

Memorandum

on

The U.S. Inflation Reduction Act of 2022

August 24, 2022

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MEMORANDUM<sup>1</sup>

To: Our Friends and Clients

From: Kaamil Ansar

RE: The U.S. Inflation Reduction Act of 2022

Date: August 24, 2022

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**Background:**

The U.S. Inflation Reduction Act of 2022 (the Act or the Inflation Reduction Act) was passed by the Senate on August 7, 2022, and August 12, 2022, by the House of Representatives. The Act was signed into law by President Joseph R. Biden Jr., on August 16, 2022. It became effective on that date.

The passage of the Act, in a 220-to-207 vote in the House after almost a year and a half of, at times, contentious debate among Democrats, and unanimous Republican opposition in both the Senate and the House, delivered to President Biden the long-delayed, last component of his economic agenda originally premised on his 2020 campaign to “build back better”.<sup>2</sup>

The path to passage of the Act began soon after President Biden entered the White House. As the pandemic ravaged the U.S. economy in the spring of 2021, the

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<sup>1</sup> The Ansar Law Firm (the Firm) is not regulated by the UK Solicitors Regulation Authority (SRA). Mr. Kaamil Ansar, a partner of the Firm, is a solicitor of the senior courts of England and Wales and is regulated by the SRA.

<sup>2</sup> Tony Room, “House passes Inflation Reduction Act sending climate and health bill to Biden”, The Washington Post, August 12, 2022, <https://www.washingtonpost.com/us-policy/2022/08/12/inflation-reduction-act-house-vote/> (last accessed on August 17, 2022) [Room].

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president put forward a series of policy blueprints totalling about \$4 trillion that aimed to re-imagine the role of government in Americans' lives.

President Biden's plans left virtually no portion of the country untouched, seeking to amend tax laws, rehabilitate the nation's aging infrastructure, and spend massive sums on health care, education, and climate.

Democrats eventually adopted a \$1.9 trillion American Rescue Plan to respond to the coronavirus in March 2021, then secured bipartisan support to invest \$1.2 trillion in the nation's roads, bridges, pipes, ports and broadband connections in early November 2021 in wide ranging infrastructure legislation.<sup>3</sup>

However, deep divisions among Democrats in the months to follow over the final piece of President Biden's agenda, that targeted federal safety-net benefits and longer-term challenges such as global warming, prevented these provisions from being enacted.<sup>4</sup>

An eventual compromise was reached in recent weeks between Senator Chuck Schumer, Democrat of New York, and centrist Senator Joe Manchin III, Democrat of West Virginia, that allowed for the passage of the bill in the Senate, with a tie breaking vote by Vice President Kamala Harris.

For President Biden and the Democrats, the passage of the Act is seen as a landmark achievement as they prepare for the November mid-term elections in both the House and the Senate.

### ***I. Highlights of the Act:***<sup>5</sup>

The Act is seen as historic legislation that makes crucial investments in energy, health care, and in shoring up the nation's tax system. These investments will fight inflation and lower costs for American families while setting the stage for strong, stable, and broadly-shared long-term economic growth.

The Act represents the single biggest step to date in tackling the climate crisis.

It makes key investments to incentivize the transition to cleaner energy sources and greater efficiency.

It also invests in the current energy distribution system to make it more resilient, lowers energy costs for families, and helps protect U.S. family budgets against future shocks.

The Act will rapidly bring down health care costs for families.

It will allow Medicare to negotiate lower prices with pharmaceutical companies, reduce Medicare out-of-pocket costs for drugs, and reduce insurance costs for 13 million Americans by building on provisions in the Affordable Care Act.

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<sup>3</sup> See our memo dated December 15, 2021, sent to you separately on the U.S. Infrastructure Investment and Jobs Act 2021.

<sup>4</sup> Room, see note 2 above.

<sup>5</sup> See letter to the Congressional Leadership from a distinguished group of 126 economists, including seven Nobel laureates, two former Treasury Secretaries, two former Federal Reserve Vice-chairs, and two former Council of Economic Advisers chairs, dated August 2, 2022, <https://www.speaker.gov/newsroom/8222-4>, (last accessed August 20, 2022).

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These investments will be more than fully paid for. The revenue raised to finance them would come exclusively from wealthy individuals and corporations. Further, the revenue stems from enhanced tax enforcement and closing some of the most distortionary loopholes in the tax code.

The Act addresses some of the country's biggest challenges at a significant scale. And because it is deficit-reducing, it does so while putting downward pressure on inflation.

### **II. Key spending/tax cuts and savings/new revenue of the Inflation Reduction Act:<sup>6</sup>**

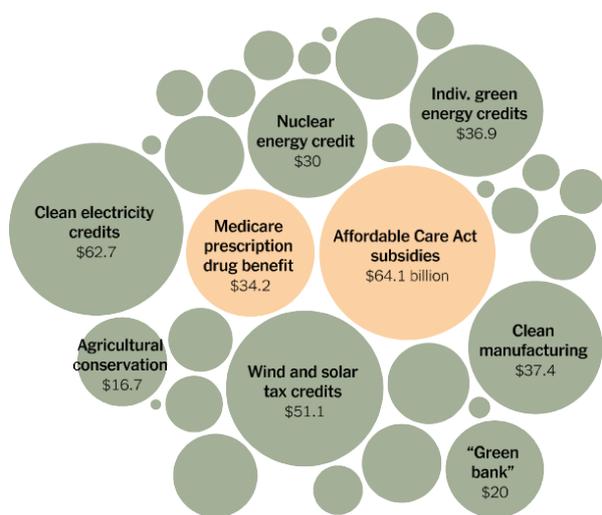
**Spending and tax cuts**

\$490 billion

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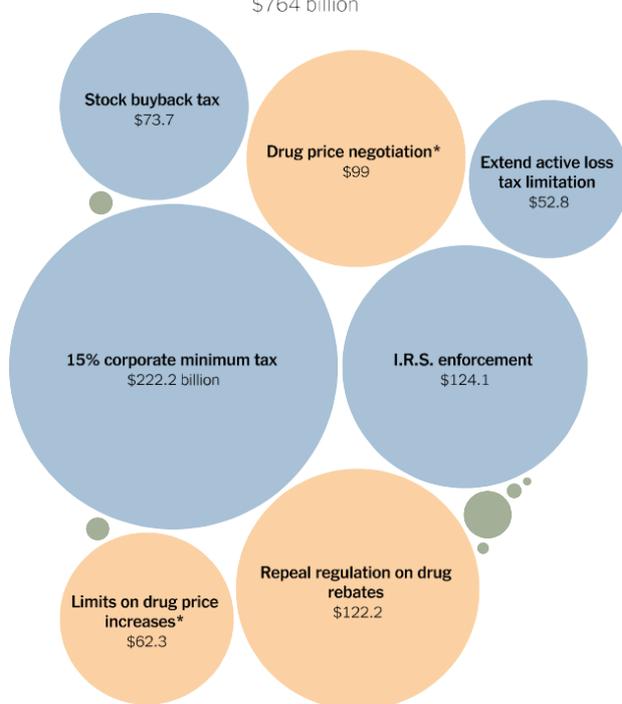
<sup>6</sup> Francesca Paris, Alicia Parlapiano, Margot Sanger-Katz and Eve Washington, "A Detailed Picture of What's in the Democrats' Climate and Health Bill", The New York Times, updated as of August 16, 2022, [A Detailed Picture of What's in the Democrats' Climate and Health Bill - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/08/16/us/politics/democrats-climate-health-bill.html) (last accessed August 20, 2022) [Paris et al.]. Figures are in billions of US Dollars over 10 years, and are rough estimates based on changes to the drug pricing provisions after cost savings and estimates were released.

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## Savings and new revenue

\$764 billion



The Act includes policies lowering the prices of prescription drugs; increasing the generosity of Medicare benefits; and encouraging the development of renewable energy and reducing the impact of climate change (see below).

It would also raise taxes on some corporations and bolster the ability of the Internal Revenue Service to crack down on wealthy tax evaders. It would lower the federal deficit.

The Act includes last-minute changes requested by Senator Kyrsten Sinema, Democrat of Arizona, the final holdout among her party's 50 senators. Democratic

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leaders agreed to remove a tax on some wealthy hedge fund managers and private equity executives, and to include \$4 billion in drought funding for her state.

### III. What's in the Inflation Reduction Act:<sup>7</sup>

Figures are in billions of US dollars over 10 years.

The following table includes everything in the Act, including prices:

#### Spending and tax cuts: \$490 billion

Health care	Cost in billions
-------------	------------------

Affordable Care Act subsidies	\$64.1
Expanded subsidies for three years	

Medicaid prescription drug benefit	\$34.2
Increased generosity through Part D redesign and a \$35 cap on co-payments for insulin	

#### Clean electricity

New tax credits for emissions-free electricity sources and storage	\$62.7
Including wind, solar, geothermal, advanced nuclear, etc.	

Extending existing tax credits for wind and solar power	\$51.1
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Tax credit for existing nuclear reactors	\$30.0
To prevent them from closing	

Extend energy credit	\$14.0
Through 2024	

Clean energy rebates and grants for residential buildings	\$9.0
Rebates for installing heat pumps and retrofitting homes	

Financing for energy infrastructure	\$6.8
Updates and expands lending programs to make energy generation and transmission more efficient	

Tax credit for carbon capture and storage	\$3.2
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Manufacturing	Cost in billions
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Clean manufacturing incentives	\$37.4
Incentives for companies to manufacture clean energy technologies in the U.S. rather than	

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<sup>7</sup> *Id.*

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abroad, through tax credits and the Defense Production Act

Reduce emissions from energy-intensive industries  
Such as concrete production \$5.3

### **Individual clean energy incentives** **Cost in billions**

Green energy credits for individuals  
Extends and increases tax credits for energy-efficient properties \$36.9

### **Clean fuel and vehicles** **Cost in billions**

Tax credits for new and used electric cars  
Incentives for purchasing emissions-free vehicles, with income limits, and for installing alternative fuelling equipment. \$14.2

Clean hydrogen production \$13.2

Fuel tax credits  
Creates new credits for low-carbon car and airplane fuels, and extends credits for biodiesel and other renewable fuels \$8.6

Financing for clean energy vehicles  
Loans and grants for the production of hybrid, electric and hydrogen fuel cell cars \$2.9

### **Air Pollution** **Cost in billions**

'Green bank' for energy investments  
For investments in clean energy projects, particularly in poor communities \$20.0

Other air pollution reduction  
Includes funding for monitoring and reducing pollution, and grants for disadvantaged neighbourhoods \$14.8

### **Conservation, rural development, and forestry** **Cost in billions**

Agricultural conservation  
Funding for agricultural practices that improve soil carbon, reduce nitrogen losses and decrease emissions \$16.7

Rural development  
Investment in clean energy technology in rural areas \$13.2

Forest conservation and restoration  
Includes funding to reduce risk of wildfires \$4.8

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### **Transportation and Infrastructure** **Cost in billions**

Improvements to federal buildings and highways \$5.2

Electric transmission  
Loans and grants to finance electricity transmission, including for offshore wind energy generation \$2.3

### **Other climate spending** **Cost in billions**

Drought resilience \$4.6

Weather and climate resilience  
Includes investment in coastal areas and weather forecasting resources \$4.6

Other federal research, projects and oversight  
Includes funding for FEMA, DHS, and DOE \$4.2

Zero-emissions U.S.P.S. trucks \$3.0

National Park Service funding  
Includes funds for climate resilience and habitat preservation \$1.0

Data collection and environmental reviews \$0.8

Other \$0.7

Tribal funding  
Clean energy electrification, drought relief and climate resilience for federally recognized tribes \$0.5

Wildlife recovery and habitat climate resilience \$0.3

### **Savings and new revenue: \$764 billion**

#### **Taxes** **Revenue in billions**

15% corporate minimum tax \$222.2

I.R.S. enforcement  
Projected net revenue raised from \$80 billion in compliance and enforcement funding \$124.1

Stock buyback tax \$73.7

Extend active loss tax limitation for two years \$52.8

#### **Health care** **Revenue in billions**

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Repeal a regulation on prescription drug rebates Savings may be on paper alone since the regulation has not gone into effect (see Paris et al, note 6 above).	\$122.2
Drug price negotiation Medicare negotiation on prices for certain drugs	\$99.0
Limits on drug price increases	\$62.3
<b>Energy and climate</b>	<b>Revenue in billions</b>
Methane reduction incentives Sets methane waste emissions thresholds and charges facilities that exceed them. Increased revenue net of new spending.	\$4.8
Reinstatement of Superfund Increased revenue net of new funding	\$1.2
Tax to fund the Black Lung Disability Trust Fund Payment extension	\$1.2
New oil and gas leases On federal land and in the Gulf of Mexico	\$0.5
Wind lease sales	\$0.2

The Act includes many key provisions that the Democrats wanted, but also exclude a number of items included in President Biden's \$1,75 trillion Build Back Better Bill passed by the House on November 19, 2021 (the Bill or Build Back Better). The Bill did not pass in the Senate due to opposition by Senators Manchin and Sinema.

Key differences between the Act and Build Back Better include the following:

- An entire set of family policies such as a generous child tax credit and paid family leave are omitted in the Act.
- Certain health policies, such as an expansion of Medicaid to give more low-income adults health insurance has been eliminated to reduce the cost of the Act.
- The climate provisions of the Act, although the most expansive ever passed by Congress, are more modest than Build Back Better – but see comments by Paul Krugman, Nobel Prize winning laureate for economics below.
- The current Act includes clean electricity incentives that are comparable in size to those in Build Back Better, but scales back spending in almost every other category, from transportation to climate resilience.
- Some proposed investments from Build Back Better such as lead remediation, work force development such as a Civilian Climate Corps, and electric bicycle tax credits - did not make it into the Act.

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- The one major exception is manufacturing: Compared with Build Back Better, the Act marks a significant increase in grants, loans, and tax credits to manufacture clean energy technology domestically.
- However, the Act also pairs new climate spending with several major concessions to the fossil fuel industry at the request of Senator Manchin whose support was necessary to advance the Act.
- Senator Manchin also secured a promise from Democratic leaders to vote on a separate measure to speed up the permit process for energy infrastructure, potentially smoothing the way for projects like a gas pipeline in West Virginia.

### IV. *Here's how the Act compares with the much larger Build Back Better.*<sup>8</sup>

Figures are in billions of US dollars and over 10 years.

<b>Spending and tax cuts</b>	<b>Inflation Reduction Act</b> In billions of US dollars	<b>Build Back Better</b> In billions of US dollars
<b>Energy and climate</b>	\$392	\$570
Tax credits and new spending		
<b>Health care</b>		
Home health care through Medicaid	-	\$150
Expanded subsidies for Affordable Care Act health insurance	\$64	\$130
New Medicare health benefit	-	\$35
Increased generosity in Medicaid's prescription drug benefit	\$34	-
Health care work force spending	-	\$25
<b>Family benefits</b>		
New childcare program (6 years)	-	\$270

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<sup>8</sup> See Paris et al, note 6 above.

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<b>Spending and tax cuts</b>	<b>Inflation Reduction Act</b> In billions of US dollars	<b>Build Back Better</b> In billions of US dollars
Four weeks of annual federal paid family and medical leave	-	\$205
Universal preschool for 3- and 4-olds (6 years)	-	\$110
<b>Individual tax cuts</b>		
Child tax credit increase for one year; fully refundable after 2022		\$190
Expanded earned-income tax credit extended for one year	-	\$15
Other tax charges	-	\$10
<b>Other</b>		
Build and support affordable housing	-	\$175
Immigration reform	-	\$110
Other spending	-	\$115
Higher education and work force	-	\$40
<b>Total</b>	<b>\$490 billion</b>	<b>\$2.15 trillion</b>
<b>Savings and new revenue</b>	<b>Inflation Reduction Act</b> In billions of US dollars	<b>Build Back Better</b> In billions of US dollars
<b>Health care</b>		
Negotiation of certain drug prices and limit price increases	\$162	\$160
Repeal a regulation on prescription drug rebates	\$122	\$145
Adjustments to uncompensated care pools	-	\$20
<b>Corporate taxes</b>		
15% corporate minimum tax	\$222	\$320

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<b>Spending and tax cuts</b>	<b>Inflation Reduction Act</b> In billions of US dollars	<b>Build Back Better</b> In billions of US dollars
Stock buyback tax	\$74	\$125
15 percent global minimum tax and international taxation reforms	-	\$280
Other	-	\$105
<b>Individual taxes</b>		
Expand the net investment income tax	-	\$250
Surtax on income above \$10 million	-	\$230
Extension of limits on excess losses of noncorporate taxpayers	\$53	\$160
Increase state and local tax deduction cap through 2025	-	\$15
<b>Other revenue</b>		
I.R.S. enforcement	\$124	\$130
Methane fee, Superfund fee and other revenue	\$8	\$50
<b>Total</b>	<b>\$764 billion</b>	<b>\$2 trillion</b>

### V. *The impact of the Inflation Reduction Act on Americans – The White House analysis:*<sup>9</sup>

Here is the impact of the Act on Americans by the numbers according to The White House:

#### A. *Healthcare:*

*Cutting Prescription Drug Cost:*

- Today, Americans pay **two to three** times what citizens of other countries pay for prescription drugs.

<sup>9</sup> By the Numbers – The Inflation Reduction Act of 2022, The White House Briefing Room, August 15, 2022, [the inflation reduction act 2022 - the white house - Search \(bing.com\)](#) (last accessed August 17, 2022) [The White House Briefing.]

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- **5-7 million** Medicare beneficiaries could see their prescription drug costs go down because of the provision allowing Medicare to negotiate prescription drug costs.
- **50 million** Americans with Medicare Part D will have the peace of mind knowing their costs at the pharmacy are capped at **\$2,000** per year, directly benefiting about **1.4 million** beneficiaries each year.
- **3.3 million** Medicare beneficiaries with diabetes will benefit from a guarantee that their insulin costs are capped at \$35 for a month's supply.

### *Lowering Health Care Costs*

- **13 million** Americans will continue to save an average of **\$800** per year on health insurance premiums.
- **3 million** more Americans will have health insurance than without the law.
- The uninsured rate is at an all-time low of 8%, which the historic law will build on.

### *Defeating Special Interests*

- **\$187 million:** The amount the pharmaceutical industry has spent on lobbying in 2022.
- **1,600:** number of lobbyists the pharmaceutical companies had in 2021 - three times the number of Members of Congress.
- **33 years:** the amount of time Congressional Democrats have been trying to lower prescription drug costs by allowing Medicare to negotiate drug prices.
- **19 years:** number of years Medicare has been blocked from negotiating prescription drug costs.

### ***B. Clean Energy***

#### *Lowering Energy Costs*

- Families that take advantage of clean energy and electric vehicle tax credits will save more than **\$1,000** per year.
- **\$14,000** in direct consumer rebates for families to buy heat pumps or other energy efficient home appliances, saving families at least **\$350** per year.
- **7.5 million** more families will be able install solar on their roofs with a **30%** tax credit, saving families **\$9,000** over the life of the system or at least **\$300** per year.
- Up to **\$7,500** in tax credits for new electric vehicles and \$4,000 for used electric vehicles, helping families save **\$950** per year.

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- Putting America on track to meet President Biden's climate goals will save every family an average of **\$500** per year on their energy costs.

### *Building a Clean Energy Economy*

- Power homes, businesses, and communities with much more clean energy by 2030, including:
  - **950 million** solar panels
  - **120,000** wind turbines
  - **2,300** grid-scale battery plants
- Advance cost-saving clean energy projects at rural electric cooperatives serving **42 million** people.
- Strengthen climate resilience and protect nearly **2 million** acres of national forests.
- Creating **millions** of good-paying jobs making clean energy in America.

### *Reducing harmful pollution*<sup>10</sup>

- Reduce greenhouse gas emissions by about 1 gigaton in 2030, or a billion metric tons - 10 times more climate impact than any other single piece of legislation ever enacted.<sup>11</sup>
- Deploy clean energy and reduce particle pollution from fossil fuels to avoid up to **3900** premature deaths and up to **100,000** asthma attacks annually by 2030.

### **C. Taxes**

#### *Making the Tax Code Fairer*

- **\$0**: how much some of largest, profitable corporations pay in federal income tax.
- **55**: the number of America's largest, wealthiest corporations that got away without paying a cent in federal income taxes in 2020.
- **\$160 billion**: how much the top 1 percent of earners is estimated to evade each year in taxes.

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<sup>10</sup> *Id.*

<sup>11</sup> In total, the Act provides that climate-related spending will reduce emissions by 40 percent below 2005 levels by the end of the decade. See Room, note 2 above.

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- **15%:** the minimum tax on corporate profits the Inflation Reduction Act imposes on the largest, most profitable corporations.
- **\$124 billion:** savings over 10 years the Inflation Reduction Act will generate from collecting taxes already owed by wealthy people and large corporations, according to the Congressional Budget Office.
- And no family making less than \$400,000 will see their taxes go up a penny.

### *D. Reducing the Deficit*

- The Inflation Reduction Act will achieve **hundreds of billions** in deficit reduction.
- The deficit is projected to **fall** by more than **\$1.5 trillion** this year after falling by more than **\$350 billion** last year.
- **126** leading economists, referred to above, have said reducing the deficit will help fight inflation and support strong, stable economic growth.<sup>12</sup>

### *VI. The Republican view:*

Republicans have denounced the Act as a giant tax increase and a major expansion of government spending. But a New York Times analysis suggests that it is neither of those things.<sup>13</sup>

### *VII. How the renewable energy industry may be impacted by the Act:*

These are some of the provisions of the Act that may impact the renewable energy industry:<sup>14</sup>

- Investment Tax Credit (ITC) under section 48 of the Internal Revenue Code (the Tax Code) receives an extension through 2024. After 2024, there would be a transition to technology-neutral credits.
- ITC and Production Tax Credit (PTC) will be determined using a "base" rate and then a five times multiplier if the project meets prevailing wage and apprenticeship requirements. These are new concepts in the Tax Code. The new ITC base rate will be 6%, and the multiplier will increase it to 30%. The new PTC base rate will be 0.3 cents/kwh and the multiplier will increase it to 1.5 cents/kwh. The prevailing wage and apprenticeship requirements will be deemed satisfied (meaning that ITC and PTC will benefit from these multipliers) for all projects that start construction before the date that is 60 days after the U.S. Treasury Department

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<sup>12</sup> See note 4 above.

<sup>13</sup> Andrew Ross Sorkin, Vivian Giang, Stephen Gandel, Lauren Hirsch, Ephrat Livni and David F. Gallagher, "Doing the Math on the Inflation Reduction Act, New York Times, August 4, 2022, <https://www.nytimes.com/2022/08/02/business/dealbook/inflation-reduction-act-analysis.html> (last accessed August 20, 2022).

<sup>14</sup> John Eliason and Braxton T. Roam, "How the Inflation Reduction Act May Impact the Renewable Energy Industry", The National Law Review, August 16, 2022, [What is the Impact of the Inflation Reduction Act on Energy \(natlawreview.com\)](https://www.natlawreview.com/article/how-the-inflation-reduction-act-may-impact-the-renewable-energy-industry) (last accessed August 21, 2022).

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issues guidance interpreting these new concepts.

- An option to take the PTC under section 45 of the Tax Code for solar (and other ITC-eligible energy properties) will become available.
- Standalone energy storage is added to the ITC and a normalization opt-out is included.
- Clean hydrogen will benefit from a PTC.
- A new advanced production manufacturing credit provides an incentive to manufacture solar components in the United States after 2022. The advanced production manufacturing credit includes components for thin film photovoltaic cells, crystalline photovoltaic cells, photovoltaic wafers, solar grade polysilicon, solar modules, wind energy components, battery cells and modules, polymeric backsheets, and critical minerals, among others. These provisions closely align with Senator Jon Ossoff's, Democrat of Georgia Solar Energy Manufacturing for America (SEMA) Act that the solar industry largely supported.
- Interconnection costs for projects under 5 MW will be subject to the ITC.
- While transmission ITC was not included in the Act, there are provisions to boost transmission.
- Bonus 10% ITC or PTC credits will be available if the project meets domestic content requirements.
- Bonus 10% ITC or PTC credits will be available for siting projects in communities where a coal mine has closed or where a coal-fired electric generating unit has been retired (defined as "energy communities" in the Act).
- For the first time, taxpayers have an option to transfer many of the energy-related tax credits included in the Tax Code to an unrelated party. All payments provided for the transfer of these tax credits must be made in cash and the Act includes penalties for excessive payments.
- An option for "Direct Pay" is included in the Act, but it generally is not available to taxable entities. Other than for projects qualifying for the new clean hydrogen credit, carbon-capture credit, and the advanced manufacturing production credit, direct pay generally is available to all taxpayers.
- The Act appropriates \$2.8 billion for Environmental and Climate Justice Block grants to develop air and other pollution monitoring, prevention, and remediation, and investments in low- and zero-emission technologies, to mitigate climate and pollution effects, and to facilitate engagement of low-income and disadvantaged communities in state and federal permitting and rulemaking processes.
- Nearly \$13.3 billion for farm bill energy title programs to improve rural electric systems.

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## ***VIII. A more detailed review of the Act's provisions:***<sup>15</sup>

### TITLE I--COMMITTEE ON FINANCE

#### Subtitle A--Deficit Reduction

##### Part 1--Corporate Tax Reform

The Act imposes an alternative minimum tax of 15% of the average annual adjusted financial statement income of domestic corporations (excluding Subchapter S corporations, regulated investment companies, and real estate investment trusts) that exceeds \$1 billion over a specified 3-year period. The tax is effective in taxable years beginning after December 31, 2022.

##### Part 2--Excise Tax on Repurchase of Corporate Stock

The Act imposes a 1% excise tax on the fair market value of stock repurchased by a domestic corporation after 2022, with certain exceptions.

##### Part 3--Funding the Internal Revenue Service and Improving Taxpayer Compliance

The Act provides additional funding of \$80 billion for the Internal Revenue Service for taxpayer services and enforcement, including for operations support, business systems modernization, and the development of a free direct e-file tax return system. It also provides additional funding for the Department of the Treasury Inspector General for Tax Administration, the Office of Tax Policy, the Tax Court, and Treasury departmental offices.

#### Subtitle B--Prescription Drug Pricing Reform

##### Part 1--Lowering Prices Through Drug Price Negotiation

The Act requires the Centers for Medicare & Medicaid Services (CMS) to negotiate the prices of certain prescription drugs under Medicare beginning in 2026. Specifically, the CMS must negotiate maximum prices for brand-name drugs that do not have other generic equivalents and that account for the greatest Medicare spending.

The CMS must negotiate the prices of 10 drugs in 2026, 15 drugs in 2027 and 2028, and 20 drugs in 2029 and each year thereafter. Drug manufacturers that fail to comply with negotiation requirements are subject to civil penalties and excise taxes.

The Act provides funds for FY2022 for the CMS to implement this program.

##### Part 2--Prescription Drug Inflation Rebates

In addition, the Act requires drug manufacturers to issue rebates to the CMS for brand-name drugs without generic equivalents under Medicare that cost \$100 or more per year per individual and for which prices increase faster than inflation. Manufacturers that fail to comply are subject to civil penalties.

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<sup>15</sup> See H.R. 5376, Inflation Reduction Act of 2022, Congress.Gov, presented to President August 15, 2022, and signed into law by the President on August 16, 2022.

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The Act provides funds through FY2031 for the CMS to implement the rebate programs.

### **Part 3--Part D Improvements and Maximum Out-of-Pocket Cap for Medicare Beneficiaries**

The Act eliminates beneficiary cost-sharing above the annual out-of-pocket spending threshold under the Medicare prescription drug benefit beginning in 2024 and caps annual out-of-pocket spending at \$2,000 in 2025 (with annual adjustments thereafter). It also establishes a program under which drug manufacturers provide discounts to beneficiaries who have incurred costs above the annual deductible beginning in 2025.

The Act provides funds through FY2031 for the CMS to implement these changes and requirements.

The Act also establishes a process through which certain beneficiaries may have their monthly out-of-pocket costs capped and paid in monthly installments beginning in 2025; it provides funds for FY2023 for the CMS to implement this process.

### **Part 4--Continued Delay of Implementation of Prescription Drug Rebate Rule**

The Act further delays until 2032 implementation of a Department of Health and Human Services rule relating to the treatment of certain Medicare prescription drug benefit rebates from drug manufacturers for purposes of federal anti-kickback laws.

### **Part 5--Miscellaneous**

The Act establishes a series of additional programs and requirements relating to coverage under the Medicare prescription drug benefit and other programs.

For example, the Act eliminates cost-sharing under the Medicare prescription drug benefit for adult vaccines that are recommended by the Advisory Committee on Immunization Practices. It also requires coverage, without cost-sharing, of such vaccines under Medicaid and the Children's Health Insurance Program (CHIP).

In addition, the Act caps cost-sharing under the Medicare prescription drug benefit for a month's supply of covered insulin products at (1) for 2023 through 2025, \$35; and (2) beginning in 2026, \$35, 25% of the government's negotiated price, or 25% of the plan's negotiated price, whichever is less. The Act provides funds for FY2022 for the CMS to implement these provisions.

### **Subtitle C--Affordable Care Act Subsidies**

The Act extends through 2025 certain adjustments and expansions of the premium tax credit, including to allow taxpayers with income above 400% of the federal poverty line to qualify for the credit.

### **Subtitle D--Energy Security**

The Act modifies and extends through 2024 tax credits (1) for producing electricity from renewable resources, specifically for wind, biomass, geothermal and solar, landfill gas, trash, qualified hydropower, and marine and hydrokinetic resources; (2) for investment in certain energy properties (e.g., solar, fuel cells, waste energy recovery, combined heat and power, small wind property, and microturbine property); and (3) for alternative fuels and fuel mixtures, and biodiesel and renewable diesel.

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The Act creates new tax credits for (1) qualifying zero-emission nuclear power produced and sold after 2023, (2) the sale or mixture of sustainable aviation fuel beginning in 2023, (3) the production of clean hydrogen, (4) the production of clean electricity and for investment in zero-emissions electricity generation facilities or energy storage technology, (5) domestic clean fuel production beginning in 2025, and (6) the domestic production and sale of qualifying solar and wind components.

The Act modifies and extends through 2032 (1) the tax credit for non-business energy property and increases its rate to 30%, with certain limitations; (2) the new energy efficient home credit; and (3) the tax credit for alternate fuel refuelling property expenditures.

The Act modifies requirements for the tax deduction for energy efficient commercial buildings.

The Act creates a new credit for commercial clean vehicles and modifies the refundable tax credit for the purchase of plug-in electric vehicles and previously-owned electric vehicles.

The Act permanently reinstates the Hazardous Substance Superfund financing rate for certain excise taxes, including the excise tax on domestic crude oil and imported petroleum products at the rate of 16.4 cents per barrel in 2023, adjusted annually for inflation.

The Act makes permanent the increased rate of the coal excise tax for funding the Black Lung Disability Trust Fund.

The Act increases the amount of the research tax credit that may be applied against the payroll tax liabilities of certain small businesses.

The Act reinstates the current suspension until 2025 of the tax deduction for state and local taxes and extends the limitation on excess business losses of noncorporate taxpayers.

### **TITLE II--COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

#### **Subtitle A--General Provisions**

The Act provides funding to the Department of Agriculture (USDA) for a variety of programs related to conservation and renewable energy.

#### **Subtitle B--Conservation**

Specifically, the Act provides funding to USDA for voluntary conservation programs, such as the environmental quality incentives program, the conservation stewardship program, the agricultural conservation easement program, and the regional conservation partnership program.

It also provides funding to USDA's Natural Resources Conservation Service for (1) conservation technical assistance; and (2) a program to quantify carbon sequestration and carbon dioxide, methane, and nitrous oxide emissions.

#### **Subtitle C--Rural Development and Agricultural Credit**

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In addition, the Act provides funding to USDA for several programs, such as the Rural Energy for America Program, that support the generation, storage, and use of renewable energy in rural communities.

### Subtitle D—Forestry

The Act also provides funding to USDA for the National Forest System, including funding for forest restoration, wildfire prevention, and related activities. Further, the Act provides funding to USDA for programs that award grants to owners of state or private forests for climate mitigation, forest resilience, or related activities.

### TITLE III--COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Act provides additional funding for the President to carry out activities under the Defense Production Act of 1950. That act confers on the President a broad set of authorities to influence domestic industry in order to provide essential materials and goods for the national defense.

In addition, the Act provides funding to the Department of Housing and Urban Development for loans and grants to fund projects that address affordable housing and climate change issues, such as projects designed to increase the energy or water efficiency of affordable housing.

### TITLE IV--COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Act provides funding for coastal communities, coastal and marine habitats, weather forecasting, and aviation technology.

For example, the Act provides funding to the National Oceanic and Atmospheric Administration (NOAA), including funding for

- coastal communities so they can prepare for extreme storms and other changing climate conditions,
- NOAA facilities (e.g., fisheries laboratories and national marine sanctuaries facilities),
- weather research and forecasting innovations, and
- acquiring a hurricane hunter aircraft.

In addition, the Act provides funding to the Department of Transportation for a program that awards grants for projects that (1) produce, transport, blend, or store sustainable aviation fuel; or (2) develop, demonstrate, or apply low-emission aviation technologies.

### TITLE V--COMMITTEE ON ENERGY AND NATURAL RESOURCES

#### Subtitle A--Energy

##### Part 1--General Provisions

The Act provides funding to the Department of Energy (DOE) for a variety of programs concerning energy rebates, energy efficiency in buildings, electric transmissions, advanced industrial facilities, and other energy matters.

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## Part 2--Residential Efficiency and Electrification Rebates

For example, the Act provides funding to DOE for a HOMES rebate program that awards grants to state energy offices. Under the program, states must provide rebates to homeowners and aggregators for certain whole-house energy saving retrofits made for low- and moderate-income households.

In addition, funding is provided to DOE for a high-efficiency electric home rebate program that awards grants to state energy offices and Indian tribes. Under the program, rebates must be given for qualified electrification projects in low- or moderate-income households.

## Part 3--Building Efficiency and Resilience

The Act also provides funding to DOE for grants to states and local governments to adopt and implement building codes for (1) residential buildings that meet or exceed the 2021 International Energy Conservation Code, or (2) commercial buildings that meet or exceed the ANSI/ASHRAE/IES Standard 90.1--2019.

## Part 4--DOE Loan and Grant Programs

The Act provides funding for specified DOE loan programs, including

- certain loans issued under the Energy Policy Act of 2005;
- loans for facilities that manufacture advanced vehicles that emit either a low amount of or no amount of greenhouse gas emissions; and
- loans for the domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and hydrogen fuel cell electric vehicles.

The Act also provides funding to support financing of energy infrastructure projects, including projects to replace non-operational energy infrastructure or reduce the emissions of energy infrastructure.

## Part 5--Electric Transmission

The Act provides funding to DOE for a program that provides loans for the construction or modification of electric transmission facilities that are located within a national interest electric transmission corridor.

Further, DOE is authorized to make grants to facilitate the siting of interstate electricity transmission lines.

In addition, the Act provides funding to DOE for interregional and offshore wind electricity transmission planning, modeling, and analysis.

## Part 6--Industrial

The Act also provides funding for DOE's Office of Clean Energy Demonstrations to carry out the advanced industrial facilities deployment program. Under the program, the office must deploy advanced industrial technology to accelerate the reduction and elimination of greenhouse gas emissions at industrial facilities.

## Part 7--Other Energy Matters

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In addition, the Act provides funding for other energy matters, such as infrastructure projects for DOE's national laboratories as well as efforts to increase the availability of high-assay low-enriched uranium, a fuel used in advanced nuclear reactors.

### Subtitle B--Natural Resources Part 1--General Provisions

The Act provides funding for natural resources, water supplies, the Office of Insular Affairs, leases to develop energy on federal land, and other related issues.

### Part 2--Public Lands

The Act provides funding to the Department of Interior (Interior) to carry out projects for (1) the conservation, protection, and resiliency of lands and resources administered by the National Park Service (NPS) and the Bureau of Land Management (BLM); and (2) conservation and ecosystem and habitat restoration projects on lands administered by the NPS and the BLM.

It also provides funding to the NPS to hire more employees and carry out priority deferred maintenance projects.

### Part 3--Drought Response and Preparedness

The Act provides funding to the BLM for water supply projects, projects to cover water conveyance facilities with solar panels, and drought mitigation in western states.

### Part 4--Insular Affairs

The Act provides funding to the Department of Interior's (Interior) Office of Insular Affairs. The office must use the funding to provide technical assistance for climate change planning, mitigation, adaptation, and resilience to United States Insular Areas (i.e., American Samoa, Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands).

### Part 5--Offshore Wind

The Act provides for the lease of federal land in the Outer Continental Shelf (OCS) for offshore wind development. Specifically, Interior may issue leases, easements, and rights-of-way in the OCS to produce, transport, store, or transmit energy from sources other than oil and gas (e.g., offshore wind energy sources) in land areas previously withdrawn from leasing.

The Act (1) expands the definition of the OCS to include land that is within the U.S. exclusive economic zone and adjacent to any territory of the United States, and (2) allows Interior to conduct wind lease sales that are in such areas if the leases meet specified criteria.

### Part 6--Fossil Fuel Resources

In addition, the Act modifies several provisions related to oil and gas leasing on public lands. For example, it increases the minimum royalty rates for oil and gas leases on federal land as well as offshore land in the OCS. It also increases rental rates and minimum bidding standards for onshore oil and gas leases and establishes a new fee that must be paid by any person who nominates public lands for such leasing. Further, it

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requires royalties to be paid for methane gas extracted from federal lands, including offshore lands as specified by the Act.

### Part 7--United States Geological Survey

The Act provides funding for the United States Geological Survey to produce, collect, disseminate, and use 3D elevation data.

### Subtitle C--Environmental Reviews

The Act provides funding to DOE, the Federal Energy Regulatory Commission, and Interior for environmental reviews as specified under the Act.

## TITLE VI--COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

### Subtitle A--Air Pollution

The Act provides funding to the Environmental Protection Agency (EPA) to establish a greenhouse gas reduction fund and to support several programs that provide financial incentives to reduce greenhouse gas emissions and other air pollution emissions.

For example, the Act provides incentives to

- replace eligible medium-duty vehicles (e.g., school buses) and heavy-duty vehicles (e.g., garbage trucks) with zero-emission vehicles,
- purchase or install equipment and technology to reduce pollution at ports,
- identify and reduce emissions from diesel engines,
- monitor air pollution and greenhouse gases,
- encourage states to adopt and implement greenhouse gas and zero-emission standards for mobile sources, and
- reduce methane emissions from petroleum and natural gas systems.

The Act also provides funding to implement the renewable fuels programs and the American Innovation and Manufacturing Act.

### Subtitle B--Hazardous Materials

In addition, the Act provides funding to the EPA for environmental and climate justice block grants that benefit disadvantaged communities.

### Subtitle C--United States Fish and Wildlife Service

The Act provides funding to the United States Fish and Wildlife Service (USFWS) to develop and implement recovery plans for the conservation and survival of endangered species and threatened species.

It also provides funding to USFWS to rebuild and restore units of the National Wildlife Refuge System and state wildlife management areas by (1) addressing the threat of invasive species, (2) increasing the resiliency and capacity of habitats and infrastructure to withstand weather events, and (3) reducing the amount of damage caused by weather events.

### Subtitle D--Council on Environmental Quality

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The Act provides funding to the Council on Environmental Quality, including funding for (1) collecting data related to environmental and climate issues, (2) tracking disproportionate burdens and cumulative impacts, and (3) supporting efforts to ensure that any mapping or screening tool is accessible to community-based organizations and community members.

### Subtitle E--Transportation and Infrastructure

The Act provides funding to the Federal Highway Administration and to the General Services Administration.

Specifically, it provides funding to the Federal Highway Administration for the neighbourhood access and equity grant program, the environmental review of transportation projects, and grants for the use of low-carbon construction materials and products on federally funded transportation projects.

In addition, it provides funding to the Federal Building Fund for (1) converting and constructing federal facilities to high-performance green buildings, (2) acquiring and installing low-carbon materials and products in the construction of federal buildings, and (3) emerging and sustainable technologies as well as related sustainability and environmental programs.

### TITLE VII--COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

The Act provides funding for the oversight of the act as well as a variety of environmental programs, such as funding to:

- the Department of Homeland Security for implementing sustainability and environmental programs,
- the U.S. Postal Service for purchasing zero-emission delivery vehicles and installing related infrastructure, and
- the Federal Emergency Management Agency so it may provide assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act for costs associated with low-carbon building materials as well as incentives that encourage low- carbon and net-zero energy projects.

### TITLE VIII--COMMITTEE ON INDIAN AFFAIRS

The Act provides funding to assist Indian tribes address climate change, including funding to the Bureau of Indian Affairs and the Office of Native Hawaiian Relations for

- climate resilience and adaptation programs,
- the Bureau of Indian Affairs for a tribal electrification program, and
- the BLM for providing emergency drought relief to Indian tribes located in the western United States.

### **IX. Concluding Observations:**

Paul Krugman, columnist for the New York Times, and a Nobel Prize winning laureate for economics has written as follows in late 2021: “Reducing our dependence on fossil fuels wouldn’t just reduce emissions of greenhouse gases, it would also reduce other forms of

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pollution, notably nitrogen oxides and sulfur, that have negative effects on death rates, illness, and crop yields.”<sup>16</sup>

Like fellow Nobel Prize winning laureate for economics, Joseph Stiglitz,<sup>17</sup> Krugman believes the passage of the Act will be a huge step in the right direction, partially because it opens up possibilities for the future:<sup>18</sup>

- It will catalyze progress in green technology.
- Its economic benefits will make passing additional legislation easier.
- It gives the US the credibility it needs to lead a global effort to limit greenhouse gas emissions.

Krugman explains, energy analysts believe that any adverse climate effect from these concessions will be more than offset by gains from tax credits for clean energy.<sup>19</sup>

The REPEAT Project<sup>20</sup>, which provides independent environmental and economic evaluation of federal energy and climate policies as they’re proposed and enacted, offers a side-by-side comparison of emissions cuts under the Act and Build Back Better.<sup>21</sup>

The Repeat Project has calculated that, by 2035, the Act will produce more than 90% of the emissions reductions that Build Back Better would have achieved.

Krugman concludes that Biden’s climate policy has emerged essentially intact.

The Biden administration chose to articulate its climate policy in positive incentives to do the right thing, not penalties for doing the wrong thing. Krugman says this strategy has “been vindicated,” as it’s politically feasible in a way that another approach, such as implementing a carbon tax, wouldn’t have been.

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<sup>16</sup> Paul Krugman, The Bogus Bashing of Build Back Better, New York Times, December 13, 2021, [Opinion | The Bogus Bashing of Build Back Better - The New York Times \(nytimes.com\)](https://www.nytimes.com/2021/12/13/opinion/build-back-better.html), (last accessed December 23, 2022).

<sup>17</sup> Steve Hanley, “Nobel Laureate Joseph Stiglitz Praises Inflation Reduction Act”, CleanTechnica, August 11, 2022, [Nobel Laureate Joseph Stiglitz Praises Inflation Reduction Act - CleanTechnica](https://cleantechnica.com/2022/08/11/nobel-laureate-joseph-stiglitz-praises-inflation-reduction-act/),

<sup>18</sup> Paul Krugman, Can Inflation Reduction Save the Planet? The New York Times, August 1, 2022, [Opinion | Can Inflation Reduction Save the Planet? - The New York Times \(nytimes.com\)](https://www.nytimes.com/2022/08/01/opinion/inflation-reduction-planet.html) (last accessed August 23, 2022), [Krugman].

<sup>20</sup> Jenkins, J.D., Mayfield, E.N., Farbes, J., Jones, R., Patankar, N., Xu, Q., Schivley, G., “Preliminary Report: The Climate and Energy Impacts of the Inflation Reduction Act of 2022,” REPEAT Project, Princeton, NJ, August 2022 [the Repeat Project].

<sup>21</sup> Carolyn Fortuna, “Paul Krugman: The Inflation Reduction Act Is “A Very Big Deal” For The Climate”, CleanTechnica, August 12, 2022, <https://cleantechnica.com/2022/08/12/paul-krugman-the-inflation-reduction-act-is-a-very-big-deal-for-the-climate/> (last accessed August 23, 2022), [Fortuna].

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Citing an August 2022 study of green energy jobs,<sup>22</sup> Krugman summarizes the authors' findings: "The growth of renewable energy leads to the creation of high paying jobs,<sup>23</sup> which are more often than not located in areas that stand to lose from a decline in fossil fuel extraction jobs." Today's transition to a low-carbon, resource-efficient economy requires systemic changes that will result not only in new products and services but also in changes in production processes, business models, skills required, and tasks involved in existing occupations. Green jobs will foster green skills — those attributes that comprise the knowledge, abilities, values, and attitudes needed to live in, develop, and support a sustainable and resource-efficient society.<sup>24</sup>

The title of the original Krugman *New York Times* opinion piece poses the question, "*Did Democrats Just Save Civilization?*"<sup>25</sup>

With sweeping potential for good job creation, turbocharging renewable energy investment, and tools to mitigate climate change, Democrats have delivered on their climate promises, "more or less in full," Krugman argues.

Some of the funding aimed at consumers is set forth above in "Part III, What's in the Inflation Reduction Act"?, and includes the following:

- \$9 billion in home energy rebate programs to help people electrify their home appliances and for energy-efficient retrofits, with a focus on low-income consumers
- 10 years of consumer tax credits to make heat pumps, rooftop solar, electric HVAC, and water heaters more affordable, which make homes more energy efficient
- \$4,000 in consumer tax credits for lower- and middle-income individuals who buy used electric vehicles and up to \$7,500 tax credits for new EVs
- \$1 billion grant program to make affordable housing more energy efficient

Krugman concludes that "the world is a more hopeful place than it was just a few weeks ago."<sup>26</sup>

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<sup>22</sup> E. Mark Curtis and Ioana Marinascu, "Green Energy Jobs in the US: What Are They, and Where Are They? National Bureau of Economic Research, August 2022, <https://www.nber.org/papers/w30332> (last accessed August 23, 2022).

<sup>23</sup> Carolyn Fortuna, CleanTechnica, "Green Jobs and the Global Skills Gap", January 3, 2022, [Green Jobs & The Global Skills Gap - CleanTechnica](#), (last accessed August 23, 2022).

<sup>24</sup> Carolyn Fortuna, CleanTechnica, July 7, 2022, "I Want My Child To Grow Up To Be A Doctor, Lawyer — Or Environmental Economist!", [I Want My Child To Grow Up To Be A Doctor, Lawyer - Or Environmental Economist! - CleanTechnica](#), (last accessed August 23, 2022).

<sup>25</sup> See Krugman note 18 above.

<sup>26</sup> *Id.*