

Climate and Energy Provisions in the “Build Back Better” Proposed Legislation

November 18, 2021

Background

As part of fulfillment of a 2020 campaign plank the Biden has proposed a comprehensive legislation that addresses climate change and a host of social issues. The proposed legislation is the most comprehensive climate legislation addressing clean energy tax credits, residential energy efficiency and electrification retrofits and energy codes leading to net zero energy.

As of November 18, 2021 the White House and Congress is negotiating the final terms of the proposed legislation.

The following are the current climate and energy elements of the proposed Build Back Better legislation.

GREEN ENERGY AND ENERGY EFFICIENCY TAX INCENTIVES

Section 136301. Extension, increase, and modifications of nonbusiness energy property credit.

The provision extends the nonbusiness energy property credit to property placed in service before the end of 2031.

Beginning in 2022, the provision modifies and expands the credit, including by: increasing the percentage of the credit for installing qualified energy efficiency improvements from 10% of the cost to 30%, replacing the lifetime cap on credits with a \$1,200 annual credit limitation and a \$600 limitation per-item of property.

These limitations exclude expenditures for geothermal and air source heat pumps, electric heat pump water heaters, and biomass stoves. Updating various standards and associated limits to reflect advances in energy efficiency and removing eligibility of roofs, advanced main air circulating fans, and certain windows, and requiring that manufacturers and taxpayers comply with reporting the identification number of certain property placed into service in order to access the credit and expanding the credit to cover the costs of home energy audits, allowing a credit of 30% of such costs up to a maximum credit of \$150.

Section 136302. Residential energy efficient property.

The provision extends the credit for the cost of qualified residential energy efficient property expenditures, including solar electric, solar water heating, fuel cell, and small

wind energy, and geothermal heat pumps. The provision extends the full 30% credit for eligible expenditures through the end of 2031.

The credit then phases down to 26% in 2032 and 22% in 2033.

The credit expires after the end of 2033. The provision also expands the definition of eligible property to include battery storage technology. This credit is made refundable starting in 2024.

In order to claim the credit, the provision requires that installers and taxpayers comply with reporting the installation identification number with respect to qualified expenditures incurred by taxpayers for energy efficient property.

NEW RESIDENTIAL RETROFIT PROGRAMS:

Section 136304. Extension, Increase, and Modifications of New Energy Efficient Home Credit (Section 45L)

The provision extends the Section 45L new energy efficient home credit through 2031. Single family and Manufactured Homes. In the case of new homes acquired after 2022 which are eligible to participate in the ENERGY STAR Residential New Construction Program or Manufactured Homes Program, the provision provides a \$2,500 credit for energy efficient single family and manufactured new homes meeting certain energy star requirements.

Single-family homes must meet the most recent Energy Star Single-Family New Homes Program requirements applicable to such dwelling location as in effect on 1.) the latter of January 1, 2022, or January 1 of two calendar years prior to the date the home is acquired and 2.) National Program Requirement Version 3.1 for homes acquired before 2025 and Version 3.2 thereafter.

Manufactured homes must meet the most recent Energy Star Manufactured Home National Program requirements as in effect on the latter of January 1, 2022, or January 1 of two calendar years prior to the date the dwelling is acquired
This provision provides a higher tier credit of \$5,000 credit for eligible single family and manufactured new homes certified as a zero-energy ready under the Department of Energy Zero Energy Ready Home Program.

Multifamily Homes - In the case of new homes acquired after 2022 which are eligible to participate in the ENERGY STAR Multifamily New Construction Program, provision provides a base credit of \$500 and a bonus credit of \$2,500 for multifamily units which meet the most recent Energy Star Multifamily Home National Program requirements as in effect on the latter of January 1, 2022 or January 1 of two calendar years prior to the date the dwelling is acquired and the most recent Energy Star Multifamily Home Regional Program requirements applicable to such unit as in effect on the latter of

January 1, 2022 or January 1 of two calendar years prior to the date the dwelling is acquired.

This provision provides a higher tier base credit of \$1,000 or a bonus credit of \$5,000 for eligible multifamily units certified as a zero-energy ready under the Department of Energy Zero Energy Ready Home Program. To claim the bonus credit amount with respect to a multifamily unit, taxpayers must satisfy prevailing wage requirements for the duration of the construction of such units.

Section 30411. Home Energy Performance-Based, Whole-house Rebates and Training Grants

This section provides the Department of Energy (DOE) with funding to institute guidelines and administer funding for state energy offices to provide rebates for whole-house energy saving retrofits.

It appropriates \$360 million for contractor training grants to support home energy efficiency retrofits.

\$5.89 billion for state energy offices to provide rebates for retrofits. Specifies rebate amounts for single-family and multifamily energy efficiency retrofits. Provides that home energy efficiency retrofit rebates for high-efficiency natural gas heating, ventilation, air conditioning and cooling (HVAC) systems and water heaters are eligible for six years after the date of enactment.

Section 30412. High-Efficiency Electric Home Rebate Program.

\$2.226 billion for DOE to provide homeowners and owners of multifamily buildings rebates for qualifying electrification projects.

\$3.8 billion for rebates carried out in tribal communities or for low- or moderate-income households.

Appropriates \$4 million for community and consumer education and outreach.
\$220 million to administer the program and provide technical support.

OTHER CLIMATE PROVISIONS

SUBTITLE A — CLEAN AIR

Section 30101. Clean Heavy-Duty Vehicles.

\$5 billion to carry out section 132 of the Clean Air Act (CAA), of which \$2 billion is for recipients proposing to replace eligible heavy-duty vehicles serving communities located in nonattainment areas.

Establishes a program to make awards of grants and rebates to replace Class 6 and Class 7 heavy duty vehicles with zero-emission vehicles.

Section 30102. **Grants to Reduce Air Pollution at Ports.**

This section provides \$3.5 billion for the purchase and installation of zero-emission equipment and technology at ports, as well as the development of climate action plans at ports.

Requires that 25 percent of investments are made at ports in nonattainment areas.

Section 30103. **Greenhouse Gas Reduction Fund.** (Green Bank) This section provides \$29 billion to support the rapid deployment of low- and zero-emission technologies.

Invests approximately \$20 billion in nonprofit financing institutions designed to support projects that reduce or avoid emissions by leveraging investment from the private sector. Requires that 40 percent of these investments benefit low-income and disadvantaged communities.

Funds may also be used to establish or expand state and local financing programs that deploy low- and zero-emission technologies.

Invests \$7 billion in state, local, and nonprofit programs to install zero-emission distributed technologies in low-income and disadvantaged communities
\$2 billion for state, local, and nonprofit efforts to install zero-emission vehicle charging or fueling infrastructure.

Section 30105. **Diesel Emissions Reductions.**

Provides EPA \$60 million for Diesel Emissions Reduction Act (DERA) grants for projects addressing diesel emissions from goods movement facilities (e.g., airports, railyards, and distribution centers) and from vehicles servicing those facilities.

Section 30106. **Funding to Address Air Pollution.**

Provides \$280.5 million to EPA, of which \$230.5 million is for air quality monitoring via grants and other activities authorized under the Clean Air Act (CAA).

\$29 million is to carry out specified sections of the CAA with respect to greenhouse gases (GHG).

\$5 million is for grants to states to adopt and implement GHG and zero-emission standards for mobile sources.

Section 30107. Funding to Address Air Pollution at Schools.

Appropriates \$50 million to EPA to monitor and reduce air pollution at public schools in low-income and disadvantaged communities.

Section 30108. Low Emissions Electricity Program. (CAA)

Provides \$87 million to EPA to carry out CAA section 135.

Directs that \$68 million be used to help educate consumers, support low-income and disadvantaged communities, and offer technical assistance to industry, as well as state and local governments, with respect to reductions in GHG emissions that result from domestic electricity generation and use.

Further directs that \$1 million be used to assess the emission reductions anticipated to occur over the next decade, and that \$18 million be used to ensure the assessed reductions are achieved.

Provides EPA \$15 million to carry out CAA section 211, of which \$5 million shall be for tests, protocols, analyses, and evaluations regarding environmental and public health effects and lifecycle emissions of transportation fuels, and \$10 million shall be for grants to support investments in advanced biofuels.

Section 30113. Environmental Product Declaration Assistance Program.

Provides EPA \$250 million to establish and carry out an Environmental Product Declaration (EPD) Assistance program to support development and enhanced standardization and transparency of environmental product declaration for construction materials and products.

Section 30114. Methane Emissions Reduction Program.

Provides EPA \$775 million for grants, rebates, contracts, and loans to reduce methane emissions from petroleum and natural gas systems.

This section also requires the EPA Administrator to establish waste emissions thresholds for petroleum and natural gas facilities, and to impose and collect a charge on waste emissions that exceed such thresholds. The charge starts at \$900 per ton of methane in 2023 and ramps up to \$1,500 per ton by 2025.

Section 30116. Climate Pollution Reduction Grants.

This section provides \$5 billion to EPA to carry out CAA section 137.

Section 137 provides \$250 million for grants for the costs of developing plans to reduce greenhouse gas air pollution and directs EPA to make such a grant to at least one eligible entity in each state.

\$4.75 billion for EPA to competitively award grants to implement greenhouse gas air pollution reduction plans. Eligible entity - state, air pollution control agency, municipality, Indian Tribe, or a group of one or more such entities.

Section 30118. Low-Embodied Carbon Labeling for Construction Materials for Transportation Projects

Provides EPA \$100 million to develop and carry out a program to identify and label, based on environmental product declarations, low-embodied carbon construction materials and products used for transportation projects.

SUBTITLE B - HAZARDOUS MATERIALS

Section 30201. Grants to Reduce Waste in Communities.

Provides \$190 million for investments in waste reduction infrastructure, incentives, and related activities located in, or directly serving, low-income and disadvantaged communities.

Section 30202. Environmental and Climate Justice Block Grants.

Provides \$3 billion for investments in community led projects in disadvantaged communities and community capacity building centers to address disproportionate environmental and public health harms related to pollution and climate change.

Section 30203. Funding for Data Collection on National Recycling Efforts.

Provides \$10 million to support data collection activities related to recycling efforts throughout the United States, with a focus on assessing recycling efforts and needs in low income, disadvantaged, and rural communities.

SUBTITLE C — DRINKING WATER

Section 30301. Lead Remediation Project

Provides \$9 billion for lead remediation projects, including lead service line replacement funding. Funding can also go to grants to assist schools in the installation and maintenance of lead filtration stations, grants for school and childcare program lead testing, and grants to schools for the replacement of school drinking water fountains that may contain lead.

Makes clear that recipients of funds under the section will not be required to provide a cost-share. Provides 7 percent of the funds for administrative costs.

Section 30302.

Section 30420. **Funding for Water Assistance Program.**

Provides \$225 million for grants, to be provided by the Environmental Protection Agency, to states and Tribes to provide assistance for low-income water customers to reduce arrearages and water rates for those customers.

Section 30421. **Critical Facility Modernization.**

\$500 million for DOE to provide funding to states for the purposes of resiliency, energy efficiency, renewable energy, and grid integration improvements at public and non-profit buildings.

Section 30422. **Assistance for Latest and Zero Building Energy Code Adoption.**

This section appropriates funding for State Energy Program grants to assist states and local communities adopting updated building energy codes for residential and commercial buildings.

\$100 million for the adoption and implementation of the latest building energy codes.
\$200 million for the adoption and implementation of zero energy and equivalent stretch codes.

Section 30431. **Zero-Emissions Vehicle Infrastructure Grants.**

\$600 million to DOE to provide financial assistance through State Energy Programs for Level 2 publicly accessible electric vehicle supply equipment.
In addition, appropriates \$200 million for direct current fast charging infrastructure, and

\$200 million for hydrogen fueling equipment through State Energy Programs.
The financial assistance provided in this section targets the buildout of infrastructure in rural, underserved, and disadvantaged areas.

Section 30441. **Funding for Department of Energy Loan Programs Office.**

This section provides the Secretary of Energy with authority to make commitments up to a total principal amount of \$40 billion to guarantee loans for eligible projects under EPCACT05 section 1703. The section further appropriates \$3.6 billion for the costs of guarantees.

Section 30442. **Advanced Technology Vehicle Manufacturing.**

\$3 billion to the Secretary of Energy for the costs of providing direct loans under the Advanced Technology Vehicles Manufacturing program, to produce advanced technology medium and heavy-duty vehicles, trains or locomotives, maritime vessels, aircraft, or hyperloop technology.

Section 30443. **Domestic Manufacturing Conversion Grants.**

This section appropriates \$3.5 billion to the Secretary of Energy for domestic manufacturing conversion grants relating to domestic production of plug-in electric hybrid, plug-in electric drive, and hydrogen fuel cell electric vehicles and components.

Section 30444. **Energy Community Reinvestment Financing.**

\$5 billion to the Secretary of Energy for the cost of providing financial support to the Energy Community Reinvestment Financing Program. Directs the Secretary to establish a program to provide financial support to eligible entities for the purpose of enabling low-carbon reinvestments in energy communities.

Section 30452. **Grants to Facilitate the Siting of Interstate Electricity Transmission Lines.**

\$800 million to DOE for the issuance of grants to siting authorities, including state, local, or Tribal governmental entities, for the purpose of studying and analyzing the impacts of covered transmission projects, examining alternate transmission siting corridors, hosting negotiations regarding covered transmission projects, participating in regulatory proceedings, and for economic development activities for communities that may be affected by the construction and operation of a covered transmission project.

Section 30453. **Organized Wholesale Electricity Market Technical Assistance Grants.**

\$50 million to DOE for the purpose of providing states with technical assistance and grants to evaluate forming, expanding, or improving organized wholesale electricity markets, and aligning the policies of organized wholesale electricity markets with relevant state policies.

Section 30454. **Interregional and Offshore Wind Electricity Transmission Planning, Modeling, and Analysis.**

\$100 million to DOE to perform transmission planning, modeling, and analyses regarding the development of interregional and offshore wind transmission projects and to convene stakeholders to address the development of such transmission projects.

Section 70201. **Investing in Coastal Communities and Climate Resilience.**

\$6 Billion to the National Oceanic and Atmospheric Administration (NOAA), to remain available until September 30, 2026, to provide direct funding, grants, cooperative agreements, and technical assistance to states, Tribes, the District of Columbia, nonprofit organizations, local governments, and institutions of higher education for projects that conserve, restore, and protect coastal and marine habitats to increase climate resilience of coastal communities or sustain coastal and marine resource-

dependent communities. Funds may also be used for administrative expenses. None of the funds shall be subject to cost-sharing or matching requirements.

Section 71001. **Renewable Energy Leasing on the Outer Continental Shelf.**

This section raises revenue by directing the Department of the Interior to hold offshore wind lease sales in federal waters in the Eastern Gulf of Mexico and the Atlantic off the coast of North Carolina, South Carolina, Georgia, and Florida.

Section 80003. **United States Postal Service Clean Fleets.**

Provide the United States Postal Service \$2.57355 billion, to remain available until September 30, 2031, to acquire electric vehicles and \$3.41145 billion to purchase related support infrastructure, such as charging stations.

Section 90001. **Department of Energy Research, Development, and Demonstration Activities.**

\$1 billion for demonstration projects carried out by DOE's Office of Energy Efficiency and Renewable Energy (EERE)

Provides \$985 million to support research at the Office of Science

Provides \$10 million to carry out demonstration projects to reduce the environmental impacts of produced water.

Section 90010. **Oceanic and Atmospheric Research and Forecasting for Weather and Climate.**

Provides \$200 million to NOAA to accelerate advancements in research, observations, modeling and dissemination related to weather, coasts, oceans, and climate.

Provides \$100 million to NOAA for competitive climate research grants; and provides \$100 million to NOAA for development and dissemination of climate science information products and services, and for education and training, in support of climate adaptation activities.

Section 90011. **Climate Education.**

Provides \$20 million to NOAA for contracts, grants, and technical assistance for education activities and materials to improve public understanding of climate change.

Section 110002. **Community Climate Incentive Grant Program.**

\$4 billion to reduce on-road greenhouse gas emissions. Includes \$50 million for the Federal Highway Administration to establish a greenhouse gas performance measure;

establish an incentive structure for states that demonstrate significant carbon reductions; issue requirements, guidance, and regulations necessary to ensure the reduction of on-road greenhouse gas emissions.

Also includes \$950 million for incentive grants to states that make significant progress in reducing emissions or that adopt strategies to achieve net-zero surface transportation emissions by 2050, and \$3 billion for non-state entities for projects to reduce carbon emissions.

Section 110013. **Port Infrastructure and Supply Chain Resilience.**

\$600 million to the Maritime Administration for grants for projects to support supply chain resilience, reduction in port congestion, the development of offshore wind support infrastructure, environmental remediation.

Section 110019. **Low-Carbon Transportation Materials Grants.**

This section provides \$900 million to the Federal Highway Administration to reimburse the cost difference between low-embodied carbon construction materials and traditional materials in highway construction projects.