113TH CONGRESS
1ST SESSION

S. _____

To address climate disruptions, reduce carbon pollution, enhance the use of clean energy, and promote resilience in the infrastructure of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS (for himself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To address climate disruptions, reduce carbon pollution, enhance the use of clean energy, and promote resilience in the infrastructure of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Climate Protection Act of 2013''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CARBON POLLUTION FEE

Sec. 101. Carbon pollution fee.
Sec. 102. Residential environmental rebate program.
Sec. 103. Pollution Reduction Trust Fund.

TITLE II—SUSTAINABLE TECHNOLOGIES FINANCE PROGRAM

Sec. 201. Sustainable Technologies Finance Program.
Sec. 202. Budgetary effects.

TITLE III—ENVIRONMENTAL PROTECTION

Sec. 301. Regulation of hydraulic fracturing.
Sec. 302. Reports to Congress.
Sec. 303. Sense of Congress relating to reduction in greenhouse gas emissions.

TITLE I—CARBON POLLUTION FEE

SEC. 101. CARBON POLLUTION FEE.

(a) IN GENERAL.—Title I of the Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

"PART E—CARBON POLLUTION FEE

"SEC. 195. DEFINITIONS.

''In this part:

''(1) CARBON POLLUTING SUBSTANCE.—The term 'carbon polluting substance' means coal (including lignite and peat), petroleum and any petroleum product, or natural gas that—

''(A) when combusted or otherwise used, will release greenhouse gas emissions; and

''(B) is—

''(i) extracted, manufactured, or produced in the United States; or

"(ii) imported into the United States for consumption, use, or warehousing.

"(2) CARBON POLLUTION-INTENSIVE GOOD.—The term 'carbon pollution-intensive good' means a good that is (as identified by the Administrator, by rule)—

"(A) iron, steel, a steel mill product (including pipe and tube), aluminum, cement, glass (including flat, container, and specialty glass and fiberglass), pulp, paper, a chemical, or an industrial ceramic;

"(B) any other manufactured product that the Administrator determines—

"(i) is transferred for purposes of further manufacture; and

"(ii) generates, in the course of the manufacture of the product, direct and indirect greenhouse gas emissions that are comparable (on an emissions-per-dollar of output basis) to emissions generated in the manufacture or production of a product identified in subparagraph (A); or

"(C) a manufactured item—

"(i) in which 1 or more products identified in subparagraph (A) or (B) are inputs; and

"(ii) the cost of production of which in the United States is significantly increased by the imposition of a fee under this part.

"(3) FIRST CALENDAR YEAR.—The term 'first calendar year' means the earlier of—

"(A) calendar year 2014; or

"(B) the first calendar year beginning at least 180 days after the date of enactment of this part.

"(4) SUBSTANTIALLY EQUIVALENT MEASURE.—The term 'substantially equivalent measure' means a fee or other regulatory requirement that imposes a cost on manufacturers of carbon pollution-intensive goods located outside the United States approximately equal to the cost imposed by the fee under this part on manufacturers of comparable carbon pollution-intensive goods located in the United States.

"(5) 12TH CALENDAR YEAR.—The term '12th calendar year' means the calendar year beginning 12 years after the first calendar year.

"SEC. 196. IMPOSITION OF FEE.

"(a) IN GENERAL.—The Administrator shall impose on any manufacturer, producer, or importer of a carbon polluting substance a fee in accordance with this section.

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the carbon pollution fee imposed under subsection (a) on any carbon polluting substance shall be assessed per ton of carbon dioxide content (including carbon dioxide equivalent content of methane) of the carbon polluting substance, as determined by the Administrator, in consultation with the Secretary of Energy.

"(2) FRACTIONAL PART OF TON.—In the case of a fraction of a ton of a carbon polluting substance, the fee imposed under subsection (a) shall be the same fraction of the amount of the fee imposed on a whole ton of the carbon polluting substance.

"(3) APPLICABLE AMOUNT.—For purposes of paragraph (1), the amount of the fee shall be—

"(A) for the first calendar year, $20;

"(B) for each calendar year occurring after the first calendar year and before the 12th calendar year, an amount equal to the sum of—

"(i) the amount in effect under this paragraph for the preceding calendar year; and

"(ii) the product (rounded to the nearest dollar) obtained by multiplying—

"(I) the amount described in clause (i); and

"(II) 5.6 percent; and

"(C) for the 12th calendar year and any calendar year thereafter, the amount in effect under this paragraph for the preceding calendar year.

"(c) SINGLE IMPOSITION OF FEE.—No fee shall be imposed under subsection (a) with respect to a carbon polluting substance if the person that would be liable for the fee establishes that a prior fee imposed under that subsection has been imposed with respect to that carbon polluting substance.

"(d) LIMITATIONS.—No fee shall be imposed against a person under subsection (a) for a calendar year if during that calendar year, in accordance with such regulations as the Administrator may prescribe—

"(1) the person uses a carbon polluting substance as a feedstock so that the carbon associated with that carbon polluting substance will not be emitted;

"(2) a fee under subsection (a) was paid with respect to another carbon polluting substance that is

used by the person in the manufacture or production of the applicable carbon polluting substance; or

''(3) the carbon polluting substance is exported.

''SEC. 197. CARBON EQUIVALENCY FEE.

''(a) IMPORTS.—

''(1) IN GENERAL.—The Administrator shall impose a carbon equivalency fee on imports of carbon pollution-intensive goods that shall be equivalent to the cost that domestic producers of comparable carbon pollution-intensive goods incur as a result of—

''(A) fees paid by manufacturers, producers, and importers of carbon polluting substances under this part; and

''(B) carbon equivalency fees paid by importers of carbon pollution-intensive goods used in the production of the relevant comparable carbon pollution-intensive goods.

''(2) DETERMINATION OF FEE AMOUNT.—

''(A) IN GENERAL.—The amount of the carbon equivalency fee under paragraph (1) shall be—

''(i) determined annually; and

''(ii) differentiated by classes of products and country of origin, taking into ac-

count the quantity of greenhouse gas emissions released during the process of manufacturing the carbon pollution-intensive goods and transporting the carbon pollution-intensive goods from the country of origin.

''(B) PETITIONS FOR ADJUSTMENT.—The Administrator shall provide for a process for petitioning for adjustment to any fees determined under this subsection.

''(b) USE OF PROCEEDS.—

''(1) TRANSFER OF FUNDS.—For each applicable fiscal year, the Secretary of the Treasury shall transfer to the Administrator and the Secretary of Transportation an amount equal to 50 percent each of the amounts received during the preceding fiscal year as a result of the carbon equivalency fee imposed under subsection (a), without further appropriation.

''(2) USE OF FUNDS.—

''(A) ENVIRONMENT.—The Administrator, in consultation with Secretary of Agriculture, the Secretary of the Interior, and the Secretary of State, shall use the amounts transferred under paragraph (1)—

"(i) as a primary purpose, to provide amounts to State and local programs that assist communities in—

"(I) adapting to climate change;

"(II) improving the resiliency of critical infrastructure; and

"(III) protecting environmental quality and wildlife; and

"(ii) as a secondary purpose, to meet international commitments made by the United States to assist with climate change adaptation.

"(B) TRANSPORTATION.—The Secretary of Transportation shall use the amounts transferred under paragraph (1) to provide amounts—

"(i) to State and local programs that assist communities in improving the resiliency of critical infrastructure; and

"(ii) for projects that provide preferential parking for carpools, including the addition of electric vehicle charging stations, subject to the condition that the primary purpose of the facilities is the reduc-

tion of vehicular traffic on nearby Federal-aid highways.

''(c) EXPIRATION.—This section shall cease to have effect at such time as, and to the extent that—

''(1)(A) in the case of countries of export that adopt and ratify an international agreement requiring countries that emit greenhouse gases and produce carbon pollution-intensive goods for international markets to adopt equivalent measures, the international agreement comes into effect; or

''(B) the country of export has implemented substantially equivalent measures, as certified by the President of the United States; and

''(2) the actions provided under subsection (a) are no longer appropriate, as determined by the Administrator.

''SEC. 198. REPORT TO CONGRESS.

''Not later than 5 years after the date of enactment of this part, the Administrator shall submit to Congress a report that includes recommendations for—

''(1) the administration of the carbon pollution fee program under this part for calendar years beginning after the 12th calendar year, including a schedule for establishing the amount of the fee for those subsequent calendar years; and

''(2) future investments to reduce greenhouse gas emissions and provide resources for climate change adaptation.''.

(b) TECHNICAL AMENDMENTS.—Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.) is—

(1) amended by redesignating sections 401 through 403 as sections 701 through 703, respectively; and

(2) redesignated as title VII and moved to appear at the end of that Act.

SEC. 102. RESIDENTIAL ENVIRONMENTAL REBATE PROGRAM.

(a) IN GENERAL.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') an amount equal to ⅗ of the amounts received in the Treasury as the result of the fee imposed under section 196 of the Clean Air Act (as added by section 101(a)) to provide a monthly residential environmental rebate to legal residents of the United States.

(b) REGULATIONS.—As soon as practicable after the date of enactment of this Act, the Administrator shall promulgate regulations establishing procedures for the distribution of residential environmental rebates under sub-

section (a), including procedures that provide, to the maximum extent practicable, for—

(1) the coordination of the monthly residential environmental rebate with other Federal and State payment mechanisms;

(2) the use of electronic transfers of the monthly residential environmental rebates; and

(3) the establishment of an Office of Environmental Rebate Advocate within the Environmental Protection Agency to assist households with accessing and using the residential environmental rebate program.

(c) ADMINISTRATIVE COSTS.—Of the amounts reserved for rebates under this section, not more than 1 percent shall be used to administer the program under this section.

SEC. 103. POLLUTION REDUCTION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Pollution Reduction Trust Fund'' (referred to in this section as the ''Trust Fund''), consisting of such amounts as are transferred to the Trust Fund under subsection (b) and to be used to facilitate the implementation of the carbon pollution reduction program.

(b) TRANSFERS TO TRUST FUND.—After setting aside amounts under section 102(a), there is appropriated to the Trust Fund an amount equivalent to the remaining revenues received in the Treasury as the result of the fee imposed under section 196 of the Clean Air Act (as added by section 101(a)).

(c) DISTRIBUTION OF AMOUNTS.—Amounts in the Trust Fund for a calendar year shall be available without further appropriation, as follows:

(1) $7,500,000,000 shall be available to the Administrator of the Environmental Protection Agency, for each of the first 10 calendar years beginning after the date of enactment of this Act, to mitigate the economic impacts of the fee imposed under section 196 of the Clean Air Act (as added by section 101(a)) on energy-intensive and trade-exposed industries, to be distributed in accordance with regulations promulgated by the Administrator, subject to the requirement that the Administrator shall reserve not less than ¼ of those amounts for energy efficiency investments in energy-intensive or trade-exposed industries.

(2) $5,000,000,000 shall be available to the Secretary of Energy to carry out the Weatherization Assistance Program for Low-Income Persons estab-

lished under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) for each of the first 10 calendar years beginning after the date of enactment of this Act.

(3) $1,000,000,000 shall be available to the Secretary of Labor for each of the first 10 calendar years beginning after the date of enactment of this Act for job training, education, and transition assistance for individuals employed by the fossil fuel industry seeking to transition to clean energy jobs.

(4) $2,000,000,000 shall be available for the Advanced Research Projects Agency-Energy for each of the first 10 calendar years beginning after the date of enactment of this Act.

(5) The balance shall be used shall be used for Federal budget deficit reduction.

TITLE II—SUSTAINABLE TECHNOLOGIES FINANCE PROGRAM

SEC. 201. SUSTAINABLE TECHNOLOGIES FINANCE PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') shall establish a program, and promulgate any necessary regulations to carry out the pro-

gram, to be known as the ''Sustainable Technologies Finance Program'', under which the Administrator shall provide loans, credit instruments, loan guarantees, and other financial assistance, including in the form of assistance for public-private partnerships, for eligible projects carried out in the United States that reduce greenhouse gas emissions.

(b) ELIGIBLE PROJECTS.—A project shall be eligible to receive financial assistance under this section if the project reduces greenhouse gas emissions as determined by the Administrator, and uses—

(1) a technology for—

(A) energy efficiency;

(B) combined heat and power;

(C) solar energy, including—

(i) photovoltaic energy;

(ii) thermal energy;

(iii) wind energy; and

(iv) geothermal energy, including groundsource heat pumps;

(D) biomass or biofuels that are not sourced from food crops;

(E) ocean, tidal, or hydropower energy;

(F) electric vehicle infrastructure;

(G) advanced battery or energy storage; or

(H) rail, transit, or public transportation; or

(2) any other transportation technology that offers a reduction in greenhouse gas emissions, as determined by the Administrator.

(c) APPLICATIONS.—To be eligible to receive financial assistance under this section, the owner or operator of an eligible project shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(d) PRIORITY.—In providing financial assistance under this section, the Administrator shall give priority to projects that provide the largest greenhouse gas emissions reductions per Federal dollar invested, as determined by the Administrator.

(e) FUNDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, on October 1, 2013, and on each October 1 thereafter through October 1, 2022, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Administrator for the cost of grants, loans, and loan guarantees to carry out this section, $5,000,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Administrator shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(3) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this section, the Administrator may use not more than 2 percent for each fiscal year for the administration of this section.

SEC. 202. BUDGETARY EFFECTS.

The budgetary effects of this title, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE III—ENVIRONMENTAL PROTECTION

SEC. 301. REGULATION OF HYDRAULIC FRACTURING.

(a) DISCLOSURE.—Section 1421(b) of the Safe Drinking Water Act (42 U.S.C. 300h(b)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) by adding at the end the following:

''(3) DISCLOSURES OF CHEMICAL CONSTITUENTS.—

''(A) IN GENERAL.—A person conducting hydraulic fracturing operations shall disclose to the State (or to the Administrator, in any case in which the Administrator has primary enforcement responsibility in a State), by not later than such deadlines as shall be established by the State (or the Administrator)—

''(i) before the commencement of any hydraulic fracturing operations at any area or a portion of a area, a list of chemicals intended for use in any underground injection during the operations (including identification of the chemical constituents of mixtures, Chemical Abstracts Service numbers for each chemical and constituent, material safety data sheets when available, and the anticipated volume of each chemical to be used); and

''(ii) after the completion of hydraulic fracturing operations described in clause

(i), the list of chemicals used in each underground injection during the operations (including identification of the chemical constituents of mixtures, Chemical Abstracts Service numbers for each chemical and constituent, material safety data sheets when available, and the volume of each chemical used).

''(B) PUBLIC AVAILABILITY.—The State (or the Administrator, as applicable) shall make available to the public the information contained in each disclosure of chemical constituents under subparagraph (A), including by posting the information on an appropriate Internet website.

''(C) IMMEDIATE DISCLOSURE IN CASE OF MEDICAL EMERGENCY.—

''(i) IN GENERAL.—Subject to clause (ii), the regulations promulgated pursuant to subsection (a) shall require that, in any case in which the State (or the Administrator, as applicable) or an appropriate treating physician or nurse determines that a medical emergency exists and the proprietary chemical formula or specific chemical

identity of a trade-secret chemical used in hydraulic fracturing is necessary for medical treatment, the applicable person using hydraulic fracturing shall, upon request, immediately disclose to the State (or the Administrator) or the treating physician or nurse the proprietary chemical formula or specific chemical identity of a trade-secret chemical, regardless of the existence of—

"(I) a written statement of need; or

"(II) a confidentiality agreement.

"(ii) REQUIREMENT.—A person using hydraulic fracturing that makes a disclosure required under clause (i) may require the execution of a written statement of need and a confidentiality agreement as soon as practicable after the determination by the State (or the Administrator) or the treating physician or nurse under that clause.

"(D) NO PUBLIC DISCLOSURE REQUIRED.—Nothing in subparagraph (A) or (B) authorizes a State (or the Administrator) to re-

quire the public disclosure of any proprietary chemical formula.''.

(b) DEFINITIONS.—Section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended by striking paragraph (1) and inserting the following:

''(1) UNDERGROUND INJECTION.—

''(A) IN GENERAL.—The term 'underground injection' means the subsurface emplacement of fluids by well injection.

''(B) INCLUSION.—The term 'underground injection' includes the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations relating to oil or gas production activities.

''(C) EXCLUSION.—The term 'underground injection' does not include the underground injection of natural gas for the purpose of storage.''.

(c) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1422 of the Safe Drinking Water Act (42 U.S.C. 300h–1) is amended by striking subsection (c) and inserting the following:

''(c) DISAPPROVAL OF A STATE PROGRAM.—

''(1) IN GENERAL.—If the Administrator disapproves a State program (or part of a program)

under subsection (b)(2) or determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the period specified in subsection (b)(1), not later than 90 days after the date of the disapproval, determination, or expiration (as applicable), the Administrator, by regulation, shall prescribe (and may from time to time by regulation revise) a program applicable to the State that meets the requirements of section 1421(b).

''(2) OTHER PROGRAM NOT IN EFFECT.—A program prescribed by the Administrator under paragraph (1) shall apply in the State to the extent that a program adopted by the State that the Administrator determines meets the requirements of clause (i) or (ii) of subsection (b)(1)(A) is not in effect.

''(3) OPPORTUNITY FOR PUBLIC HEARING.—Before promulgating any regulation under this section, the Administrator shall provide an opportunity for a public hearing with respect to the regulation.''.

(d) ENFORCEMENT OF PROGRAM.—Section 1423(c) of the Safe Drinking Water Act (42 U.S.C. 300h–2) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part, the Administrator may also issue an order under this subsection that assesses a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum administrative penalty of $125,000 or requires compliance with the regulation or other requirement, or both.''; and

(2) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively.

(e) OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS.—

(1) IN GENERAL.—Section 1425 of the Safe Drinking Water Act (42 U.S.C. 300h–4) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 1423(a)(1) of the Safe Drinking Water Act (42

U.S.C. 300h–2(a)(1)) is amended by striking ''or section 1425(c)''.

(B) Section 1443(c)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–2(c)(2)) is amended by striking the second sentence.

SEC. 302. REPORTS TO CONGRESS.

(a) FUGITIVE METHANE EMISSIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report describing the quantity of fugitive methane emissions emitted as a result of any leak in natural gas infrastructure, including recommendations for eliminating each such leak.

(b) OTHER GREENHOUSE GAS EMISSIONS.—The Administrator of the Environmental Protection Agency shall enter into an agreement with the National Academy of Sciences under which the Academy shall conduct a study, and, not later than 2 years after the date of enactment of this Act, submit to Congress a report describing—

(1) the quantity of United States greenhouse gas emissions not covered by a program under this Act (or an amendment made by this Act); and

(2) recommendations for programs to reduce emissions of those greenhouse gases.

SEC. 303. SENSE OF CONGRESS RELATING TO REDUCTION IN GREENHOUSE GAS EMISSIONS.

It is the sense of Congress that the United States should carry out activities to ensure that, by January 1, 2050, the total quantity of greenhouse gas emissions released in the United States is reduced by not less than 80 percent, as compared to the total quantity of greenhouse gas emissions released during calendar year 2005.