

111TH CONGRESS
1ST SESSION

S. 2877

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.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2009

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

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 pose specific data sources and methodologies for
2 measuring and determining which sectors and
3 commodities should be covered by production
4 process carbon adjustments.

5 (7) TARGETED RELIEF FUNDS.—

6 (A) IN GENERAL.—Not later than January
7 1, 2013, the Secretary, in consultation with the
8 Secretary of Commerce, the Secretary of En-
9 ergy, and the United States Trade Representa-
10 tive, shall distribute funds that are appro-
11 priated from the CERT Fund to individuals
12 and entities that are unable to compete due to
13 unfair market prices arising from disparate fos-
14 sil carbon limits or fees among countries.

15 (B) AMOUNT OF FEE.—To the maximum
16 extent practicable, the funds described in sub-
17 paragraph (A) shall be an amount commensu-
18 rate with the product obtained by multiplying—

19 (i) the average additional cost per
20 unit output for the industry or economic
21 sector due to disparate carbon limits
22 among countries; and

23 (ii) the number of output units.

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.

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