

111TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To direct the Secretary of the Treasury to establish a program to regulate the entry of fossil carbon into commerce in the United States to promote clean energy jobs and economic growth and avoid dangerous interference with the climate of the Earth, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Ms. CANTWELL (for herself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To direct the Secretary of the Treasury to establish a program to regulate the entry of fossil carbon into commerce in the United States to promote clean energy jobs and economic growth and avoid dangerous interference with the climate of the Earth, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Carbon Limits and  
5 Energy for America’s Renewal (CLEAR) Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) CARBON DIOXIDE EQUIVALENT.—The term  
5           “carbon dioxide equivalent” means the equivalent  
6           weight of carbon dioxide obtained by multiplying—

7                   (A) the weight of fossil carbon; and

8                   (B) the quotient obtained by dividing—

9                           (i) the molecular weight of carbon di-  
10                           oxide; by

11                           (ii) the molecular weight of carbon.

12           (3) CARBON REFUND TRUST FUND.—The term  
13           “Carbon Refund Trust Fund” means the Carbon  
14           Refund Trust Fund established by section 4(f).

15           (4) CARBON SHARE.—The term “carbon share”  
16           means the right to sell or otherwise place into com-  
17           merce in the United States 1 ton of fossil carbon.

18           (5) CARBON SHARE DERIVATIVE.—The term  
19           “carbon share derivative” means any transaction or  
20           contract that derives the value of the transaction or  
21           contract in part or in whole from the value of a car-  
22           bon share.

23           (6) CERT FUND.—The term “CERT Fund”  
24           means the Clean Energy Reinvestment Trust Fund  
25           established by section 6(a).

1           (7) CLEAN ENERGY TECHNOLOGY.—The term  
2           “clean energy technology” means a technology relat-  
3           ing to the production, use, transmission, storage,  
4           control, or conservation of energy that would—

5                   (A) reduce the need for additional energy  
6           supplies by—

7                           (i) using energy sources in existence  
8                           as of the date of enactment of this Act  
9                           with greater efficiency; or

10                           (ii) transmitting, distributing, or  
11                           transporting energy with greater effective-  
12                           ness through the infrastructure of the  
13                           United States;

14                   (B) diversify the sources of energy supply  
15           of the United States and reduce the dependence  
16           of the United States on imported energy; or

17                   (C) contribute to the reduction, avoidance,  
18           or sequestration of energy-related greenhouse  
19           gas emissions.

20           (8) COVERED FOSSIL CARBON.—The term “cov-  
21           ered fossil carbon” means fossil carbon that is—

22                   (A) introduced into domestic commerce;

23                   (B) combusted or released into the atmos-  
24           phere by a first seller; or

25                   (C) transferred as a royalty-in-kind.

1           (9) ENERGY SECURITY DIVIDEND.—The term  
2           “energy security dividend” means, with respect to  
3           any month, a payment in an amount that is equal  
4           to the quotient obtained by dividing—

5                   (A) the amount of auction proceeds trans-  
6                   ferred into the Carbon Refund Trust Fund for  
7                   the month preceding such month; by

8                   (B) the number of qualified individuals for  
9                   the preceding month.

10           (10) FIRST SELLER.—The term “first seller”  
11           means an entity in the business of producing or im-  
12           porting fossil carbon or production process carbon,  
13           as determined by the Secretary.

14           (11) FOSSIL CARBON.—The term “fossil car-  
15           bon” means—

16                   (A) carbon in the form of a fossil fuel  
17                   (such as coal, natural gas, and crude oil) in the  
18                   raw state in which the fossil fuel exists at the  
19                   time the fossil fuel is removed from the Earth;  
20                   and

21                   (B) the carbon content of imported refined  
22                   fuel products (such as gasoline, diesel, and jet  
23                   fuels) derived from a fossil fuel.

24           (12) GREENHOUSE GAS.—The term “green-  
25           house gas” means—

- 1 (A) carbon dioxide;  
2 (B) methane;  
3 (C) nitrous oxide;  
4 (D) a hydrofluorocarbon;  
5 (E) a perfluorocarbon;  
6 (F) sulfur hexafluoride; and  
7 (G) any other anthropogenically emitted  
8 gas that the Administrator, after notice and  
9 comment, determines to contribute to climate  
10 change.

11 (13) POINT-OF-ENTRY.—

12 (A) IN GENERAL.—The term “point-of-  
13 entry” means, with respect to the economy of  
14 the United States, the point at which fossil car-  
15 bon is introduced into commerce.

16 (B) INCLUSIONS.—The term “point-of-  
17 entry” includes—

- 18 (i) a wellhead;  
19 (ii) a mine entrance; and  
20 (iii) any port-of-entry, as determined  
21 by the Secretary.

22 (14) PRODUCTION PROCESS CARBON.—The  
23 term “production process carbon” means the quan-  
24 tity of fossil carbon used to manufacture an energy-  
25 intensive commodity.

1           (15) PROGRAM.—The term “program” means  
2 the fossil carbon limitation program established  
3 under section 4(a)(1).

4           (16) QUALIFIED INDIVIDUAL.—The term  
5 “qualified individual” means any individual who law-  
6 fully resides in the United States.

7           (17) RATE OF CAPITAL INVESTMENT RE-  
8 TURN.—The term “rate of capital investment re-  
9 turn” means an annual real rate of return on capital  
10 investment of 6 percent.

11           (18) RATE OF INFLATION.—The term “rate of  
12 inflation” means the annual rate increase of the  
13 price of goods and services, as measured by the Con-  
14 sumer Price Index for All Urban Consumers pub-  
15 lished by the Bureau of Labor Statistics of the De-  
16 partment of Labor.

17           (19) SAFETY VALVE PRICE.—The term “safety  
18 valve price” means the maximum price per ton of  
19 carbon dioxide equivalent for any 1 calendar year es-  
20 tablished under section 4(a)(4).

21           (20) SECRETARY.—The term “Secretary”  
22 means the Secretary of the Treasury.

23           (21) VOLUNTARY CARBON REDUCTION PUR-  
24 CHASE.—The term “voluntary carbon reduction pur-

1 chase” means the voluntary purchase of credits  
2 that—

3 (A) are not used to meet any regulatory  
4 mandate (including any renewable energy  
5 standard required by the Federal Government  
6 or any State);

7 (B) include Federal or State renewable en-  
8 ergy certificates, energy efficiency certificates,  
9 and other eligible purchases as determined by  
10 the Secretary; and

11 (C) are solely responsible for the reduction  
12 of domestic fossil carbon emissions.

13 **SEC. 3. GLOBAL WARMING EMISSIONS REDUCTION STAND-**  
14 **ARDS.**

15 (a) IN GENERAL.—The President shall, through the  
16 program and the CERT Fund and in accordance with this  
17 Act, reduce steadily the quantity of United States green-  
18 house gas emissions to achieve the emissions reduction  
19 standards described in subsection (b).

20 (b) PERIODIC EMISSIONS REDUCTION STAND-  
21 ARDS.—

22 (1) CALENDAR YEAR 2020.—During calendar  
23 year 2020, the quantity of United States greenhouse  
24 gas emissions shall not exceed 80 percent of the

1 quantity of United States greenhouse gas emissions  
2 during calendar year 2005.

3 (2) CALENDAR YEAR 2025.—During calendar  
4 year 2025, the quantity of United States greenhouse  
5 gas emissions shall not exceed 70 percent of the  
6 quantity of United States greenhouse gas emissions  
7 during calendar year 2005.

8 (3) CALENDAR YEAR 2030.—During calendar  
9 year 2030, the quantity of United States greenhouse  
10 gas emissions shall not exceed 58 percent of the  
11 quantity of United States greenhouse gas emissions  
12 during calendar year 2005.

13 (4) CALENDAR YEAR 2050.—During calendar  
14 year 2050, the quantity of United States greenhouse  
15 gas emissions shall not exceed 17 percent of the  
16 quantity of United States greenhouse gas emissions  
17 during calendar year 2005.

18 **SEC. 4. FOSSIL CARBON LIMITATION PROGRAM.**

19 (a) ESTABLISHMENT.—

20 (1) IN GENERAL.—The Secretary shall by regu-  
21 lation establish within the Department of the Treas-  
22 ury a program to reduce the emission of greenhouse  
23 gases—

24 (A) by placing a gradually declining limita-  
25 tion on the quantity of fossil carbon permitted



1 to be sold into commerce in the United States;  
2 and

3 (B) by requiring each first seller to sur-  
4 render periodically to the Secretary a number of  
5 carbon shares equal to the quantity of covered  
6 fossil carbon produced or imported by the first  
7 seller by not later than 2 years after the date  
8 on which the fossil carbon becomes covered fos-  
9 sil carbon.

10 (2) ANNUAL QUANTITY OF CARBON SHARES.—

11 (A) INITIAL QUANTITY.—

12 (i) IN GENERAL.—Not later than Jan-  
13 uary 1, 2011, to carry out the program, in  
14 accordance with clause (ii), the President,  
15 in consultation with the Secretary, the Ad-  
16 ministrator, and the Secretary of Energy,  
17 shall establish and announce a maximum  
18 aggregate quantity of fossil carbon, and a  
19 corresponding number of carbon shares,  
20 permitted to be introduced through points-  
21 of-entry for calendar year 2012.

22 (ii) REQUIREMENT.—The maximum  
23 aggregate quantity of carbon shares for  
24 calendar year 2012 under clause (i) shall  
25 equal the approximate level of fossil carbon

1 likely to be required by the economy of the  
2 United States during calendar year 2012.

3 (B) SUBSEQUENT QUANTITIES.—

4 (i) CALENDAR YEARS 2013 AND  
5 2014.—For each of calendar years 2013  
6 and 2014, the maximum aggregate quan-  
7 tity of carbon shares permitted to be intro-  
8 duced through points-of-entry shall be  
9 equal to the maximum aggregate quantity  
10 established under subparagraph (A)(i).

11 (ii) CALENDAR YEAR 2015 AND SUBSE-  
12 QUENT CALENDAR YEARS.—For calendar  
13 year 2015 and each calendar year there-  
14 after, the maximum aggregate quantity of  
15 carbon shares shall be reduced from the  
16 quantity of the previous calendar year at a  
17 rate that—

18 (I) for calendar year 2015, is  
19 equal to 0.25 percent; and

20 (II) for each subsequent calendar  
21 year, increases by an additional 0.25  
22 percent.

23 (C) MODIFICATION OF QUANTITY OF CAR-  
24 BON SHARES AVAILABLE.—Subject to para-  
25 graph (3), the President, in consultation with

1 the Secretary, the Administrator, and the Sec-  
2 retary of Energy, may increase or decrease the  
3 number of carbon shares available for an auc-  
4 tion to respond to—

5 (i) changes in the scientific under-  
6 standing of climate change;

7 (ii) the need to stabilize atmospheric  
8 greenhouse gas concentrations to avoid  
9 dangerous interference with the climate of  
10 the Earth;

11 (iii) any international obligations of  
12 the United States, including any commit-  
13 ment of the United States under the  
14 United Nations Framework Convention on  
15 Climate Change;

16 (iv) the need to maintain the inter-  
17 national competitiveness of the United  
18 States;

19 (v) the quantity of carbon that has, or  
20 is likely, to be permanently sequestered  
21 from release into the atmosphere or ocean;

22 (vi) the need to provide a sufficient  
23 price signal to ensure private sector invest-  
24 ment in clean energy technology research,  
25 development, and deployment; and

1 (vii) appropriations for the programs  
2 and initiatives described in section 6(c)  
3 that are insufficient to permit the Presi-  
4 dent to meet the standards established by  
5 section 3(b).

6 (3) EXPEDITED CONGRESSIONAL REVIEW.—

7 (A) DEFINITION OF JOINT RESOLUTION.—

8 In this paragraph, the term “joint resolution”  
9 means only a joint resolution introduced during  
10 the 30-day period beginning on the date on  
11 which the report referred to in subparagraph  
12 (B) is received by Congress (excluding days ei-  
13 ther House of Congress is adjourned for more  
14 than 3 days during a session of Congress), the  
15 matter after the resolving clause of which is as  
16 follows: “That Congress approves the modifica-  
17 tion of the number of shares available for auc-  
18 tion described in the report required under sec-  
19 tion 4(a)(3)(B) of the CLEAR Act submitted  
20 by the President to Congress on \_\_\_\_\_, and  
21 the modification shall take effect.” (The blank  
22 space being appropriately filled in).

23 (B) REPORT.—Before any modification of  
24 the number of shares available for auction take  
25 effect under paragraph (2)(C), the President

1 shall submit to each House of Congress a re-  
2 port that provides a notice of the modification.

3 (C) APPROVAL.—The modification of the  
4 number of shares available for auction under  
5 paragraph (2)(C) shall take effect if Congress  
6 enacts a joint resolution of approval of the  
7 modification.

8 (D) PROCEDURE.—

9 (i) IN GENERAL.—Subject to clause  
10 (ii), the procedures described in sub-  
11 sections (b) through (g) of section 802 of  
12 title 5, United States Code, shall apply to  
13 the consideration of a joint resolution  
14 under this paragraph.

15 (ii) TERMS.—For purposes of this  
16 subparagraph—

17 (I) the reference to “section  
18 801(a)(1)” in section 802(b)(2)(A) of  
19 that title shall be considered to refer  
20 to subparagraph (B); and

21 (II) the reference to “section  
22 801(a)(1)(A)” in section 802(e)(2) of  
23 that title shall be considered to refer  
24 to subparagraph (B).

25 (4) AUCTION PRICE SAFEGUARDS.—

1 (A) CALENDAR YEAR 2012.—The carbon  
2 share price shall be limited in a manner to en-  
3 sure that the corresponding price per ton of  
4 carbon dioxide equivalent for calendar year  
5 2012 is—

6 (i) not less than \$7; and

7 (ii) not more than \$21.

8 (B) SUBSEQUENT CALENDAR YEARS.—For  
9 calendar year 2013 and each calendar year  
10 thereafter—

11 (i) subject to clause (ii), the minimum  
12 allowable carbon share price shall increase  
13 by the aggregate rate obtained by add-  
14 ing—

15 (I) the rate of inflation; and

16 (II) the rate of capital invest-  
17 ment return plus 0.5 percent; and

18 (ii) the maximum allowable carbon  
19 share price shall increase by the aggregate  
20 rate obtained by adding—

21 (I) the rate of inflation; and

22 (II) the rate of capital invest-  
23 ment return minus 0.5 percent.

24 (5) PENALTY FOR NONCOMPLIANCE.—

1 (A) IN GENERAL.—Any first seller that  
2 fails to surrender a sufficient number of carbon  
3 shares for the fossil carbon that the first seller  
4 introduced to the United States market by not  
5 later than 2 years after the date on which the  
6 fossil carbon becomes covered fossil carbon shall  
7 be liable for payment to the Secretary of a pen-  
8 alty in the amount described in subparagraph  
9 (B).

10 (B) AMOUNT.—The amount of a penalty  
11 required to be paid under subparagraph (A)  
12 shall be equal to the product obtained by multi-  
13 plying—

14 (i) the number of carbon shares that  
15 the owner failed to surrender by the dead-  
16 line; by

17 (ii) 5 times the carbon share price set  
18 at an auction described in subsection (b),  
19 the date of which is closest to that of the  
20 sale of the fossil carbon subject to a non-  
21 compliance penalty.

22 (C) TIMING.—A penalty required under  
23 this paragraph shall be immediately due and  
24 payable to the Secretary.

1           (D) NO EFFECT ON LIABILITY.—A penalty  
2 due and payable by the owner of a covered enti-  
3 ty under this paragraph shall not diminish the  
4 liability of the owner for any fine, penalty, or  
5 assessment against the owner for the same vio-  
6 lation under any other provision of law.

7           (E) USE OF PENALTIES.—Any penalties  
8 collected by the Secretary under this paragraph  
9 shall be transferred to the CERT Fund.

10          (6) PRODUCTION PROCESS CARBON ADJUST-  
11          MENT.—

12           (A) IN GENERAL.—Not later than January  
13 1, 2013, the Secretary, in consultation with the  
14 Secretary of Commerce, the Secretary of En-  
15 ergy, and the United States Trade Representa-  
16 tive, shall impose fees on individuals and enti-  
17 ties for the production process carbon associ-  
18 ated with commodities imported for sale in the  
19 United States.

20           (B) AMOUNT OF FEE.—To the maximum  
21 extent practicable, a fee described in subpara-  
22 graph (A) shall be an amount commensurate  
23 with the carbon share value of the production  
24 process carbon that is the subject of the fee.



1 (C) APPLICABILITY.—A fee described in  
2 subparagraph (A) shall only apply to imported  
3 commodities if—

4 (i) the fee is compatible with the obli-  
5 gations of the United States with respect  
6 to any applicable international trade agree-  
7 ment or treaty to which the United States  
8 is a party;

9 (ii) the country in which the com-  
10 modity was produced does not impose com-  
11 parable limits or fees on the use of fossil  
12 carbon; and

13 (iii) domestic producers of comparable  
14 commodities would be demonstrably dis-  
15 advantaged economically by the Program  
16 in the absence of the fees.

17 (D) USE OF FEES.—Any fees collected by  
18 the Secretary under this paragraph shall be  
19 transferred to the CERT Fund.

20 (E) ADJUSTMENT METHODOLOGY.—Not  
21 later than 180 days after the date of enactment  
22 of this Act and periodically thereafter, the Sec-  
23 retary, in consultation with the Secretary of  
24 Commerce, the Secretary of Energy, and the  
25 United States Trade Representative, shall pro-



1 (C) APPLICABILITY.—The funds described  
2 in subparagraph (A) shall only apply to an in-  
3 dustry or economic sector if—

4 (i) the funds are compatible with the  
5 obligations of the United States with re-  
6 spect to any applicable international trade  
7 agreement or treaty to which the United  
8 States is a party;

9 (ii) the destination country for United  
10 States exports does not impose comparable  
11 limits or fees on—

12 (I) the use of fossil carbon within  
13 the territories of that country; or

14 (II) the importation of produc-  
15 tion process carbon; and

16 (iii) domestic producers would be de-  
17 monstrably disadvantaged economically  
18 and competitively by the program in the  
19 absence of the funds.

20 (D) TRANSFER OF FUNDS.—Any funds  
21 distributed by the Secretary under this para-  
22 graph shall be transferred from the CERT  
23 Fund, as authorized under section 6(c).

24 (E) ADJUSTMENT METHODOLOGY.—

1 (i) IN GENERAL.—Not later than 180  
2 days after the date of enactment of this  
3 Act and periodically thereafter, in accord-  
4 ance with clause (ii), the Secretary, in con-  
5 sultation with the Secretary of Commerce,  
6 the Secretary of Energy, and the United  
7 States Trade Representative, shall propose  
8 specific data sources and methodologies for  
9 measuring and determining which sectors  
10 and industries should be considered to be  
11 eligible for targeted relief funds.

12 (ii) PRIORITY.—In carrying out clause  
13 (i), to maximize the effectiveness of avail-  
14 able funds, the Secretary shall give priority  
15 to the most economically and competitively  
16 disadvantaged industries and economic sec-  
17 tors.

18 (b) AUCTIONS.—

19 (1) IN GENERAL.—Subject to paragraph (9), in  
20 carrying out the program, during each calendar  
21 year, the Secretary shall conduct monthly uniform  
22 price auctions of a portion of the carbon shares  
23 made available for the calendar year under sub-  
24 section (a)(2).

1           (2) ELIGIBLE PARTICIPANTS.—First sellers  
2 shall be the only entities eligible to participate in an  
3 auction conducted under paragraph (1).

4           (3) RESERVE PRICE.—The minimum price of  
5 any carbon share purchased under an auction con-  
6 ducted under paragraph (1) shall be the minimum  
7 price for the corresponding calendar year specified in  
8 subsection (a)(4).

9           (4) SAFETY VALVE PRICE.—

10           (A) IN GENERAL.—Subject to subpara-  
11 graph (B), the maximum price of any carbon  
12 share purchased under an auction conducted  
13 under paragraph (1) shall be the maximum  
14 price for the corresponding calendar year speci-  
15 fied in subsection (a)(4).

16           (B) SAFETY VALVE SHARES.—If the safety  
17 valve price is reached in any 1 auction con-  
18 ducted under paragraph (1), the number of  
19 available carbon shares may be increased to ex-  
20 ceed the aggregate quantity described in sub-  
21 section (a)(2) to ensure that all legal bids at  
22 the safety valve price can be accommodated for  
23 the 1 auction.

24           (C) SAFETY VALVE REVENUES.—Any rev-  
25 enue generated by the sale of a carbon share at

1 the safety valve price that is in excess of the ag-  
2 gregate quantity described in subsection (a)(2)  
3 shall be—

4 (i) deposited in the CERT Fund; and  
5 (ii) used only for the conduct of a pro-  
6 gram or initiative within the United States  
7 described in subparagraph (F) or (G) of  
8 section 6(e)(1).

9 (D) USE OF SAFETY VALVE CARBON  
10 SHARES.—A carbon share purchased at the  
11 safety valve price shall be redeemed by not later  
12 than 90 days after the date on which the origi-  
13 nal purchaser purchased the carbon share.

14 (5) USE OF CARBON SHARES.—A carbon share  
15 purchased under an auction conducted under para-  
16 graph (1), or on an exchange described in paragraph  
17 (7)(A), may only be redeemed by a first seller during  
18 the 10-year period commencing on the date of  
19 issuance to the original carbon share holder.

20 (6) LIMITATION OF CARBON SHARE PURCHASES  
21 AND ACCUMULATION.—

22 (A) PURCHASE LIMITATION.—During any  
23 calendar year, a first seller may not purchase a  
24 quantity of carbon shares that significantly ex-  
25 ceeds the anticipated volume of covered fossil

1 carbon of the first seller for the calendar year,  
2 as determined by the Secretary.

3 (B) ACCUMULATION LIMITATION.—A first  
4 seller may not accumulate a quantity of carbon  
5 shares that, as determined by the Secretary—

6 (i) exceeds the anticipated volume of  
7 covered fossil carbon of the first seller for  
8 the duration of the period during which  
9 the carbon shares held by the first seller  
10 may be redeemed;

11 (ii) allows for speculation or manipu-  
12 lation; or

13 (iii) interferes with normal market  
14 competition.

15 (7) PURCHASE OR SALE OF CARBON SHARES.—

16 (A) IN GENERAL.—A transaction other  
17 than an auction described in paragraph (1) that  
18 involves the purchase or sale of a carbon share  
19 may be carried out only if—

20 (i) the carbon share is offered for sale  
21 to any eligible first seller on a dedicated  
22 public carbon share exchange established  
23 and administered by the Secretary for that  
24 purpose; and

1 (ii) all relevant transaction dates, car-  
2 bon share quantities, and prices are made  
3 publicly available on a real-time basis.

4 (B) CERTAIN RECIPIENTS OF CARBON  
5 SHARES.—Recipients of carbon shares under  
6 subsection (c) shall be granted access to an ex-  
7 change described in subparagraph (A) solely for  
8 the purpose of selling carbon shares to eligible  
9 first sellers.

10 (8) CARBON SHARE DERIVATIVES MARKET.—

11 (A) PROHIBITION.—A first seller may not  
12 directly or indirectly create, purchase, sell, or  
13 trade carbon share derivatives.

14 (B) REGULATIONS.—Not later than 1 year  
15 after the date of enactment of this Act, the Sec-  
16 retary, in consultation with the Commodity Fu-  
17 tures Trading Commission, the Federal Energy  
18 Regulatory Commission, and the Federal Trade  
19 Commission, shall promulgate regulations for  
20 the establishment, operation, and oversight of  
21 markets for all carbon share derivatives—

22 (i) to provide for effective and com-  
23 prehensive market oversight;

24 (ii) to prohibit fraud, market manipu-  
25 lation (in accordance with section 222 of



1 the Federal Power Act (16 U.S.C. 824v)),  
2 and excessive speculation; and

3 (iii) to limit unreasonable or excessive  
4 fluctuations in the price of carbon share  
5 derivatives and carbon shares.

6 (9) MODIFICATION OF AUCTION FREQUENCY.—

7 The Secretary may modify the frequency of the uni-  
8 form price auctions under paragraph (1) if the Sec-  
9 retary determines that the modification will signifi-  
10 cantly—

11 (A) improve the accuracy, predictability,  
12 and stability of the market-clearing auction  
13 price; or

14 (B) facilitate greater program efficiency.

15 (c) REIMBURSEMENT FOR EMBEDDED, REINJECTED,  
16 AND SEQUESTERED CARBON.—The Secretary shall pro-  
17 vide carbon shares that are in excess of the aggregate  
18 quantity established under subsection (a)(2) to each—

19 (1) operator of a carbon capture and storage  
20 facility, in a quantity that corresponds to the quan-  
21 tity of fossil carbon verifiably sequestered by the car-  
22 bon capture and storage facility in compliance with  
23 each appropriate law (including regulations);

1           (2) operator of an oil or gas reinjection project,  
2           in a quantity that corresponds to the quantity of re-  
3           injected covered fossil carbon; and

4           (3) manufacturer that embeds fossil carbon in  
5           the products produced by the manufacturer in—

6                   (A) a manner that prevents the emission of  
7                   the fossil carbon into the atmosphere for a pe-  
8                   riod of time that is sufficient to prevent any  
9                   negative impact on the climate; and

10                   (B) a quantity that corresponds to the ag-  
11                   gregate quantity of covered fossil carbon em-  
12                   bedded in the products.

13           (d) ADJUSTMENT FOR VOLUNTARY CARBON REDUC-  
14           TION MARKET.—

15                   (1) IN GENERAL.—The Secretary shall reduce  
16                   the aggregate quantity of carbon shares established  
17                   under subsection (a)(2) for all verifiable reductions  
18                   of fossil carbon emissions attributable solely to vol-  
19                   untary carbon reduction purchases.

20                   (2) QUANTITY.—The aggregate quantity of car-  
21                   bon shares established under subsection (a)(2) shall  
22                   be reduced by an amount equal to the product ob-  
23                   tained by multiplying—

24                           (A) the corresponding quantity of fossil  
25                           carbon emission reductions that are attributable

1 solely to voluntary carbon reduction purchases;  
2 and

3 (B)(i) if the market price of the voluntary  
4 carbon reduction purchases is not less than the  
5 market price of the corresponding carbon  
6 shares (as determined by the most recent auc-  
7 tion described in subsection (b)), 1; or

8 (ii) if clause (i) does not apply, the  
9 quotient of the market price of the voluntary  
10 carbon reduction purchases and the market  
11 price of the corresponding carbon shares (as de-  
12 termined by the most recent auction described  
13 in subsection (b)).

14 (3) VERIFICATION.—The quantity of carbon  
15 shares determined under paragraph (2) shall be  
16 verified by the Federal Energy Regulatory Commis-  
17 sion.

18 (e) CONTRACTUAL TREATMENT OF CARBON  
19 SHARES.—

20 (1) LITIGATION REDUCTION.—A carbon share  
21 surrendered for fossil carbon produced by an oil or  
22 natural gas well shall be considered to be a lifting  
23 expense.

24 (2) COST ALLOCATION.—With respect to any  
25 long-term, fixed-price delivery contract entered into

1 before the date of enactment of this Act, the dura-  
2 tion of which is longer than 1 year, there shall be  
3 a rebuttable presumption that—

4 (A) this Act makes performance of the  
5 contract impracticable; and

6 (B) each party that entered into the con-  
7 tract assumed at the time of bargaining that  
8 the effects of this Act would not occur.

9 (f) CARBON REFUND TRUST FUND.—

10 (1) IN GENERAL.—There is established in the  
11 Treasury of the United States a trust fund to be  
12 known as the “Carbon Refund Trust Fund”, con-  
13 sisting of such amounts as may be appropriated to  
14 the trust fund under this subsection.

15 (2) TRANSFER OF AUCTION PROCEEDS.—There  
16 are appropriated to the Carbon Refund Trust Fund,  
17 out of funds in the Treasury not otherwise appro-  
18 priated, an amount equal to  $\frac{3}{4}$  of the proceeds from  
19 auctions conducted under subsection (b).

20 (3) EXPENDITURES FROM FUND.—Amounts in  
21 the Carbon Refund Trust Fund shall be available for  
22 the purpose of making energy security dividends as  
23 provided in section 5.

1 **SEC. 5. PER CAPITA DISTRIBUTION OF AUCTION PRO-**  
2 **CEEDS.**

3 (a) IN GENERAL.—Every qualified individual is eligi-  
4 ble to receive an energy security dividend for each month  
5 beginning with the first month after such individual be-  
6 comes a qualified individual and ending with the last full  
7 month prior to an individual ceasing to be a qualified indi-  
8 vidual.

9 (b) ADMINISTRATION.—

10 (1) ENERGY SECURITY DIVIDENDS.—To provide  
11 an energy security dividend to each qualifying indi-  
12 vidual, the Secretary shall coordinate with—

13 (A) the Commissioner of Social Security;

14 (B) the Secretary of Energy;

15 (C) the Secretary of Agriculture;

16 (D) the Secretary of Health and Human  
17 Services;

18 (E) the head of any other appropriate Fed-  
19 eral agency, as determined by the Secretary;  
20 and

21 (F) the Governor or appropriate official  
22 of—

23 (i) each State;

24 (ii) the District of Columbia; and

25 (iii) each territory and possession of  
26 the United States.

1           (2) COST-EFFECTIVE MECHANISM REQUIRE-  
2           MENT.—To distribute energy security dividends, the  
3           Secretary shall use the most cost-effective mecha-  
4           nism, including any public benefit program or elec-  
5           tronic delivery mechanism administered by—

6                     (A) the Federal Government; or

7                     (B) any State.

8           (3) PRIVACY GUARANTEE REQUIREMENT.—The  
9           Secretary shall guarantee—

10                    (A) the protection of the privacy of every  
11                    qualified individual; and

12                    (B) that any personal information of a  
13                    qualified individual shall be used by the Sec-  
14                    retary only to ensure the accurate distribution  
15                    of energy security dividends.

16           (4) DIVIDEND TAXATION.—Any amount re-  
17           ceived from the receipt of an energy security divi-  
18           dend shall be excluded from gross income under the  
19           Internal Revenue Code of 1986.

20           (c) FREQUENCY AND MODE OF ALLOCATION OF EN-  
21           ERGY SECURITY DIVIDENDS.—The Secretary may modify  
22           the frequency or mode of allocation of energy security divi-  
23           dends—

24                    (1) to minimize administrative costs associated  
25                    with the program; or

1           (2) to increase the value of energy security divi-  
2           dends.

3           (d) MONITORING; ANNUAL REPORTS.—

4           (1) MONITORING.—Effective beginning January  
5           1, 2012, the Administrator of the Energy Informa-  
6           tion Administration shall, on a monthly basis, cal-  
7           culate and record the incremental contribution of  
8           carbon share prices to wholesale and retail fossil fuel  
9           prices.

10          (2) ANNUAL REPORTS.—Not later than June 1,  
11          2013, and annually thereafter, the Administrator of  
12          the Energy Information Administration shall pre-  
13          pare and post on the website of the Energy Informa-  
14          tion Administration a report that contains, for the  
15          period covered by the report, the results of the moni-  
16          toring carried out by the Administrator of the En-  
17          ergy Information Administration under paragraph  
18          (1).

19          (e) ENERGY EFFICIENCY CONSUMER LOAN PRO-  
20          GRAM.—As soon as practicable after the date of enactment  
21          of this Act, the Secretary shall establish a program that  
22          enables a qualifying individual to borrow against any fu-  
23          ture energy security dividend to the qualifying individual  
24          to enable the qualifying individual to make investments

1 in approved energy efficiency or clean energy technologies  
2 and services that would, within a reasonable time period—

3 (1) result in a reduced energy bill for the quali-  
4 fying individual; and

5 (2) reduce greenhouse gas emissions.

6 (f) OFFICE OF CONSUMER ADVOCACY.—

7 (1) ESTABLISHMENT.—As soon as practicable  
8 after the date of enactment of this Act, the Sec-  
9 retary shall establish in the Department of the  
10 Treasury an Office of Consumer Advocacy to serve  
11 as an advocate for the public interest of energy con-  
12 sumers.

13 (2) DUTIES.—The Office of Consumer Advo-  
14 cacy may—

15 (A) represent (and appeal on behalf of)  
16 residential and small commercial customers of  
17 energy;

18 (B) monitor and review energy customer  
19 complaints and grievances; and

20 (C) investigate, collect data, and report on  
21 matters relating to the manner by which this  
22 Act impacts rates charged or services provided  
23 by public utilities and natural gas companies.



1 **SEC. 6. CLEAN ENERGY REINVESTMENT TRUST FUND.**

2 (a) ESTABLISHMENT.—There is established in the  
3 Treasury of the United States a revolving fund, to be  
4 known as the “Clean Energy Reinvestment Trust Fund”  
5 or the “CERT Fund”, consisting of such amounts as are  
6 appropriated to the Fund under subsection (b).

7 (b) TRANSFERS TO FUND.—

8 (1) IN GENERAL.—There are appropriated to  
9 the CERT Fund, out of funds in the Treasury not  
10 otherwise appropriated, amounts equivalent to—

11 (A)  $\frac{1}{4}$  of the proceeds from auctions con-  
12 ducted under section 4(b)(1) and all of the pro-  
13 ceeds under section 4(b)(4)(C);

14 (B) the amount of penalties transferred to  
15 the CERT Fund under section 4(a)(5)(E); and

16 (C) the amount of fees transferred to the  
17 CERT Fund under section 4(a)(6)(D).

18 (2) INVESTMENT OF CORPUS.—Rules similar to  
19 the rules of section 9602(b) of the Internal Revenue  
20 Code of 1986 shall apply for purposes of this sec-  
21 tion.

22 (c) EXPENDITURES FROM FUND.—

23 (1) IN GENERAL.—To the extent that budget  
24 authority and appropriations are made available in  
25 advance and subject to paragraph (2), amounts in  
26 the CERT Fund shall be used to carry out programs

1 and initiatives (including allocation to the CERT  
2 Fund to support financing programs designed or ad-  
3 ministered by the Clean Energy Deployment Admin-  
4 istration), provide incentives, and make loans and  
5 grants—

6 (A) to provide targeted and region-specific  
7 transition assistance to workers, communities,  
8 industries, and small businesses of the United  
9 States experiencing the greatest economic dis-  
10 locations due to efforts to reduce carbon emis-  
11 sions and address climate change and ocean  
12 acidification;

13 (B) to provide targeted and region-specific  
14 compensation for early retirement of carbon-in-  
15 tensive facilities, machinery, or related assets in  
16 the United States that are stranded by new  
17 market dynamics;

18 (C) to provide targeted and region-specific  
19 mitigation and adaptation assistance to resi-  
20 dents, communities, industries, and small busi-  
21 nesses of the United States that experience the  
22 greatest demonstrable negative impacts from  
23 climate change;

24 (D) subject to the criteria described in sec-  
25 tion 4(a)(7)(C), to provide targeted relief to en-

1 energy-intensive industries (including agriculture  
2 and forestry industries) that export goods or  
3 products to countries that do not have similar  
4 restrictions on fossil carbon;

5 (E) to support training and development  
6 programs to prepare United States workers for  
7 careers in energy efficiency, renewable energy,  
8 and other emerging clean technology industries;

9 (F) to curtail the emission of—

10 (i) greenhouse gases other than car-  
11 bon dioxide from fossil carbon; and

12 (ii) nongreenhouse gas substances  
13 that exacerbate or accelerate climate  
14 change (including black carbon);

15 (G) to fund cost-effective domestic and  
16 international projects that verifiably reduce,  
17 avoid, or sequester greenhouse gas emissions  
18 through the modification of agriculture, for-  
19 estry, or other land use practices;

20 (H) to ensure sustained and robust invest-  
21 ments in clean energy and fuels research, devel-  
22 opment, and deployment activities;

23 (I) to fund projects or initiatives that  
24 verifiably increase energy efficiency or energy  
25 productivity;

1           (J) to fund programs that provide financial  
2 support for low-income families that experience  
3 difficulty paying high seasonal utility bills;

4           (K) to fund projects or initiatives that sup-  
5 port residential fuel switching (with priority  
6 given to projects or initiatives relating to home  
7 heating oil);

8           (L) to provide matching grants to low-in-  
9 come energy efficiency consumer loan recipi-  
10 ents;

11          (M) to carry out weatherization and im-  
12 prove energy efficiency of low-income and public  
13 buildings;

14          (N) to provide funding for climate change  
15 or ocean acidification mitigation and adaptation  
16 projects, activities, and research to increase the  
17 resilience of human populations and commu-  
18 nities, fish and wildlife, and managed and  
19 unmanaged terrestrial, aquatic, and marine eco-  
20 systems in areas at which impacts are likely to  
21 be most severe;

22          (O) to provide funding for programs that  
23 protect or advocate for energy consumers (in-  
24 cluding the Office of Consumer Advocacy estab-  
25 lished under section 5(f)); and

1 (P) to ensure that the program does not  
2 contribute to the budget deficit of the Federal  
3 Government.

4 (2) USE.—Amounts in the CERT Fund shall—

5 (A) only be used for the purposes described  
6 in paragraph (1);

7 (B) be allocated to ensure compliance with  
8 the standards established by section 3(b), in-  
9 cluding meeting reasonable interyear emissions  
10 reduction standards;

11 (C) to the extent practicable, be awarded—

12 (i) on a competitive-bid basis; and

13 (ii) in accordance with applicable laws  
14 (including regulations) and procedures of  
15 existing Federal programs; and

16 (D) to the extent practicable, complement  
17 and leverage existing Federal programs, the  
18 scope and mission of which complement the  
19 purposes described in paragraph (1).

20 (d) TRANSFERS OF AMOUNTS.—

21 (1) IN GENERAL.—The amounts required to be  
22 transferred to the CERT Fund under this section  
23 shall be transferred at least monthly from the gen-  
24 eral fund of the Treasury to the CERT Fund on the  
25 basis of estimates made by the Secretary.

1           (2) ADJUSTMENTS.—Proper adjustment shall  
2           be made in amounts subsequently transferred to the  
3           extent prior estimates were in excess of or less than  
4           the amounts required to be transferred.

5 **SEC. 7. SENSE OF THE SENATE.**

6           It is the sense of the Senate that—

7           (1) the goals of this Act are complemented and  
8           supported by policies and incentives, appropriated  
9           programs, and pending legislative proposals, includ-  
10          ing—

11                   (A) Federal and State renewable energy  
12                   standards;

13                   (B) energy tax credits;

14                   (C) energy efficiency standards for build-  
15                   ings and household appliances; and

16                   (D) vehicle fuel economy standards;

17           (2) the Federal Government should take further  
18           action to reduce the risks associated with greenhouse  
19           gas emissions, especially greenhouse gas emissions  
20           not derived from fossil carbon;

21           (3) climate change is a global problem that re-  
22           quires a global solution, and action by the United  
23           States alone or by a coalition of developed nations  
24           will not—

1                   (A) adequately address the risks associated  
2                   with greenhouse gas emissions; or  
3                   (B) solve the global energy problem; and  
4                   (4) international trade and climate policy agree-  
5                   ments are the most effective instruments by which  
6                   to address concerns about carbon leakage and inter-  
7                   national trade competitiveness.