THE CLEAR ACT: A SIMPLE, TRANSPARENT, AND EQUITABLE APPROACH TO ENERGY INDEPENDENCE AND CLIMATE CHANGE MITIGATION

SECTION-BY-SECTION SUMMARY

SECTION 1, SHORT TITLE: The Carbon Limits and Energy for America's Renewal (CLEAR) Act

SECTION 2, DEFINITIONS: provides the meanings of key terms used in the CLEAR Act.

SECTION 3, GLOBAL WARMING EMISSIONS REDUCTION STANDARDS: Articulates the mandatory economy-wide greenhouse gas emission reductions under the CLEAR Act are to be met by a cap on fossil carbon and expenditures of a small portion of auction revenues via the Clean Energy Reinvestment Trust Fund (CERT).

The reduction of U.S. greenhouse gas emissions relative to 2005 levels are 20% by 2020, 30% by 2025, 42% by 2030, and 83% by 2050.

SECTION 4, FOSSIL CARBON LIMITATION PROGRAM:

Subsection (a)

PARAGRAPH (1) – The Secretary of Energy shall establish by regulation a program that gradually reduces the amount of fossil carbon introduced into the United States economy.

PARAGRAPH (2) – The program begins in 2012, and the initial quantity of fossil carbon shares will be set in 2011 using the best available economic data and projections. The quantity of carbon shares remains constant from 2012 to 2015 with reductions beginning slowly in 2015 with a 0.25% reduction; the reductions accelerate in subsequent years at a rate that increases by an additional 0.25% each year (i.e. in 2015 the cap is 0.25% less than 2014, in 2016 the cap is 0.5% less than 2015, etc.).

PARAGRAPH (3) – The President can modify the quantity of carbon shares if climatic or international conditions change, with the consent of Congress. This paragraph outlines the expedited Congressional review process in the event that the President wishes to increase or decrease the number of carbon shares available.

PARAGRAPH (4) – An escalating auction price floor and safety valve are used as price safeguards to reduce auction price uncertainty, ensure long-term price certainty for clean energy technology investment, and protect the economy from excessive, unexpected price spikes. In 2012, the carbon share floor price and safety valve are set at $7 and $21 per ton CO_2 equivalent, respectively. In subsequent years, the minimum carbon share auction price increases at the rate of inflation, as determined by the Consumer Price Index for All Urban Consumers, plus the natural rate of investment set at 6% plus 0.5% -- a real rate of 6.5%. The price for the maximum carbon share auction prices increases at the rate of inflation plus the natural rate of investment set at 6% minus 0.5% -- a real rate of 5.5%.

PARAGRAPH (5) – The penalty for noncompliance, selling fossil carbon into the economy and then not redeeming the requisite number of carbon shares within two years, is set to be five times the fair market value of carbon shares during the preceding calendar year for each ton of covered fossil carbon not matched with a permit.

PARAGRAPH (6) – Energy-intensive commodities that are imported are subject to fees equivalent to the carbon content consumed during the production process if the country of origin does not have comparable fees or carbon limits, the fees are compatible with all trade agreements and treaties, and domestic producers would face unfair market prices in the absence of the fees. Within six months of enactment, data sources and methodologies must be proposed for the measurement and determination of which sectors and commodities should incur these fees.

PARAGRAPH (7) – Targeted relief funds, which are appropriated from the CERT fund to trade exposed industries and economic sectors, shall be based on industry and sectoral averages of additional costs incurred per unit output due to disparate carbon limits or fees among countries. The funds must be compatible with all international trade agreements or treaties and only bestowed upon domestic producers that would face unfair market prices in the absence of the fees due to disparate carbon limits or fees among countries. Within six months of enactment, data sources and methodologies must be proposed for the measurement and determination of which sectors and commodities are eligible for targeted relief funds.

Subsection (b)

This subsection outlines the monthly, uniform price auctions for carbon shares. The prices are subject to the safeguards in Subsection 4(a)(4). Each carbon share is only available to first sellers and may be redeemed within a ten-year period from the date of purchase. The shares may be traded or sold among eligible auction participants but still expire ten years from the original purchase date of the original first purchaser. The shares may not be traded or sold on secondary markets, and the hoarding of carbon shares is prohibited. Only first sellers are prohibited from participating in the carbon share derivative market, which means that all persons and entity are eligible to participate in either the carbon share market or the carbon share derivative market – but none may participate in both markets. The limited carbon share derivative market shall be subject to strict federal regulation and oversight. If the safety valve price happens to be reached in the course of any auction, all bids will be satisfied at that price. Carbon shares purchased at the safety valve price expire after three months, and the revenues from all sales in excess of the cap are directed to the CERT Fund exclusively for non-CO2 greenhouse gas emissions reduction efforts and domestic and international programs that verifiably reduce, avoid or sequester greenhouse gas emissions, balancing out any temporary increase in the availability of carbon shares.

Subsection (c)

Operators of carbon capture and sequestration facilities or manufacturers of products that permanently embed fossil carbon preventing its emission to the atmosphere are granted carbon shares (in excess of those auctioned under the cap) for the carbon they sequester of embed.

Subsection (d)

The fossil carbon cap shall be adjusted to account for the amount of fossil carbon emissions that are avoided solely due to the purchase of voluntary carbon reduction credits such as voluntary renewable energy certificates, energy efficient certificates, and others, as determined by the Secretary of Energy.

Subsection (e)

The contractual treatment of carbon shares is defined: (1) carbon shares surrendered for fossil carbon produced by an oil or natural gas well will be considered a lifting expense. (2) For long-term, fixed-price delivery contracts created prior to enactment of this bill and with duration of over one year, there will be a rebuttable presumption that this act makes performance impracticable, and it was assumed at the time of bargaining that the effects of this act would not occur.

Subsection (f)

Three-fourths of the revenues from the auction of carbon shares are to be appropriated to the Carbon Refund Trust Fund and may be used to make carbon refunds as described in section 5.

SECTION 5, PER CAPITA DISTRIBUTION OF AUCTION PROCEEDS:

The Carbon Refund Trust Fund is distributed monthly and on an equal per capita basis to all individuals legally residing in the United States. The frequency of these payments may be adjusted to minimize the administrative costs of the refund program or to increase the value of refund payments.

The Energy Information Administration (EIA) will monitor and record the incremental contribution of carbon share prices to wholesale and retail fossil fuel prices and will make these data public each month on the EIA website.

The Secretary of Energy shall establish an energy efficiency consumer loan program that allows consumers to borrow against future refund payments to invest in energy efficiency and clean energy technologies that will reduce the costs of their energy bills.

SECTION 6, CLEAN ENERGY REINVESTMENT TRUST FUND:

One-fourth of the proceeds from the auction of carbon shares are to be appropriated to the Clean Energy Reinvestment Trust Fund (CERT) within the Department of the Treasury. Revenue from penalty payments of Section 4(a)(5) and border adjustments of section 4(a)(6) are also transferred into CERT.

The CERT fund is to be awarded on a competitive-bid basis and to complement and leverage existing Federal programs to the extent practicable. The CERT fund must be allocated to meet the global warming emissions reduction standards established in Section 3 and must be used for the following purposes exclusively:

- to provide targeted and region-specific transition assistance to workers, communities, industries, and small businesses of the United States experiencing the greatest economic dislocations due to efforts to reduce carbon emissions and address climate change and ocean acidification;
- to provide targeted and region-specific compensation for early retirement of carbon-intensive facilities, machinery, or related assets in the United States that are stranded by new market dynamics;
- to provide targeted and region-specific mitigation and adaptation assistance to residents, communities, industries and small businesses of the United States experiencing the greatest demonstrable negative impacts from climate change;
- to provide targeted relief to energy-intensive industries, including agriculture and forestry, that export goods or products to countries that do not have similar restrictions on fossil carbon, subject to the criteria specified in Section 5(a)(7)(C);
- to support training and development programs preparing U.S. workers for careers in energy efficiency, renewable energy, and other emerging clean technology industries;
- to curtail the emission of greenhouse gases other than carbon dioxide from fossil carbon and non-greenhouse gas substances that exacerbate or accelerate climate change (including black carbon);
- to fund cost-effective domestic and international projects that verifiably reduce, avoid, or sequester greenhouse gas emissions through the modification of

agriculture, forestry, or other land use practices;

- to ensure sustained and robust investments in clean energy and fuels research, development, and deployment activities;
- to fund projects or initiatives that verifiably increase energy efficiency or energy productivity;
- to fund programs that provide financial support for low-income families facing difficulty paying high seasonal utility bills;
- to fund projects or initiatives that support residential fuel switching, particularly home heating oil;
- to provide matching grants to low income energy efficiency consumer loan recipients;
- to carry out weatherization and improve energy efficiency of low-income and public buildings;
- to provide funding for climate change or ocean acidification mitigation and adaptation projects,, activities, and research to increase the resilience of human populations and communities, fish and wildlife, and managed and unmanaged terrestrial, aquatic, and marine ecosystems in areas where impacts are likely to be most severe;
- to ensure that the program does not contribute to the budget deficit of the Federal Government.