eligible educational institutions, for qualified environmental justice programs, that—

"(i) submit applications at such time and in such manner as the Secretary may provide, and

"(ii) are selected by the Secretary under subparagraph (B).

"(B) SELECTION CRITERIA.— The Secretary, ~~after consultation with the Secretary of Energy, the Secretary of Education, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency,~~ shall select applications on the basis of the following criteria:

"(i) The extent of participation of faculty and students of an institution described in section 371(a) of the Higher Education Act of 1965.

"(ii) The extent of the expected effect on the health or economic outcomes of individuals residing in areas within the United States that are low-income areas or areas that experience, or are at risk of experiencing, multiple exposures to qualified environmental stressors.

"(iii) The creation or significant expansion of qualified environmental justice programs.

"(2) LIMITATIONS.—

"(A) IN GENERAL.— The amount of the credit determined under this section for any taxable year to any eligible educational institution for any qualified environmental justice program shall not exceed the excess of—

"(i) the credit dollar amount allocated to such institution for such program under this subsection, over

"(ii) the credits previously claimed by such institution for such program under this section.

"(B) FIVE-YEAR LIMITATION.— No amounts paid or incurred after the 5-year period beginning on the date a credit dollar amount is allocated to an eligible educational institution for a qualified environmental justice program shall be taken into account under subsection (a) with respect to such institution for such program.

"(C) ALLOCATION LIMITATION.— The total amount of credits that may be allocated under the program shall not exceed—

"(i) \$1,000,000,000 for each of taxable years 2022 through 2031, and

"(ii) \$0 for each subsequent year.

"(D) CARRYOVER OF UNUSED LIMITATION.— If the annual credit limitation for any calendar year exceeds the aggregate amount designated for such year under this subsection, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2036.

"(f) REQUIREMENTS.—

"(1) IN GENERAL.— An eligible educational institution that has been allocated credit dollar amounts under this section for a qualified environmental justice project for a taxable year shall—



"(A) make publicly available the application submitted to the Secretary under subsection (e) with respect to such project, and

"(B) submit an annual report to the Secretary that describes the amounts paid or incurred for, and expected impact of, such project.

"(2) FAILURE TO COMPLY.— In the case of an eligible education institution that has failed to comply with the requirements of this subsection, the credit dollar amount allocated to such institution under this section is deemed to be \$0.

"(g) PUBLIC DISCLOSURE.— The Secretary, upon making an allocation of credit dollar amounts under this section, shall publicly disclose—

"(1) the identity of the eligible educational institution receiving the allocation, and

"(2) the amount of such allocation."

(b) GROSS-UP OF PAYMENTS IN CASE OF SEQUESTRATION.— In the case of any payment made as a refund due to an overpayment as a result of section 36G of the Internal Revenue Code of 1986 made after the date of the enactment of this Act to which sequestration applies, the amount of such payment shall be increased to an amount equal to—

(1) such payment (determined before such sequestration), multiplied by

(2) the quotient obtained by dividing 1 by the amount by which 1 exceeds the percentage reduction in such payment pursuant to such sequestration.

For purposes of this subsection, the term "sequestration" means any reduction in direct spending ordered in accordance with a sequestration report prepared by the Director of the Office of Management and Budget pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 or the Statutory Pay-As-You-Go Act of 2010.

(c) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A), as amended by the preceding provisions of this Act, is amended by inserting "36FG," after "36DE,".

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, as amended by the preceding provisions of this Act, is amended by inserting "36FG," after "36DE,".

(ed) CLERICAL AMENDMENT.—

The table of sections for subpart C of part IV of subchapter A of chapter 1, as amended by the preceding provisions of this Act, is amended by inserting after the item relating to section 36EF the following new item:

"Sec. 36FG. Qualified environmental justice programs."

(de) EFFECTIVE DATE.— The amendments made by this section shall take effect on the date of the enactment of this Act January 1, 2022.

## **Sec. 13670<sup>1</sup>. Reinstatement of Superfund**

(a) HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—

(1) EXTENSION.— Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.— The Hazardous Substance Superfund financing rate under this section shall apply after ~~December~~June 30, 2024."

(2) ADJUSTMENT FOR INFLATION.—

(A) Section 4611(c)(2)(A) is amended by striking "9.7 cents" and inserting "16.4 cents".

(B) Section 4611(c) is amended by adding at the end the following:

"(3) ADJUSTMENT FOR INFLATION.—

"(A) IN GENERAL.— In the case of a year beginning after 2022, the amount in paragraph (2)(A) shall be increased by an amount equal to—

"(i) such amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f) (3) for the calendar year, determined by substituting 'calendar year 2021' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(B) ROUNDING.— If any amount as adjusted under subparagraph (A) is not a multiple of \$0.01, such amount shall be rounded to the next lowest multiple of \$0.01."

(b) AUTHORITY FOR ADVANCES.— Section 9507(d)(3)(B) is amended by striking "December 31, 1995" and inserting "December 31, 2031".

(c) EFFECTIVE DATE.— The amendments made by this section shall take effect on ~~January~~July 1, 2022.

**Sec. 136801. Clean electricity production credit**

(a) IN GENERAL.—

Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**"Sec. 45BB. Clean electricity production credit**

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.— For purposes of section 38, the clean electricity production credit for any taxable year is an amount equal to the product of—

"(A) the kilowatt hours of electricity—

"(i) produced by the taxpayer at a qualified facility, and

"(ii)

"(I) sold by the taxpayer to an unrelated person during the taxable year, or

"(II) in the case of a qualified facility which is equipped with a metering device which is owned and operated by an unrelated person.

sold, consumed, or stored by the taxpayer during the taxable year, multiplied by

“(B) the applicable amount with respect to such qualified facility.

“(2) APPLICABLE AMOUNT.—

“(A) BASE AMOUNT.— Subject to subsection (g)(Z), in the case of any qualified facility which is not described in clause (i) of subparagraph (B) and does not satisfy the requirements described in clause (ii) of such subparagraph, the applicable amount shall be 0.3 cents.

“(B) ALTERNATIVE AMOUNT.— Subject to subsection (g)(Z), in the case of any qualified facility—

“(i) with a maximum net output of less than 1 megawatt, or

“(ii) which—

“(I) satisfies the requirements under paragraph (9) of subsection (g), and

“(II) with respect to the construction of such facility, satisfies the requirements under paragraph (10) of subsection (g),

the applicable amount shall be 1.5 cents.

“(b) QUALIFIED FACILITY.—

“(1) IN GENERAL.—

“(A) DEFINITION.— Subject to subparagraphs (B), (C), and (D), the term ‘qualified facility’ means a facility owned by the taxpayer—

“(i) which is used for the generation of electricity,

“(ii) the construction of which begins after December 31, 2026, and

“(iii) for which the greenhouse gas emissions rate (as determined under paragraph (2)) is not greater than zero.

“(B) 10-YEAR PRODUCTION CREDIT.— For purposes of this section, a facility shall only be treated as a qualified facility during the 10-year period beginning on the date the facility was originally placed in service.

“(C) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.— The term ‘qualified facility’ shall include either of the following in connection with a facility described in subparagraph (A) (without regard to clause (ii) of such subparagraph) the construction of which begins before January 1, 2027, but only to the extent of the increased amount of electricity produced at the facility by reason of the following:

“(i) A new unit the construction of which begins after December 31, 2026.

“(ii) Any additions of capacity the construction of which begins after December 31, 2026. (l)

“(D) COORDINATION WITH OTHER CREDITS.— The term ‘qualified facility’ shall not include any facility for which a credit determined under section 45, 45J, 45Q,

48, 48A, or 48F is allowed under section 38 for the taxable year or any prior taxable year.

“(2) GREENHOUSE GAS EMISSIONS RATE.—

“(A) IN GENERAL.— For purposes of this section, the term ‘greenhouse gas emissions rate’ means the amount of greenhouse gases emitted into the atmosphere by a facility in the production of electricity, expressed as grams of CO<sub>2</sub>e per KWh.

“(B) FUEL COMBUSTION AND GASIFICATION.— In the case of a facility which produces electricity through combustion or gasification, the greenhouse gas emissions rate for such facility shall be equal to the net rate of greenhouse gases emitted into the atmosphere by such facility (taking into account lifecycle greenhouse gas emissions, as described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H))) in the production of electricity, expressed as grams of CO<sub>2</sub>e per KWh.

“(C) ESTABLISHMENT OF EMISSIONS RATES FOR FACILITIES.—

“(i) PUBLISHING EMISSIONS RATES.— The Secretary shall annually publish a table that sets forth the greenhouse gas emissions rates for types or categories of facilities, which a taxpayer shall use for purposes of this section.

“(ii) PROVISIONAL EMISSIONS RATE.— In the case of any facility for which an emissions rate has not been established by the Secretary, a taxpayer which owns such facility may file a petition with the Secretary for determination of the emissions rate with respect to such facility.

“(D) CARBON CAPTURE AND SEQUESTRATION EQUIPMENT.— For purposes of this subsection, the amount of greenhouse gases emitted into the atmosphere by a facility in the production of electricity shall not include any qualified carbon dioxide that is captured by the taxpayer and—

“(i) pursuant to any regulations established under paragraph (2) of section 45Q(f), disposed of by the taxpayer in secure geological storage, or

“(ii) utilized by the taxpayer in a manner described in paragraph (5) of such section.

“(c) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.— In the case of a calendar year beginning after 2021, the 0.3 cent amount in paragraph (2)(A) of subsection (a) and the 1.5 cent amount in paragraph (2)(B) of such subsection shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale or use of the electricity occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

“(2) ANNUAL COMPUTATION.— The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment

factor for such calendar year in accordance with this subsection.

"(3) INFLATION ADJUSTMENT FACTOR.— The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(d) CREDIT PHASE-OUT.—

"(1) IN GENERAL.— The amount of the clean electricity production credit under subsection (a) for any qualified facility the construction of which begins during a calendar year described in paragraph (2) shall be equal to the product of—

"(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

"(B) the phase-out percentage under paragraph (2).

"(2) PHASE-OUT PERCENTAGE.— The phase-out percentage under this paragraph is equal to—

"(A) for a facility the construction of which begins during the first calendar year following the applicable year, 100 percent,

"(B) for a facility the construction of which begins during the second calendar year following the applicable year, 75 percent,

"(C) for a facility the construction of which begins during the third calendar year following the applicable year, 50 percent, and

"(D) for a facility the construction of which begins during any calendar year subsequent to the calendar year described in subparagraph (C), 0 percent.

"(3) APPLICABLE YEAR.— For purposes of this subsection, the term 'applicable year' means the later of—

"(A) the calendar year in which the Secretary determines that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than 25 percent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2021, or

"(B) 2031.

"(e) DEFINITIONS.— For purposes of this section:

"(1) CO<sub>2</sub>E PER KWH.— The term 'CO<sub>2</sub>e per kWh' means, with respect to any greenhouse gas, the equivalent carbon dioxide (as determined based on global warming potential) per kilowatt hour of electricity produced.

"(2) GREENHOUSE GAS.— The term 'greenhouse gas' has the same meaning given such term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section.

"(3) QUALIFIED CARBON DIOXIDE.— The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

"(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas,

"(B) is measured at the source of capture and verified at the point of disposal or utilization, and

"(C) is captured and disposed or utilized within the United States (within the meaning of section 638(1)) or a possession of the United States (within the meaning of section 638(2)).

"(f) GUIDANCE.— Not later than January 1, 2027, the Secretary shall issue guidance regarding implementation of this section, including calculation of greenhouse gas emission rates for qualified facilities and determination of clean electricity production credits under this section.

"(g) SPECIAL RULES.—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.— Consumption or sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

"(A) IN GENERAL.— For purposes of subsection (a)—

"(i) the kilowatt hours of electricity produced by a taxpayer at a qualified facility shall include any production in the form of useful thermal energy by any combined heat and power system property within such facility, and

"(ii) the amount of greenhouse gases emitted into the atmosphere by such facility in the production of such useful thermal energy shall be included for purposes of determining the greenhouse gas emissions rate for such facility.

"(B) COMBINED HEAT AND POWER SYSTEM PROPERTY.— For purposes of this paragraph, the term 'combined heat and power system property' has the same meaning given such term by section 48(c)(3) (without regard to subparagraphs (A)(iv), (B), and (D) thereof).

"(C) CONVERSION FROM BTU TO KWH.—

"(i) IN GENERAL.— For purposes of subparagraph (A)(i), the amount of kilowatt hours of electricity produced in the form of useful thermal energy shall be equal to the quotient of—

"(I) the total useful thermal energy produced by the combined heat and power system property within the qualified facility, divided by

"(II) the heat rate for such facility.

"(ii) HEAT RATE.— For purposes of this subparagraph, the term 'heat rate' means the amount of energy used by the qualified facility to generate 1 kilowatt hour of electricity, expressed as British thermal units per net kilowatt hour generated.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.— In the case of a qualified facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

"(4) RELATED PERSONS.— Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.— Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(6) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.— In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.— An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.— The amount of the credit apportioned to any patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.— If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(i) such reduction, over

“(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year.

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

“(D) ELIGIBLE COOPERATIVE DEFINED.— For purposes of this section, the term ‘eligible cooperative’ means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.

“(7) INCREASE IN CREDIT IN CERTAIN CASES.—

“(A) ENERGY COMMUNITIES.—

“(i) IN GENERAL.— In the case of any qualified facility which is located in an energy community, for purposes of determining the amount of the credit under subsection (a) with respect to any electricity produced by the taxpayer at such facility during the taxable year, the applicable amount under paragraph (2) of such subsection shall be increased by an amount equal to 10 percent of the amount otherwise in effect under such paragraph (without application of subparagraph (B)).

“(ii) ENERGY COMMUNITY.— For purposes of this subparagraph, the term ‘energy community’ means a census tract—

“(I) in which—

“(aa) for the calendar year in which construction of the qualified facility began, not less than 5 percent of the employment in such tract is within the oil and gas sector,

“(bb) after December 31, 1999, a coal mine has closed, or

“(cc) after December 31, 2009, a coal-fired electric generating unit has been retired, or

“(II) which is immediately adjacent to any census tract described in subclause (I).

“(B) DOMESTIC CONTENT.— Rules similar to the rules of section 45(b)(10) shall apply.

“(8) CREDIT REDUCED FOR TAX-EXEMPT BONDS.— Rules similar to the rules of section 45(b)(3) shall apply.



"(9) WAGE REQUIREMENTS.— Rules similar to the rules of section 45(b)(8) shall apply.

"(10) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(11) DOMESTIC CONTENT REQUIREMENT FOR ELECTIVE PAYMENT.— Rules similar to the rules of section 45(b)(11) shall apply. "

(b) ELECTIVE PAYMENT OF CREDIT.—

Section 6417(b), as amended by preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(12) The clean electricity production credit determined under section 45BB(a). "

(c) ELECTION.—

Section 6417(c)(3), as amended by the preceding provisions of this Act, is amended by adding at the end the following new subparagraph:

"(D) CLEAN ELECTRICITY PRODUCTION CREDIT.— In the case of the credit described in subsection (b)(10), any election under this subsection shall—

"(i) apply separately with respect to each qualified facility,

"(ii) be made for the taxable year in which the facility is placed in service, and

"(iii) shall apply to such taxable year and all subsequent taxable years with respect to such facility."

(d) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) in paragraph (38), by striking "plus" at the end,

(B) in paragraph (39), by striking the period at the end and inserting ", plus", and

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

"(40) the clean electricity production credit determined under section 45BB(a)."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45BB. Clean electricity production credit."

(e) EFFECTIVE DATE.— The amendments made by this section shall apply to facilities placed in service after December 31, 2022.

### **Sec. 136802. Clean electricity investment credit**

(a) IN GENERAL.—

Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48E the following new section:

**"Sec. 48F. Clean electricity investment credit****"(a) INVESTMENT CREDIT FOR QUALIFIED PROPERTY.—**

"(1) IN GENERAL.— For purposes of section 46, the clean electricity investment credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year with respect to—

"(A) any qualified facility, and

"(B) any grid improvement property.

**"(2) APPLICABLE PERCENTAGE.—**

"(A) QUALIFIED FACILITIES.— Subject to paragraph (3)—

"(i) BASE RATE.— In the case of any qualified facility which is not described in subclause (I) of clause (ii) and does not satisfy the requirements described in subclause (II) of such clause, the applicable percentage shall be 6 percent.

"(ii) ALTERNATIVE RATE.— In the case of any qualified facility—

"(I) with a maximum net output of less than 1 megawatt, or

"(II) which—

"(aa) satisfies the requirements of subsection (d)(3), and

"(bb) with respect to the construction of such facility, satisfies the requirements of subsection (d)(4),.

the applicable percentage shall be 30 percent.

"(B) GRID IMPROVEMENT PROPERTY.— Subject to paragraph (3)—

"(i) BASE RATE.— In the case of any grid improvement property which is not described in subclause (I) of clause (ii) and does not satisfy the requirements described in subclause (II) of such clause, the applicable percentage shall be 6 percent.

"(ii) ALTERNATIVE RATE.— In the case of any grid improvement property—

"(I) which is energy storage property with a capacity of less than 1 megawatt, or

"(II) which—

"(aa) satisfies the requirements of subsection (d)(3), and

"(bb) with respect to the construction of such property, satisfies rules similar to the rules of section 45(b)(9),.

the applicable percentage shall be 30 percent.

**"(3) INCREASE IN CREDIT RATE IN CERTAIN CASES.—**

"(A) ENERGY COMMUNITIES.—

"(i) IN GENERAL.— In the case of any qualified investment with respect to a qualified facility or with respect to grid improvement property which is placed in service within an energy community, for purposes applying

paragraph (2) with respect to such property or investment, the applicable percentage shall be increased by the applicable credit rate increase.

"(ii) APPLICABLE CREDIT RATE INCREASE.— For purposes of clause (i), the applicable credit rate increase shall be an amount equal to—

"(I) in the case of any qualified investment with respect to a qualified facility described in paragraph (2)(A)(i) or with respect to grid improvement property described in paragraph (2)(B)(i), 2 percentage points, and

"(II) in the case of any qualified investment with respect to a qualified facility described in paragraph (2)(A)(ii) or with respect to grid improvement property described in paragraph (2)(B)(ii), 10 percentage points.

"(B) DOMESTIC CONTENT.— Rules similar to the rules of section 45(a)(11) shall apply.

"(b) QUALIFIED INVESTMENT WITH RESPECT TO A QUALIFIED FACILITY.—

"(1) IN GENERAL.— For purposes of subsection (a), the qualified investment with respect to any qualified facility for any taxable year is the sum of—

"(A) the basis of any qualified property placed in service by the taxpayer during such taxable year which is part of a qualified facility, plus

"(B) the amount of any expenditures which are—

"(i) paid or incurred by the taxpayer for qualified interconnection property,

=

"(I) in connection with a qualified facility which has a maximum net output of not greater than 5 megawatts, and

"(II) placed in service during the taxable year of the taxpayer, and

"(ii) properly chargeable to capital account of the taxpayer.

"(2) QUALIFIED PROPERTY.— The term 'qualified property' means property—

"(A) which is—

"(i) tangible personal property, or

"(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified facility,

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(C)

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(3) QUALIFIED FACILITY.—

"(A) IN GENERAL.— For purposes of this section, the term 'qualified facility' means a facility—

"(i) which is used for the generation of electricity,

"(ii) the construction of which begins after December 31, 2026, and

"(iii) for which the anticipated greenhouse gas emissions rate (as determined under subparagraph (B)(ii)) is not greater than zero.

"(B) ADDITIONAL RULES.—

"(i) EXPANSION OF FACILITY; INCREMENTAL PRODUCTION.— Rules similar to the rules of section 45BB(b)(1)(C) shall apply for purposes of this paragraph.

"(ii) GREENHOUSE GAS EMISSIONS RATE.— Rules similar to the rules of section 45BB(b)(2) shall apply for purposes of this paragraph.

"(C) EXCLUSION.— The term 'qualified facility' shall not include any facility for which—

"(i) a renewable electricity production credit determined under section 45,

"(ii) an advanced nuclear power facility production credit determined under section 45J,

"(iii) a carbon oxide sequestration credit determined under section 45Q,

"(iv) a clean electricity production credit determined under section 45BB,

"(v) an energy credit determined under section 48,

"(vi) a qualifying advanced coal project credit under section 48A, or

"(vii) a qualifying electric transmission property credit under section 48D, is allowed under section 38 for the taxable year or any prior taxable year.

"(4) QUALIFIED INTERCONNECTION PROPERTY.— For purposes of this paragraph, the term 'qualified interconnection property' has the meaning given such term in section 48(a)(7)(B).

"(5) COORDINATION WITH REHABILITATION CREDIT.— The qualified investment with respect to any qualified facility for any taxable year shall not include that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)).

"(6) DEFINITIONS.— For purposes of this subsection, the terms 'CO<sub>2</sub>e per KWh' and 'greenhouse gas emissions rate' have the same meaning given such terms under section 45BB(b).

"(c) QUALIFIED INVESTMENT WITH RESPECT TO GRID IMPROVEMENT PROPERTY.—"(1) IN GENERAL.—

"(A) QUALIFIED INVESTMENT.— For purposes of subsection (a), the qualified investment with respect to grid improvement property for any taxable year is the

basis of any grid improvement property placed in service by the taxpayer during such taxable year.

"(B) GRID IMPROVEMENT PROPERTY.— For purposes of this section, the term 'grid improvement property' means any energy storage property.

"(2) ENERGY STORAGE PROPERTY.— For purposes of this section, the term 'energy storage property' has the meaning given such term in section 48(c)(6).

"(d) SPECIAL RULES.—

"(1) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.— Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of subsection (a).

"(2) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR PRIVATE ACTIVITY BONDS.— Rules similar to the rules of section 45(b)(3) shall apply.

"(3) PREVAILING WAGE REQUIREMENTS.— Rules similar to the rules of section 48(a)(9) shall apply.

"(4) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply.

"(5) DOMESTIC CONTENT REQUIREMENT FOR ELECTIVE PAYMENT.— Rules similar to the rules of section 45(b)(11) shall apply.

"(e) CREDIT PHASE-OUT.—

"(1) IN GENERAL.— The amount of the clean electricity investment credit under subsection (a) for any qualified investment with respect to any qualified facility or grid improvement property the construction of which begins during a calendar year described in paragraph (2) shall be equal to the product of—

"(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

"(B) the phase-out percentage under paragraph (2).

"(2) PHASE-OUT PERCENTAGE.— The phase-out percentage under this paragraph is equal to—

"(A) for any qualified investment with respect to any qualified facility or grid improvement property the construction of which begins during the first calendar year following the applicable year, 100 percent,

"(B) for any qualified investment with respect to any qualified facility or grid improvement property the construction of which begins during the second calendar year following the applicable year, 75 percent,

"(C) for any qualified investment with respect to any qualified facility or grid improvement property the construction of which begins during the third calendar year following the applicable year, 50 percent, and

"(D) for any qualified investment with respect to any qualified facility or grid improvement property the construction of which begins during any calendar year subsequent to the calendar year described in subparagraph (C), 0 percent.

"(3) APPLICABLE YEAR.— For purposes of this subsection, the term 'applicable year' has the same meaning given such term in section 45BB(d)(3).

"(f) GREENHOUSE GAS.— In this section, the term 'greenhouse gas' has the same meaning given such term under section 45BB(e)(2).

"(g) RECAPTURE OF CREDIT.— For purposes of section 50, if the Secretary determines that the greenhouse gas emissions rate for a qualified facility is greater than 10 grams of CO<sub>2</sub>e per KWh, any property for which a credit was allowed under this section with respect to such facility shall cease to be investment credit property in the taxable year in which the determination is made.

"(h) GUIDANCE.— Not later than January 1, 2027, the Secretary shall issue guidance regarding implementation of this section."

(b) ELECTIVE PAYMENT OF CREDIT.—

Section 6417(b), as amended by preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(13) The clean electricity investment credit determined under section 48F."

(c) PUBLIC UTILITY PROPERTY.— Section 50(d) is amended by adding at the end the following: "Paragraphs (1)(B) and (2)(B) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any qualified investment described in section 48F of a real estate investment trust."

(d) CONFORMING AMENDMENTS.—

(1) Section 46 is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting ", and",

and

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

"(7) the clean electricity investment credit."

(2) Section 49(a)(1)(C) is amended—

(A) by striking "and" at the end of clause (iv),

(B) by striking the period at the end of clause (v) and inserting a comma, and

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

"(vi) the basis of any qualified property which is part of a qualified facility under section 48F, and

"(vii) the basis of any energy storage property under section 48F."

(3) Section 50(a)(2)(E) is amended by striking "or 48E(c)(1)" and inserting "48E(c)(1), or 48F(e)". (l)

(4) Section 50(c)(3) is amended by inserting "or clean electricity investment credit" after "In the case of any energy credit".

(5) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48E the following new item:

"48F. Clean electricity investment credit."

(e) EFFECTIVE DATE.— The amendments made by this section shall apply to property placed in service after December 31, 2026, and, for any property the construction of which begins prior to January 1, 2027, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 2026.

**Sec. 136803. Increase in clean electricity investment credit for facilities placed in service in connection with low-income communities**

(a) IN GENERAL.—

Section 48F, as added by this Act, is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR CERTAIN FACILITIES PLACED IN SERVICE IN CONNECTION WITH LOW-INCOME COMMUNITIES.—

"(1) IN GENERAL.— In the case of any qualified facility with respect to which the Secretary makes an allocation of environmental justice capacity limitation under paragraph (4)—

"(A) the applicable percentage otherwise determined under subsection (a)(2) with respect to any eligible property which is part of such facility shall be increased by—

"(i) in the case of a facility described in subclause (I) of paragraph (2)(A)(iii) and not described in subclause (II) of such paragraph, 10 percentage points, and

"(ii) in the case of a facility described in subclause (II) of paragraph (2)(A)(iii), 20 percentage points, and

"(B) the increase in the credit determined under subsection (a) by reason of this subsection for any taxable year with respect to all property which is part of such facility shall not exceed the amount which bears the same ratio to the amount of such increase (determined without regard to this subparagraph) as—

"(i) the environmental justice capacity limitation allocated to such facility, bears to

"(ii) the total megawatt nameplate capacity of such facility, as measured in direct current.

"(2) QUALIFIED FACILITY.— For purposes of this subsection—

"(A) IN GENERAL.— The term 'qualified facility' means any facility—

"(i) which is described in subsection (b)(3)(A) and not described in section 45BB(b)(2)(B).

"(ii) which has a maximum net output of less than 5 megawatts, and

"(iii) which—

"(I) is located in a low-income community (as defined in section 45D(e)) or on Indian land (as defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2))), or

"(II) is part of a qualified low-income residential building project or a qualified low-income economic benefit project.

"(B) QUALIFIED LOW-INCOME RESIDENTIAL BUILDING PROJECT.— A facility shall be treated as part of a qualified low-income residential building project if—

"(i) such facility is installed on a residential rental building which participates in a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a)(3)), a Housing Development Fund Corporation cooperative under Article XI of the New York State Private Housing Finance Law, a housing assistance program administered by the Department of Agriculture under title V of the Housing Act of 1949, a housing program administered by a tribally designated housing entity (as defined in section 4(22) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(22))) or such other affordable housing programs as the Secretary may provide, and

"(ii) the financial benefits of the electricity produced by such facility are allocated equitably among the occupants of the dwelling units of such building.

"(C) QUALIFIED LOW-INCOME ECONOMIC BENEFIT PROJECT.— A facility shall be treated as part of a qualified low-income economic benefit project if at least 50 percent of the financial benefits of the electricity produced by such facility are provided to households with income of—

"(i) less than 200 percent of the poverty line applicable to a family of the size involved, or

"(ii) less than 80 percent of area median gross income (as determined under section 142(d)(2)(B)).

"(D) FINANCIAL BENEFIT.— For purposes of subparagraphs (B) and (C), electricity acquired at a below-market rate shall not fail to be taken into account as a financial benefit.

"(3) ELIGIBLE PROPERTY.— For purposes of this section, the term 'eligible property' means a qualified investment with respect to any qualified facility which is described in subsection (b).

"(4) ALLOCATIONS.—

"(A) IN GENERAL.— <sup>(1)</sup> Not later than January 1, 2027, the Secretary shall establish a program to allocate amounts of environmental justice capacity



limitation to qualified facilities.

"(B) LIMITATION.— The amount of environmental justice capacity limitation allocated by the Secretary under subparagraph (A) during any calendar year shall not exceed the annual capacity limitation with respect to such year.

"(C) ANNUAL CAPACITY LIMITATION.— For purposes of this paragraph, the term 'annual capacity limitation' means 1.8 gigawatts of direct current capacity for each of calendar years 2027 through 2031, and zero thereafter.

"(D) CARRYOVER OF UNUSED LIMITATION.—

"(i) IN GENERAL.— If the annual capacity limitation for any calendar year exceeds the aggregate amount allocated for such year under this paragraph, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2033.

"(ii) CARRYOVER FROM SECTION 48 FOR CALENDAR YEAR 2027.— If the annual capacity limitation for calendar year 2026 under section 48(e)(4)(D) exceeds the aggregate amount allocated for such year under section 48(e)(4)(D), such excess amount may be carried over and applied to the annual capacity limitation under this subsection for calendar year 2027. Such limitation shall be increased by the amount of such excess.

"(E) PLACED IN SERVICE DEADLINE.—

"(i) IN GENERAL.— Paragraph (1) shall not apply with respect to any property which is placed in service after the date that is 4 years after the date of the allocation with respect to the facility of which such property is a part.

"(ii) APPLICATION OF CARRYOVER.— Any amount of environmental justice capacity limitation which expires under clause (i) during any calendar year shall be taken into account as an excess described in subparagraph (D) (or as an increase in such excess) for such calendar year, subject to the limitation imposed by the last sentence of such subparagraph.

"(F) SELECTION CRITERIA.— In determining to which qualified facilities to allocate environmental justice capacity limitation under this paragraph, the Secretary shall take into consideration which facilities will result in—

"(i) the greatest health and economic benefits, including the ability to withstand extreme weather events, for individuals described in section 45D(e)(2),

"(ii) the greatest employment and wages for such individuals, and

"(iii) the greatest engagement with, outreach to, or ownership by, such individuals, including through partnerships with local governments, Indian tribal governments (as defined in section 139E), and community-based organizations.

"(G) DISCLOSURE OF ALLOCATIONS.— The Secretary shall, upon making an allocation of environmental justice capacity limitation under this paragraph,

publicly disclose the identity of the applicant, the amount of the environmental justice capacity limitation allocated to such applicant, and the location of the facility for which such allocation is made.

"(5) RECAPTURE.— The Secretary shall, by regulations or other guidance, provide for recapturing the benefit of any increase in the credit allowed under subsection (a) by reason of this subsection with respect to any property which ceases to be property eligible for such increase (but which does not cease to be investment credit property within the meaning of section 50(a)). The period and percentage of such recapture shall be determined under rules similar to the rules of section 50(a). To the extent provided by the Secretary, such recapture may not apply with respect to any property if, within 12 months after the date the taxpayer becomes aware (or reasonably should have become aware) of such property ceasing to be property eligible for such increase, the eligibility of such property for such increase is restored. The preceding sentence shall not apply more than once with respect to any facility."

(b) EFFECTIVE DATE.— The amendments made by this section shall take effect on January 1, 2027.

**Sec. 136804. Cost recovery for qualified facilities, qualified property, and grid improvement property**

(a) IN GENERAL.— Section 168(e)(3)(B) is amended—

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

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

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

"(viii) any qualified facility (as defined in section 45BB(b)(1)(A)), any qualified property (as defined in subsection (b)(2) of section 48F) which is a qualified investment (as defined in subsection (b)(1) of such section), or any grid improvement property (as defined in subsection (c)(1)(B) of such section)."

(b) EFFECTIVE DATE.— The amendments made by this section shall apply to facilities and property placed in service after December 31, 2026.

**Sec. 136805. Clean fuel production credit**

(a) IN GENERAL.—

Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

**"Sec. 45CC. Clean fuel production credit**

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.— For purposes of section 38, the clean fuel production credit for any taxable year is an amount equal to the product of—

"(A) the applicable amount per gallon (or gallon equivalent) with respect to any transportation fuel which is—

"(i) produced by the taxpayer at a qualified facility, and

"(ii) sold by the taxpayer in a manner described in paragraph (4) during the taxable year, and

"(B) the emissions factor for such fuel (as determined under subsection (b)).

"(2) APPLICABLE AMOUNT.—

"(A) BASE AMOUNT.— In the case of any transportation fuel produced at a qualified facility which does not satisfy the requirements described in subparagraph (B), the applicable amount shall be 20 cents.

"(B) ALTERNATIVE AMOUNT.— In the case of any transportation fuel produced at a qualified facility which satisfies the requirements under paragraphs (6) and (7) of subsection (g), the applicable amount shall be \$1.00.

"(3) SPECIAL RATE FOR SUSTAINABLE AVIATION FUEL.—

"(A) IN GENERAL.— In the case of a transportation fuel which is sustainable aviation fuel, paragraph (2) shall be applied—

"(i) in the case of a transportation fuel produced at a qualified facility described in paragraph (2)(A), by substituting '35 cents' for '20 cents', and

"(ii) in the case of a transportation fuel produced at a qualified facility described in paragraph (2)(B), by substituting '\$1.75' for '\$1.00'.

"(B) SUSTAINABLE AVIATION FUEL.— For purposes of this subparagraph (A), the term 'sustainable aviation fuel' means liquid fuel which is sold for use in an aircraft and which—

"(i) meets the requirements of—

"(I) ASTM International Standard D7566, or

"(II) the Fischer Tropsch provisions of ASTM International Standard D1655, Annex A1, and

"(ii) is not derived from palm fatty acid distillates or petroleum.

"(4) SALE.— For purposes of paragraph (1), the transportation fuel is sold in a manner described in this paragraph if such fuel is sold by the taxpayer to an unrelated person—

"(A) for use by such person in the production of a fuel mixture,

"(B) for use by such person in a trade or business, or

"(C) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person.

"(5) ROUNDING.— If any amount determined under paragraph (1) is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(b) EMISSIONS FACTORS.— (1)

"(1) EMISSIONS FACTOR.—

"(A) CALCULATION.—

"(i) IN GENERAL.— The emissions factor of a transportation fuel shall be an amount equal to the quotient of—

"(I) an amount equal to—

"(aa) 75 kilograms of CO<sub>2</sub>e per mmBTU, minus

"(bb) the emissions rate for such fuel, divided by

"(II) 75 kilograms of CO<sub>2</sub>e per mmBTU.

"(B) ESTABLISHMENT OF EMISSIONS RATE.—

"(i) IN GENERAL.— Subject to clauses (ii) and (iii), the Secretary shall annually publish a table which sets forth the emissions rate for similar types and categories of transportation fuels based on the amount of lifecycle greenhouse gas emissions (as described in section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)), as in effect on the date of the enactment of this section) for such fuels, expressed as kilograms of CO<sub>2</sub>e per mmBTU, which a taxpayer shall use for purposes of this section.

"(ii) NON-AVIATION FUEL.— In the case of any transportation fuel which is not a sustainable aviation fuel, the lifecycle greenhouse gas emissions of such fuel shall be based on the most recent determinations under the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model developed by Argonne National Laboratory, or a successor model (as determined by the Secretary).

"(iii) AVIATION FUEL.— In the case of any transportation fuel which is a sustainable aviation fuel, the lifecycle greenhouse gas emissions of such fuel shall be determined in accordance with—

"(I) the most recent Carbon Offsetting and Reduction Scheme for International Aviation which has been adopted by the International Civil Aviation Organization with the agreement of the United States, or

"(II) any similar methodology which satisfies the criteria under section 211(o)(1)(H) of the Clean Air Act (42 U.S.C. 7545(o)(1)(H)).

"(C) ROUNDING OF EMISSIONS RATE.— The Secretary may round the emissions rates under subparagraph (B) to the nearest multiple of 5 kilograms of CO<sub>2</sub>e per mmBTU, except that, in the case of an emissions rate that is less than 2.5 kilograms of CO<sub>2</sub>e per mmBTU, the Secretary may round such rate to zero.

"(D) PROVISIONAL EMISSIONS RATE.— In the case of any transportation fuel for which an emissions rate has not been established under subparagraph (B), a taxpayer producing such fuel may file a petition with the Secretary for determination of the emissions rate with respect to such fuel.

"(2) ROUNDING.— If any amount determined under paragraph (1)(A) is not a multiple of 0.1, such amount shall be rounded to the nearest multiple of 0.1.

"(C) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.— In the case of calendar years beginning after 2026, the 20 cent amount in subsection (a)(2)(A), the \$1.00 amount in subsection (a)(2)(B), the 35 cent amount in subsection (a)(3)(A)(i), and the \$1.75 amount in subsection (a)(3)(A)(ii) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale of the transportation fuel occurs. If any amount as increased under the preceding sentence is not a multiple of 1 cent, such amount shall be rounded to the nearest multiple of 1 cent.

"(2) INFLATION ADJUSTMENT FACTOR.— For purposes of paragraph (1), the inflation adjustment factor shall be the inflation adjustment factor determined and published by the Secretary pursuant to section 45BB(c), determined by substituting 'calendar year 2021' for 'calendar year 1992' in paragraph (3) thereof.

"(d) CREDIT PHASE-OUT.—

"(1) IN GENERAL.— The amount of the clean fuel production credit under subsection (a) for any transportation fuel sold during a taxable year described in paragraph (2) shall be equal to the product of—

"(A) the amount of the credit determined under subsection (a) without regard to this subsection, multiplied by

"(B) the phase-out percentage under paragraph (2).

"(2) PHASE-OUT PERCENTAGE.— The phase-out percentage under this paragraph is equal to—

"(A) for any taxable year beginning in the first calendar year following the applicable year, 100 percent,

"(B) for any taxable year beginning in the second calendar year following the applicable year, 75 percent,

"(C) for any taxable year beginning in the third calendar year following the applicable year, 50 percent, and

"(D) for any taxable year beginning in any calendar year subsequent to the calendar year described in subparagraph (C), 0 percent.

"(3) APPLICABLE YEAR.— For purposes of this subsection, the term 'applicable year' means the later of—

"(A) the calendar year in which the Secretary determines that the greenhouse gas emissions from the transportation of persons and goods annually in the United States are equal to or less than 25 percent of the greenhouse gas emissions from the transportation of persons and goods in the United States during calendar year 2021, or

"(B) 2031.

"(e) DEFINITIONS.— In this section:

"(1) MMBTU.— The term 'mmBTU' means 1,000,000 British thermal units.

"(2) CO<sub>2</sub>E.— The term 'CO<sub>2</sub>E' means, with respect to any greenhouse gas, the equivalent carbon dioxide (as determined based on relative global warming potential).

"(3) GREENHOUSE GAS.— The term 'greenhouse gas' has the same meaning given that term under section 211(o)(1)(G) of the Clean Air Act (42 U.S.C. 7545(o)(1)(G)), as in effect on the date of the enactment of this section.

"(4) QUALIFIED FACILITY.— The term 'qualified facility'—

"(A) means a facility used for the production of transportation fuels, and

"(B) does not include any facility for which one of the following credits is allowed under section 38 for the taxable year:

"(i) The credit for production of clean hydrogen under section 45X.

"(ii) The credit for clean hydrogen production facilities under section 48(a)(15).

"(iii) The credit for carbon oxide sequestration under section 45Q.

"(5) TRANSPORTATION FUEL.— The term 'transportation fuel' means a fuel (with the exception of hydrogen) which—

"(A) is suitable for use as a fuel in a highway vehicle or aircraft, and

"(B) has an emissions rate which is not greater than—

"(i) in the case of a fuel which is not a sustainable aviation fuel—

"(I) for any such fuel sold during calendar years 2027 through 2030, 50 kilograms of CO<sub>2</sub>e per mmBTU, and

"(II) for any such fuel sold during any calendar year beginning after December 31, 2030, 25 kilograms of CO<sub>2</sub>e per mmBTU, or

"(ii) in the case of a fuel which is a sustainable aviation fuel—

"(I) for any such fuel sold during any period before January 1, 2031, 35 kilograms of CO<sub>2</sub>e per mmBTU, and

"(II) for any such fuel sold during any period after December 31, 2030, 25 kilograms of CO<sub>2</sub>e per mmBTU.

"(f) GUIDANCE.— Not later than January 1, 2027, the Secretary shall issue guidance regarding implementation of this section, including calculation of emissions factors for transportation fuel, the table described in subsection (b)(1)(B)(i), and the determination of clean fuel production credits under this section.

"(g) SPECIAL RULES.—

"(1) ONLY REGISTERED PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.

"(A) IN GENERAL.— No clean fuel production credit shall be determined under subsection (a) with respect to any transportation fuel unless—

"(i) the taxpayer is registered as a producer of clean fuel under section 4101 at the time of production, and

"(ii) such fuel is produced in the United States.

"(B) UNITED STATES.—(1) For purposes of this paragraph, the term 'United States' includes any possession of the United States.

"(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.— In the case of a facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

"(3) RELATED PERSONS.— Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling fuel to an unrelated person if such fuel is sold to such a person by another member of such group.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.— Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(5) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.— In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.— An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.— The amount of the credit apportioned to any patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.— If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

"(D) ELIGIBLE COOPERATIVE DEFINED.— For purposes of this section the term 'eligible cooperative' means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.

"(6) PREVAILING WAGE REQUIREMENTS.—

"(A) IN GENERAL.— Subject to subparagraph (B), rules similar to the rules of section 45(b)(8) shall apply.

"(B) SPECIAL RULE FOR FACILITIES PLACED IN SERVICE BEFORE JANUARY 1, 2027.— In the case of any qualified facility placed in service before January 1, 2027—

"(i) the rules of clause (i) of section 45(b)(8) shall not apply, and

"(ii) clause (ii) of such section shall be applied by substituting 'for any period of the taxable year beginning after December 31, 2026 for which the credit is claimed under this section with respect to production of transportation fuel, the alteration or repair of such facility' for 'for the period of the taxable year which is within the 10-year period beginning on the date the facility was originally placed in service, the alteration or repair of such facility'.

"(7) APPRENTICESHIP REQUIREMENTS.— Rules similar to the rules of section 45(b)(9) shall apply. "

(b) ELECTIVE PAYMENT OF CREDIT.—

Section 6417(b), as amended by preceding provisions of this Act, is amended by adding at the end the following new paragraph:

"(14) The clean fuel production credit determined under section 45CC(a)."

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by section 101, is amended—

(A) in paragraph (39), by striking "plus" at the end,

(B) in paragraph (40), by striking the period at the end and inserting ", plus",

and

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

"(41) the clean fuel production credit determined under section 45CC(a)." (l)



(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 101, is amended by adding at the end the following new item:

"Sec. 45CC. Clean fuel production credit."

(3) Section 4101(a)(1) is amended by inserting "every person producing a fuel eligible for the clean fuel production credit (pursuant to section 45CC)," after "section 6426(b)(4)(A),".

(d) EFFECTIVE DATE.— The amendments made by this section shall apply to transportation fuel produced after December 31, 2026.

### **Sec. 1368901. Appropriations**

Immediately upon the enactment of this Act, in addition to amounts otherwise available, there are appropriated for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$3,831,000,000 to remain available until September 30, 2031, for necessary expenses for the Internal Revenue Service to carry out this subtitle (and the amendments made by this subtitle), which shall supplement and not supplant any other appropriations that may be available for this purpose.

[NOTE-- MOVED /tXIII/stH to /tXIII/stF ]

## **Subtitle ~~GE~~— Medicaid**

~~Part 1—Federal Medicaid Program to Close the Coverage Gap~~ ~~Part 2—~~  
Expanding Access to Medicaid Home and Community-Based Services

Part ~~3~~2— Other Medicaid

### **Sec. 307121. HCBS improvement planning grants**

(a) FUNDING.—

(1) IN GENERAL.— In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$130,000,000, to remain available until expended, for carrying out this section.

(2) TECHNICAL ASSISTANCE AND GUIDANCE.— The Secretary shall reserve \$5,000,000 of the amount appropriated under paragraph (1) for purposes of issuing guidance and providing technical assistance to States intending to apply for, or which are awarded, a planning grant under this section, and for other administrative expenses related to awarding planning grants under this section.

(b) AWARD AND USE OF GRANTS. (1)

(1) **DEADLINE FOR AWARD OF GRANTS.**— From the amount appropriated under subsection (a)(1), the Secretary, not later than 12 months after the date of enactment of this Act, shall solicit State requests for HCBS improvement planning grants and award such grants to all States that meet such requirements as determined by the Secretary.

~~(2) **Criteria for determining amount of grants.**— The Secretary shall take into account the improvements a State would propose to make, consistent with the areas of focus of the HCBS improvement plan requirements described under USE OF FUNDS.— Subsection (e) in determining the amount of the planning grant to be awarded to each State that requests such a grant. (3) **Use of funds.**— A to paragraph (3), a State awarded a planning grant under this section shall use the grant to carry out planning activities for purposes of developing and submitting to the Secretary an HCBS improvement plan for the State that meets the requirements of subsections (c) and (d) in order to expand access to home and community-based services and strengthen the direct care workforce that provides such services. A State may use planning grant funds to support activities related to the implementation of the HCBS improvement plan for the State, collect and report information described in subsection (c), identify areas for improvement to the service delivery systems for home and community-based services, carry out activities related to evaluating payment rates for home and community-based services and identifying improvements to update the rate setting process, and for such other purposes as the Secretary shall specify, including the following: (A) ~~Caregiver supports.~~ (B) ~~Addressing social determinants of health (other than housing or homelessness).~~ (C) ~~Promoting equity and addressing health disparities.~~ (D) Enhance caregiver supports, promoting community integration and compliance with the home and community-based settings rule published on January 16, 2014, or any successor regulation. (E) ~~Building partnerships.~~ (F) I, make infrastructure investments (such as case management or other information technology systems), and for related purposes as the Secretary shall specify.~~

(3) **LIMITATION ON USE OF FUNDS.**— None of the funds awarded to a State under this section may be used by a State as the source of the non-Federal share of expenditures under the State plan (or waiver of such plan).

(c) **HCBS IMPROVEMENT PLAN REQUIREMENTS.**— In order to meet the requirements of this subsection, an HCBS improvement plan developed using funds awarded to a State under this section shall include, with respect to the State and subject to subsection (d), the following:

(1) **EXISTING MEDICAID HCBS LANDSCAPE.**—

(A) **ELIGIBILITY AND BENEFITS.**— A description of the existing standards, pathways, and methodologies for eligibility ~~(which shall be delineated by the State based on eligibility group under~~ for home and community-based services pursuant to the State plan (or waiver of such plan) ~~for home and community-based services,~~ including limits on assets and income, the home and community-based services available under the State Medicaid program and the types of settings in

which they may be provided, and utilization management standards for such services.

(B) ACCESS.—

(i) BARRIERS.— A description of the barriers to accessing home and community-based services in the State identified by Medicaid eligible individuals, the families of such individuals, and ~~providers of such services, such as barriers for individuals who wish to leave institutional settings, individuals experiencing homelessness or housing instability, and individuals in geographical areas of the State with low or no access to such service~~ direct care workers and home care agencies, or other similar organizations.

(ii) AVAILABILITY; UNMET NEED.— A summary, in accordance with guidance issued by the Secretary and as able to be practicably determined by the State, of the extent to which home and community-based services are available to all individuals in the State who would be eligible for such services under the State Medicaid program (including individuals who are on a waiting list for such services).

(C) UTILIZATION.— An assessment of the utilization of home and community-based services in the State (including the number of individuals receiving such services) during such period specified by the Secretary.

(D) SERVICE DELIVERY STRUCTURES AND SUPPORTS.— A description of the service delivery structures for providing home and community-based services in the State, ~~including whether models of self-direction are used and to which Medicaid eligible individuals such models are available, the share of total services that are administered by agencies, the use of managed care and fee-for-service to provide such services, and the supports provided for family caregivers.~~ (E) ~~Workforce.— A description of the direct care workforce that provides home and community-based services, including estimates (and a description of the methodology used to develop such estimates).~~

(E) WORKFORCE.— A description of the direct care workforce, including estimates of the number of full- and part-time direct care workers, the average and range of direct care worker wages, the benefits provided to direct care workers, the turnover and vacancy rates of direct care worker positions, the membership of direct care workers in labor organizations and, to the extent the State has access to such data, demographic information about such workforce, including information on race, ethnicity, and gender.

(F) PAYMENT RATES.—

(i) IN GENERAL.— A description of the payment rates for home and community-based services, including, to the extent applicable, how payments for such services are factored into the development of managed care capitation rates, ~~and when the State last updated payment rates for home and community-based~~ <sup>(A)</sup> ~~services, and the extent to which payment rates are~~

~~passed through to an estimate of the portion of the payment rate that goes toward direct care worker wages compensation.~~

(ii) ASSESSMENT.— An assessment of the relationship between payment rates for such services and workforce shortages, average beneficiary wait times for such services, provider-to-beneficiary ratios in the geographic region, and any other factors identified by the Secretary.

(G) QUALITY.— A description of how the quality of home and community-based services is measured and monitored.

(H) LONG-TERM SERVICES AND SUPPORTS PROVIDED IN INSTITUTIONAL SETTINGS.— A description of the number of individuals enrolled in the State Medicaid program in a year who receive items and services furnished by an institution for greater than 30 days in an institutional ~~setting that is a nursing facility or intermediate care facility, and the demographic information of such individuals who are provided such items and services in such settings.~~

(I) HCBS SHARE OF OVERALL MEDICAID LTSS SPENDING.— For the most recent State fiscal year for which complete data is available, the percentage of expenditures made by the State under the State Medicaid program for long-term services and supports that are for home and community-based services.

(J) DEMOGRAPHIC DATA.— To the extent available and as applicable with respect to the information required under subparagraphs (B), (C), and (H), demographic data for such information, disaggregated by age groups, primary disability, income brackets, gender, race, ethnicity, geography, primary language, and type of service setting.

(2) GOALS FOR HCBS IMPROVEMENTS.— A description of how the State will do the following:

(A) Conduct the activities required under subsection (jj) of section 1905 of the Social Security Act ~~(as added under section 307132).~~

(B) Reduce barriers to and disparities in access or utilization of home and community-based services in the State.

(C) Monitor and report (with supporting data, to the extent available and applicable, disaggregated by age groups, primary disability, income brackets, gender, race, ethnicity, geography, primary language, and type of service setting;) on ~~(i)~~ access to home and community-based services under the State Medicaid program, disparities in access to such services, and the utilization of such services; ~~and (ii).~~

(D) Monitor and report the amount of State Medicaid expenditures for home and community-based services under the State Medicaid program as a proportion of the total amount of State expenditures under the State Medicaid program for long-term services and supports.

~~(E)~~ Monitor and report ~~(i)~~ on wages, benefits, and vacancy and turnover rates for direct care workers.

(EE) Assess and monitor the sufficiency of payment rates under the State Medicaid program, in a manner specified by the Secretary, for the specific types of home and community-based services available under such program for purposes of supporting direct care worker recruitment and retention and ensuring the availability of home and community-based services.

(FG) Coordinate implementation of the HCBS improvement plan among the State Medicaid agency, agencies serving individuals with disabilities, agencies serving the elderly, and other relevant State and local agencies and organizations that provide related supports, such as those for housing, transportation, employment, and other services and supports.

(d) DEVELOPMENT AND APPROVAL REQUIREMENTS.—

(1) DEVELOPMENT REQUIREMENTS.— In order to meet the requirements of this subsection, a State awarded a planning grant under this section shall develop an HCBS improvement plan for the State with input from stakeholders through a public notice and comment process that includes consultation with Medicaid eligible individuals who are recipients of home and community-based services, family caregivers of such recipients, providers, health plans, direct care workers, chosen representatives of direct care workers, and aging, disability, and workforce advocates.

(2) AUTHORITY TO ADJUST CERTAIN PLAN CONTENT REQUIREMENTS.— The Secretary may modify the requirements for any of the information specified in subsection (c)(1) if a State requests a modification and demonstrates to the satisfaction of the Secretary that it is impracticable for the State to collect and submit the information.

(3) SUBMISSION AND APPROVAL.— Not later than 24 months after the date on which a State is awarded a planning grant under this section, the State shall submit an HCBS improvement plan for approval by the Secretary, along with assurances by the State that the State will implement the plan in accordance with the requirements of the HCBS Improvement Program established under subsection (jj) of section 1905 of the Social Security Act (42 U.S.C. 1396d) (as added by section 30713~~2~~). The Secretary shall approve and make publicly available the HCBS improvement plan for a State after the plan and such assurances are submitted to the Secretary for approval and the Secretary determines the plan meets the requirements of subsection (c). A State may amend its HCBS improvement plan, subject to the approval of the Secretary that the plan as so amended meets the requirements of subsection (c). The Secretary may withhold or recoup funds provided under this section to a State ~~or pursuant to~~, if the State fails to comply with the requirements of this section.

(e) DEFINITIONS.— *In the part:*

(1) DIRECT CARE WORKER.— The term "direct care worker" means, with respect to a State, any of the following individuals who are paid to provide directly to Medicaid eligible individuals home and community-based services available under the State Medicaid program:

(i)

(A) A registered nurse, licensed practical nurse, nurse practitioner, or clinical nurse specialist, or a licensed nursing assistant who provides such services under the supervision of a registered nurse, licensed practical nurse, nurse practitioner, or clinical nurse specialist.

(B) A direct support professional.

(C) A personal care attendant.

(D) A home health aide.

(E) Any other paid health care professional or worker determined to be appropriate by the State and approved by the Secretary.

(2) HCBS PROGRAM IMPROVEMENT STATE.— The term "HCBS program improvement State" means a State that is awarded a planning grant under subsection (b) and has an HCBS improvement plan approved by the Secretary under subsection (d)(3).

(3) HEALTH PLAN.— The term "health plan" means any of the following entities that provide or arrange for home and community-based services for Medicaid eligible individuals who are enrolled with the entities under a contract with a State:

(A) A medicaid managed care organization, as defined in section 1905(j)(3)(m)(1)(A) of the Social Security Act, as added by section 30713, if the State fails to implement the HCBS improvement plan of the State or meet applicable deadlines under this section; (42 U.S.C. 1396b(m)(1)(A)).

(B) A prepaid inpatient health plan or prepaid ambulatory health plan, as defined in section 438.2 of title 42, Code of Federal Regulations (or any successor regulation).

(C) Any other entity determined to be appropriate by the State and approved by the Secretary.

(4) HOME AND COMMUNITY-BASED SERVICES.— The term "home and community-based services" means any of the following (whether provided on a fee-for-service, risk, or other basis):

(A) Home health care services authorized under paragraph (7) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(B) Private duty nursing services authorized under paragraph (8) of such section, when such services are provided in a Medicaid eligible individual's home.

(C) Personal care services authorized under paragraph (24) of such section.

(D) PACE services authorized under paragraph (26) of such section.

(E) Home and community-based services authorized under subsections (b), (c), (i), (j), and (k) of section 1915 of such Act (42 U.S.C. 1396n), authorized under a waiver under section 1115 of such Act (42 U.S.C. 1315), or provided through coverage authorized under section 1937 of such Act (42 U.S.C. 1396u-7).

(f)

(F) Case management services authorized under section 1905(a)(19) of the Social Security Act (42 U.S.C. 1396d(a)(19)) and section 1915(g) of such Act (42