

POLICY STUDY

THE HIGH COSTS OF

CLIMATE SCAMS

Assessing the Green
Giveaways in the
Inflation Reduction
Act



Timothy Benson is a policy analyst at The Heartland Institute and Heartland Impact. Benson's work has appeared in dozens of national media outlets, including *Investor's Business Daily*, *National Review Online*, *The Spectator*, *The Hill*, *The Washington Times*, *The Washington Examiner*, *Crain's Chicago Business*, *The Miami Herald*, *The Sun Sentinel*, *The American Spectator*, *Real Clear Policy*, *The Federalist*, and many others, as well as in newspapers throughout the country. He is the author of the Heartland *Policy Brief* "Education Savings Accounts: The Future of School Choice Has Arrived," co-author of the Heartland *Policy Brief* "Saving Chicago Students: Strike Vouchers and SOS Accounts," co-author of the book, *Child Safety Accounts: Combating Student Bullying and School Violence by Empowering Parents*, and the author of hundreds of Heartland *Research & Commentaries*.

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3939 N. Wilke Road, Arlington Heights, IL, 60004

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Introduction

The Inflation Reduction Act (IRA) was passed by Congress and signed into law by President Joe Biden on August 16, 2022, but the contents of the legislation are contradictory to its stated purpose. The real point of the IRA is the creation of an enormous renewable energy slush fund, paid for by deficit spending. The lion's share of that spending comes in the form of tax credits to "green" energy sources such as wind and solar power, battery storage, and electric vehicle (EV) purchases. The IRA also directs substantial funding and subsidies for "environmental justice" initiatives and green lobbying groups, many of which are sketchy, newly formed entities.

After its enactment into law, President Joe Biden acknowledged the IRA had "nothing to do with inflation."¹ Rather, the green subsidies contained in the bill, which the Biden administration said would total \$369 billion, amounted to what they described as "the most significant action...taken on clean energy and climate change in the nation's history."² Since then, however, the price tag on these tax credits has increased substantially, with a wide range of predictions for how much they will ultimately cost. All credible estimates are significantly more than the Biden administration initially claimed, including one that puts the actual cost as high as \$1.8 trillion.

For instance, in September 2022, the Congressional Budget Office (CBO) estimated the green energy spending in the IRA to be \$392 billion, not \$369 billion as the Biden administration claimed. This spending includes, to name some examples, investment and production tax credits for "clean"

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energy storage, carbon capture and sequestration, a tax credit for nuclear power production, credits for the production of "clean" fuels, a tax credit for electric vehicles, credits for manufacturing facility retrofitting, and direct expenditures on agriculture and forestry conservation programs, energy efficiency programs, industrial decarbonization projects, and the EPA's Greenhouse Gas Reduction Fund.

The best way to eliminate the IRA's enormous and wasteful subsidies would be a total and complete federal repeal of the IRA. Barring congressional repeal, which is a heavy lift even with Republican control of the Senate and House of Representatives, there are still a few ways in which state legislators can indirectly push back against these IRA subsidies and programs. While the states on their own may not be able to fully solve the problem, they can play the part of the Little Dutch Boy in Eugenie Foa's story "*Le Petit Éclusier*," who kept his finger plugged in the leaking dike all night until the villagers came to repair it in the morning.

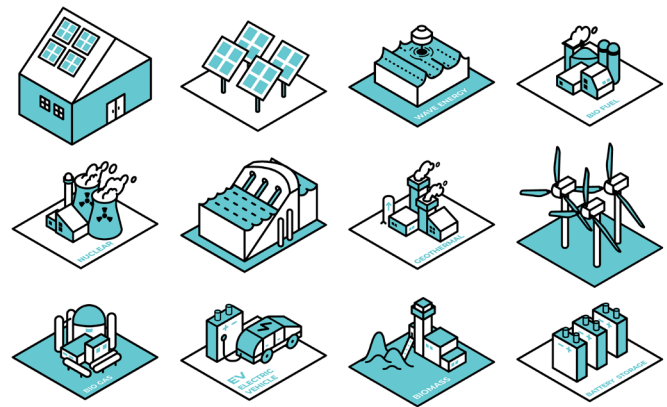
1 The White House, "Remarks by President Biden at a Campaign Reception | Albuquerque, NM," August 9, 2023, <https://web.archive.org/web/20230810193446/https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/08/09/remarks-by-president-biden-at-a-campaign-reception-albuquerque-nm/>.

2 The White House, Building a Clean Energy Economy: A Guidebook to the Inflation Reduction Act's Investments in Clean Energy and Climate Action (Version 2), January 2023, <https://web.archive.org/web/20230301061346/https://www.whitehouse.gov/wp-content/uploads/2022/12/Inflation-Reduction-Act-Guidebook.pdf>.

Where the Money Is Going

An Investment Tax Credit (ITC) and Production Tax Credit (PTC) for “clean” electricity storage and generation makes up \$131 billion of the IRA’s \$392 billion in green tax credits, according to the Congressional Budget Office (CBO) price tag from September 2022. This amounts to more than a third of the IRA’s total costs.³ The PTC provides a per-megawatt-hour tax credit for electricity generated from eligible renewable energy sources, such as wind, solar, geothermal, and biomass. The credit amount varies depending on the technology used. The PTC allows for a higher credit value if projects meet certain criteria, such as domestic manufacturing of components or specific labor standards.

The ITC allows taxpayers to deduct a percentage of the cost of installing renewable energy systems from their federal taxes, and applies to various technologies, including solar photovoltaic (PV) systems, solar thermal systems, wind energy projects, fuel cells, and certain types of energy storage. Under the IRA, the base ITC rate is 30 percent for solar and certain other technologies, but it can increase to 40 percent for projects that meet specific criteria. Like with the PTC, the IRA offers additional bonus credits for projects that fulfill certain conditions, such as using domestic materials, employing specific labor standards, or being located in low-income communities, which is part of the Biden administration’s environmental justice push.⁴



Another \$3 billion is set aside for a PTC for carbon capture and sequestration (CCS), a technology aimed at reducing carbon dioxide (CO₂) emissions from industrial processes and power generation. Under CCS, CO₂ emissions are captured at their source, such as coal or gas-fired power plants, cement factories, or other industrial facilities. Then, the CO₂ is compressed and transported to a storage site, typically via pipeline. Finally, the captured CO₂ is injected in to underground geological formations such as saline aquifers or depleted oil and gas fields for long-term storage.⁵

The \$30 billion Nuclear Power Production Tax Credit provides a tax credit of 0.3 cents per kilowatt-hour (kWh) of electricity produced and sold by eligible nuclear power plants, with bonus credits for meeting specific labor standards or utilizing domestic materials in construction and operations.⁶ The PTC

3 Congressional Budget Office, “Estimated Budgetary Effects of Public Law 117-169, to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14,” September 7, 2022, https://www.cbo.gov/system/files/2022-09/PL117-169_9-7-22.pdf.

4 *Supra*, note 2.

5 *Supra*, note 3.

6 *Ibid*.

for nuclear power is substantially smaller than the PTC for wind and solar power.

The production and use of low-carbon “clean” fuels, such as renewable natural gas, hydrogen, and advanced biofuels, is subsidized by the IRA to the tune of \$19 billion, while various individual clean energy and efficiency incentives such as home retrofitting of windows, insulation, and high efficiency appliances are earmarked to receive \$37 billion in tax credits.⁷

Additionally, \$14 billion will also be doled out to incentivize people to purchase new zero-emission vehicles (ZEV), with each vehicle earning a \$7,500 tax credit, as long as the final assembly of those vehicles takes place in North America. Purchasers of used ZEV’s can also receive a \$4,000 tax credit.⁸

There is also a provision of \$37 billion in tax credits allocated toward the retrofitting or construction of certain energy manufacturing facilities, such as facilities that produce energy storage systems or electrolyzers, which split water into its two primary components, hydrogen and oxygen, and are critical in the production of “green” hydrogen.⁹

“Green” hydrogen is considered a “clean” fuel because it is produced using renewable energy sources, such as wind, solar, or hydroelectric power, through a process called electrolysis. This is in contrast to “gray” hydrogen, which is produced from natural gas through a process called steam methane reforming. “Blue” hydrogen also uses natural gas, but captures and stores the carbon dioxide emissions—the aforementioned CCS—to theoretically reduce its environmental impact.

The IRA also contains direct expenditures, such as \$21 billion for agricultural and forestry conservation

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programs and \$11 billion on energy efficiency programs. Another \$5 billion will be spent on industrial decarbonization projects, while \$10 billion is designated to incentive rural electric cooperatives to invest in renewable energy. Finally, \$27 billion is designated to fund the EPA’s Greenhouse Gas Reduction Fund (GGRF), also known as the “Green Bank,” which prioritizes “disadvantaged communities” through “environmental justice.”¹⁰

It should be noted there are legitimate concerns about transparency with the GGRF and the lack of accountability of the green groups receiving money from it, many of which are headed and staffed by well-connected Democrat politicians. Darren Bakst, director of the Competitive Enterprise Institute, for example, called the GGRF, “worse than a slush fund – it’s a slush fund to create non-profit slush funds.”¹¹

As *RealClearInvestigations* notes, “the board of the Coalition for Green Capital, which got the second biggest NCIF [National Clean Investment Fund] award of \$5 billion, includes Hugh Frater, who headed Fannie Mae at the end of the Obama administration. Another board member, Cecilia Martinez, was the top ‘environmental justice official’

7 *Ibid.*

8 *Ibid.*

9 *Ibid.*

10 *Ibid.*

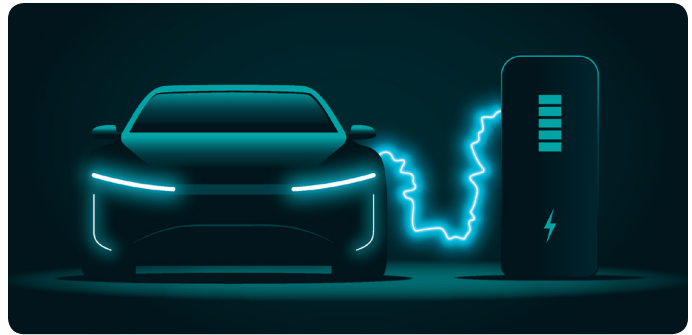
11 James Varney, “Overnight Success: Biden’s Climate Splurge Gives Billions to Nonprofit Newbies,” *RealClearInvestigations*, October 22, 2024, https://www.realclearinvestigations.com/articles/2024/10/22/overnight_success_bidens_climate_splurge_gives_billions_to_nonprofit_newbies_1066437.html.

in Biden’s White House before moving to the advocacy and nonprofit sector. Stephen Brown, the Coalition’s chief network officer, began his Washington career in the Clinton White House, while Jessie Buendia, chief impact officer, was previously part of the California state government. Another highlighted officer with the Coalition is Daniela Nyiri, who worked on campaigns for Michigan Democrat Haley Stevens before moving to the Progressive Turnout Project.

“The last NCIF installment of \$2 billion was awarded to a group called Power Forward Communities, which was formed in 2023. It is led by Timothy J. Mayopoulos, who headed Obama’s Fannie Mae from 2012 to 2018. One of its directors is Shaun Donovan, who served in the Obama administration for all of its eight years, including a stint as secretary of Housing and Urban Development.

“Power Forward Communities was granted its tax-exempt status by the IRS last March, one month before it landed the \$2 billion award.”¹²

These concerns were not abated after video surfaced in December 2024 showing an EPA Special Advisor for Implementation admitting that, since Donald Trump’s reelection to the presidency in early November, the agency was working “to get the money out as fast as possible before [the Trump administration] comes in,” and saying for agency staffers, “it’s like we’re on the *Titanic* and we’re throwing gold bars off the edge.”¹³



The stench of impropriety was so pungent that on December 17, 2024, the U.S. Department of Energy’s own internal watchdog called on the agency’s Loan Programs Office to suspend the issuing of any loans or loan guarantees after finding improper management of conflicts of interest.

“The Department of Energy Loan Programs Office is administering more than \$385 billion in new loan authority without ensuring a regulatory and contractually compliant and effective system to manage organizational conflicts of interest,” Inspector General Teri L. Donaldson wrote in the report. “This poses a significant risk of fraud, waste, and abuse. Congress issued this unprecedented volume of loan authority in the Infrastructure Investment and Jobs Act, Inflation Reduction Act, and related legislation. The projects funded with this authority...are inherently risky in part because these projects may have struggled to secure funding from traditional sources such as commercial banks and private equity investors.”¹⁴

¹² *Ibid.*

¹³ Project Veritas, “EPA Advisor Admits ‘Insurance Policy’ Against Trump is Funneling Billions to Climate Organizations, ‘We’re Throwing Gold Bars off the Titanic,’” December 3, 2024, <https://www.projectveritas.com/news/epa-advisor-admits-insurance-policy-against-trump-is-gold-bars-off-titanic>.

¹⁴ Teri L. Donaldson, “Memorandum for the Undersecretary of Energy for Infrastructure,” U.S. Department of Energy, December 17, 2024, <https://www.energy.gov/sites/default/files/2024-12/Interim%20Findings%20Department%20of%20Energy%20Loan%20Programs%20Office%20Conflicts%20of%20Interest.pdf>.

Breakdown of IRA Green Tax Credits & Expenditures

Category	Amount	Description
Investment Tax Credit (ITC) & Production Tax Credit (PTC)	\$131 billion	Supports "clean" electricity storage and generation, including wind, solar, geothermal, and biomass.
Carbon Capture and Sequestration (CCS) PTC	\$3 billion	Supports technologies reducing CO ₂ emissions from industrial processes and power generation.
Nuclear Power Production Tax Credit	\$30 billion	Provides tax credits for eligible nuclear power plants.
Low-Carbon "Clean" Fuels	\$19 billion	Supports renewable natural gas, hydrogen, and advanced biofuels.
Individual Clean Energy & Efficiency Incentives	\$37 billion	Includes home retrofitting, insulation, and high-efficiency appliances.
Zero-Emission Vehicle (ZEV) Tax Credits	\$14 billion	Provides \$7,500 per new ZEV and \$4,000 per used ZEV.
Energy Manufacturing Facilities	\$37 billion	Funds retrofitting or construction of facilities for energy storage and green hydrogen production.
Agricultural & Forestry Conservation Programs	\$21 billion	Supports conservation efforts in agriculture and forestry.
Energy Efficiency Programs	\$11 billion	Funds programs aimed at improving energy efficiency.
Industrial Decarbonization Projects	\$5 billion	Supports projects that reduce industrial emissions.
Rural Electric Cooperatives Renewable Energy Incentives	\$10 billion	Encourages rural electric cooperatives to invest in renewable energy.
EPA Greenhouse Gas Reduction Fund (Green Bank)	\$27 billion	Funds environmental projects, with concerns about transparency.

The Cost Estimates

In November 2022, Credit Suisse, the Swiss global investment bank and financial services firm, estimated total federal spending on these “green” provisions in the IRA would exceed \$800 billion, double the Biden administration’s claims, and possibly reaching as high as \$1.7 trillion.¹⁵

“Roughly two-thirds of the baseline IRA spending is allocated to provisions where the potential federal incentive is uncapped, meaning the ultimate outlay is either based on units of production or upfront capital spent,” the Credit Suisse report notes. “As such, we believe the Congressional Budget Office (CBO) is significantly underestimating costs of certain provisions as the attractiveness of credits could propel much higher activity levels, particularly in green manufacturing, carbon capture and clean hydrogen.”¹⁶

“Using our own forecasts, we see federal climate spending at over US\$800 billion, doubling the baseline of >US\$400 billion,” the report continues. “Combined with the multiplier effect on private investments and green financing programs, total spending could reach nearly US\$1.7 trillion over the next ten years. The question of how all of this spending would be funded is another matter entirely and is beyond the scope of this note.”¹⁷

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A few months later, in April 2023, the U.S. Congressional Joint Committee on Taxation (JCT), a bipartisan committee composed of five members from the U.S. Senate Committee on Finance and five members from the U.S. House Committee on Ways and Means, put the spending figure at \$570 billion from 2023 to 2033.¹⁸ In June of 2023, the JCT increased its estimate to \$633 billion.¹⁹

Also in April 2023, Goldman Sachs, the American multinational investment bank and financial services company, estimated the IRA’s spending incentives at \$1.2 trillion through 2032.²⁰

15 Credit Suisse, *US Inflation Reduction Act – A tipping point in climate action*, November 30, 2022, <https://heartlandimpact.org/wp-content/uploads/2024/08/2024-PTS-IRA-Impact.pdf>.

16 *Ibid.*

17 *Ibid.*

18 The Joint Committee on Taxation, “Estimated Revenue Effects Of Division A, Title III Of H.R. 2811, The ‘Limit, Save, Grow Act Of 2023,’” April 26, 2023, <https://www.jct.gov/publications/2023/jcx-7-23/>.

19 Martin Sullivan, “Revised EV Credit Estimate Further Raises Total Green Energy Costs,” Tax Notes, June 5, 2023, <https://www.taxnotes.com/tax-notes-today-federal/budgets/revised-ev-credit-estimate-further-raises-total-green-energy-costs/2023/06/05/7gtml>.

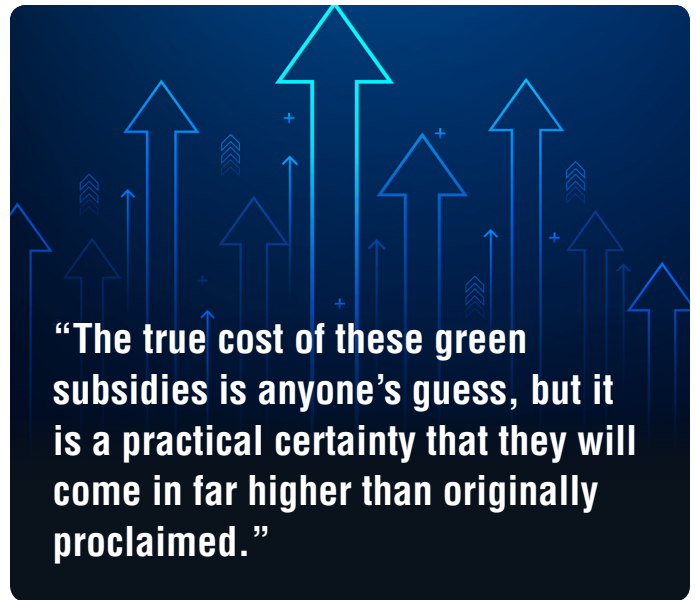
20 Goldman Sachs, “The US is poised for an energy revolution,” April 17, 2023, <https://www.goldmansachs.com/insights/articles/the-us-is-poised-for-an-energy-revolution.html>.

In a March 2023 report, the Brookings Institution, a left-wing think tank, produced a cost estimate for the IRA's green subsidies that ranged from \$900 billion to \$1.2 trillion through 2031.²¹

“We summarize evidence...suggesting that initial estimates of the fiscal costs may be understated in several areas due to greater deployment of IRA-supported technologies such as clean electricity and electric vehicles,” the Brookings study concludes. “Central and higher-end estimates of tax credit expenditures range from \$780B to \$1,070B over the 10-year budget window, which are 2.9-4.0 times higher than the CBO/JCT score for comparable credits. When these tax credits are combined with direct expenditures, total budgetary effects of IRA's climate provisions are \$900B to \$1,200B cumulatively through 2031.”²²

A February 2024 analysis from the Committee for a Responsible Federal Budget (CRFB), a nonpartisan think tank co-chaired by the former Republican governor of Indiana, Mitch Daniels, and Leon Panetta, Secretary of Defense during the Barack Obama administration and former Chief of Staff to President Bill Clinton, put the cost estimate of IRA at \$870 billion through 2031 and \$1.1 trillion through 2033.²³

An estimate from the Cato Institute in March 2024 found the cost of the IRA's green subsidies could be north of \$1.8 trillion over a decade.²⁴ Finally, in January 2025, CBO director Philip Swagel announced that the green subsidies in the IRA



would increase budget deficits by \$825 billion from 2025 to 2035, far above the original \$270 billion estimate from 2022 to 2031.²⁵

The true cost of these green subsidies is anyone's guess, but it is a practical certainty that they will come in far higher than originally proclaimed. We know this because the last federal budget before the incorporation of the IRA—fiscal year (FY) 2024—contained a 10-year cost projection for green energy subsidies that was only \$145 billion, while the FY 2025 budget—which does incorporate the IRA—saw the cost of these subsidies balloon to more than \$1.1 trillion. This clearly suggests the true price tag of the IRA's green subsidies will be closer to \$907 billion than \$369 billion.²⁶

21 John Bistline et al., “Economic Implications of the Climate Provisions of the Inflation Reduction Act,” *Brookings Papers on Economic Activity*, The Brookings Institution, March 29, 2023, https://www.brookings.edu/wp-content/uploads/2023/03/BPEA_Spring2023_Bistline-et-al_unembargoedUpdated.pdf.

22 *Ibid.*

23 Committee for a Responsible Federal Budget, “IRA Energy Provisions Cost Could Double With New Emissions Rule,” February 13, 2024, <https://www.crfb.org/blogs/ira-energy-provisions-cost-could-double-new-emissions-rule>.

24 Adam N. Michel, “Energy Tax Subsidies Could Top \$1.8 Trillion,” Cato Institute, March 26, 2024, <https://www.cato.org/blog/energy-subsidies-tax-code-could-top-18-trillion>.

25 “US clean energy tax subsidies to cost \$825 billion over 10 years, CBO says,” *Reuters*, January 17, 2025, <https://www.reuters.com/business/energy/us-clean-energy-tax-subsidies-cost-825-billion-over-10-years-cbo-says-2025-01-17/>.

26 *Ibid.*

Why the Discrepancy?

Part of the reason for these ballooning estimates is due to a ruling from the Internal Revenue Service in March 2023 allowing those with annual household incomes more than \$300,000 to be eligible to claim the \$7,500 federal EV tax credit on leased vehicles. The policy change also includes the tax credit for EVs with a manufacturer's suggested real price (MSRP) price above \$55,000 and trucks and SUVs with a MSRP above \$80,000.²⁷ Far more people and far more EVs are now eligible for the tax credit than when the IRA was passed.

The EV tax credit was originally established by the Energy Improvement and Extension Act of 2008.²⁸ Under that law, only the first 250,000 EVs sold by a manufacturer were eligible for the full \$7,500 credit, which would gradually phase out over six quarters after the sales threshold was reached. This was later amended down to 200,000 under the American Recovery and Reinvestment Act of 2009.²⁹ Unfortunately, the IRA has eliminated that maximum threshold completely. Until repealed, every EV manufactured from now until the end of time will be eligible for credit, which will also significantly contribute to IRA's ballooning costs.

It is important to keep in mind that 80 percent of all federal tax credits for EV purchases have already

“Until repealed, every EV manufactured from now until the end of time will be eligible for credit, which will also significantly contribute to IRA’s ballooning costs.”

gone to households in the top economic quintile, with the top 5 percent of all income earners having received 50 percent of the tax credit.³⁰ The bottom three economic quintiles, 60 percent of all income tax filers, have received just 3 percent of all EV tax credits.³¹ That makes the EV tax credit one of the clearest instances of welfare for the well-to-do.

One estimate has this loosening of the eligibility requirements for the federal EV tax credit ballooning its cost by 524 percent through 2031.³² The aforementioned Brookings Institution analysis estimates the expanded costs will amount to an incredible 3,445 percent.³³ Separately, the National Center for Energy Analytics estimates that the cost of building out the infrastructure to move to a fully electric-powered fleet in the United States could range from \$2 trillion to \$4 trillion.³⁴

27 Internal Revenue Service, “IRS issues guidance and updates frequently asked questions related to the new clean vehicle critical mineral and battery components,” IRS Fact Sheet, March 31, 2023, <https://www.irs.gov/pub/taxpros/fs-2023-08.pdf>.

28 Congressional Research Service, “The Plug-In Electric Vehicle Credit,” May 14, 2019, <https://crsreports.congress.gov/product/pdf/IF/IF11017>.

29 *Ibid.*

30 Severin Borenstein and Lucas W. Davis, “The Distributional Effects of U.S. Tax Credits for Heat Pumps, Solar Panels, and Electric Vehicles,” Working Paper 32688, National Bureau of Economic Research, July 2024, <https://www.nber.org/papers/w32688>.

31 *Ibid.*

32 *Supra*, note 19. (Sullivan)

33 *Supra*, note 21. (Bistline)

34 Jonathan A. Lesser, Infrastructure Requirements for the Mass Adoption of Electric Vehicles, National Center for Energy

President Trump has announced he plans on repealing the EV tax credit, and doing so would greatly reduce the potential fiscal damage that could be done by the IRA.³⁵ However, since an EV tax credit repeal is not a done deal, assumptions and estimates for the true cost of the IRA should still include the EV tax credit.

Another major driver of the projected price increase is the U.S. Environmental Protection Agency's (EPA) new, stricter vehicle greenhouse gas (GHG) emissions standards beginning with model year (MY) 2027.³⁶ In an effort to nudge more consumers into purchasing EVs, this new rule drops the average target for new car GHG emissions from 186 grams of CO₂ per mile (g/mi) in MY 2026 to 85 g/mi in MY 2032.³⁷ The emissions standards for medium-duty trucks, those used for commercial purposes like local deliveries, landscaping, or smaller scale transportation, such as box trucks or step vans, are mandated to decline from 491 g/mi in MY 2026 to 274 g/mi in MY 2032.³⁸

As the CRFB notes, the "likely result [of EPA's new emissions standards] would be a significant shift away from gas-powered vehicles and toward

electric or hybrid vehicles," which they estimate would increase the cost of the IRA by roughly \$280 billion through 2033.³⁹

The third major reason for this discrepancy is that the IRA's tax credit provision for producing electricity from non-GHG-emitting sources such as wind and solar power does not begin its phase out until the total GHG emissions from the electricity sector fall below 25 percent of their 2022 levels, a 75 percent total reduction in emissions from that sector.⁴⁰ The U.S. Energy Information Administration does not estimate that such a level of emissions reductions is achievable until at least 2050.⁴¹ An analysis by the consulting firm Wood Mackenzie notes, "these tax credits will be extended for substantially longer than 2032 – perhaps even 30–40 years. Absent IRA repeal, this means that instead of several hundred billion dollars in tax credits for new renewables and storage through 2032, the real money on the table is on the order of trillions of dollars over multiple decades."⁴² The same analysis estimates these open-ended subsidies could drive the cumulative cost of the IRA energy credits from a range of \$2.5 to \$3 trillion.⁴³

Analytics, June 2024, <https://energyanalytics.org/wp-content/uploads/2024/06/Lesser-EV-Report-Final.pdf>.

35 Jarrett Renshaw, Chris Kirkham, and Nora Eckert, "Exclusive: Trump's transition team aims to kill Biden EV tax credit," *Reuters*, November 15, 2024. <https://www.reuters.com/business/autos-transportation/trumps-transition-team-aims-kill-biden-ev-tax-credit-2024-11-14/>

36 U.S. Environmental Protection Agency, *Final Rule: Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles*, April 18, 2024, <https://www.govinfo.gov/content/pkg/FR-2024-04-18/pdf/2024-06214.pdf>.

37 *Ibid.*

38 *Ibid.*

39 *Supra*, note 23. (CFRB)

40 Public Law 117 - 169 - An act to provide for reconciliation pursuant to title II of S. Con. Res. 14., August 16, 2022, <https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf>.

41 U.S. Energy Information Administration, *Annual Energy Outlook 2023*, March 16, 2023, https://www.eia.gov/outlooks/aeo/pdf/AEO2023_Narrative.pdf.

42 Ryan Sweezy, "The indefinite Inflation Reduction Act: will tax credits for renewables be around for decades?," Wood Mackenzie, March 8, 2023, <https://www.woodmac.com/news/opinion/IRA-tax-credits-for-renewables/>.

43 *Ibid.*

Policy Recommendations

With Republicans now controlling both chambers of Congress, and with a Trump administration practically guaranteed not to issue a veto, a complete and total repeal of the IRA in 2025 should be a priority project. One would even go so far as to think a repeal of the IRA would be a slam dunk action for congressional Republicans, as not a single one of them voted for the IRA in 2022.⁴⁴

Of course, things are never that simple in Washington, where *any* sort of spending becomes entrenched and sacrosanct very quickly, and a successful push for repeal is far from guaranteed.

This past August, for example, 18 Republican members of the House of Representatives sent a letter to Speaker of the House Mike Johnson, urging him to support the IRA's green tax credits, the premature repeal of which, they argue, "would undermine private investments and stop development that is already ongoing."⁴⁵

"Energy tax credits have spurred innovation, incentivized investment, and created good jobs in many parts of the country - including many districts represented by members of our conference," the House members explained. "We must reverse the policies which harm American families while protecting and refining those that are making our country more energy independent and Americans more energy secure. As Republicans, we support an all-of-the-above approach to energy development and tax credits that incentivize domestic production, innovation, and delivery from all sources."⁴⁶

"With Republicans set to control both houses of Congress starting in January 2025, and with a Trump administration practically guaranteed not to issue a veto, a complete and total repeal of the IRA early next year should be a priority project."

Eighteen congressmen might not seem like a significant number, but considering Republicans hold a very slim margin in the House of Representatives, those 18 Republicans could scuttle a partial or full repeal of the IRA. Sixteen of the 18 signatories won reelection in November, while one of them, Lori Chavez-DeRemer of Oregon, has been tapped by Trump to head up the Department of Labor.

Further, a significant amount of the IRA's green subsidies are being allocated to Republican-controlled or Republican-leaning congressional districts. This was likely done partially with the intent of undermining Republican attempts to repeal the IRA. As *Bloomberg Opinion* notes, as of June 2024, \$161 billion of the \$203 billion allocated so far for investment in "clean" technology manufacturing has gone to 80 Republican House districts, including nine of the 10 districts receiving the biggest allocations, and 21 of the largest 25. Of the 51 projects allocated more than \$1 billion, 43 of them were located in Republican districts.⁴⁷ As of

44 <https://www.congress.gov/bill/117th-congress/house-bill/5376/all-actions>

45 <https://garbarino.house.gov/sites/evo-subsites/garbarino.house.gov/files/evo-media-document/FINAL%20Credits%20Letter%202024.08.06.pdf>.

46 *Ibid.*

47 Liam Denning, Jeff Davies, Elaine He, Carolyn Silverman, and Taylor Tyson, "Biden Is Giving Red Districts an Inconvenient Gift: Green Jobs," *Bloomberg Opinion*, June 20, 2024. <https://www.bloomberg.com/graphics/2024-opinion-biden-ira-sends-green->

mid-February 2025, the Clean Economy Tracker, a project of Atlas Public Policy and Utah State University, notes 74 percent of “clean” energy and technology manufacturing facility investment have gone to Republican congressional districts.⁴⁸

As the Cato Institute notes, “this is by design. The flood of taxpayer money into new projects across the country obscures the real costs of tying American jobs to federal subsidies while ignoring the hidden burdens placed on businesses and taxpayers.”⁴⁹ And these are *expensive* jobs. An analysis by Good Jobs First, a nonpartisan think tank promoting corporate and government accountability in economic development, estimates each job created by the IRA could cost American taxpayers \$2 million to \$7 million.⁵⁰

Will Republican House members vote to turn off a wasteful investment and employment spigot in their districts? That remains to be seen, but if history is a guide, we should not expect that to happen.

If there is a silver lining here that might help congressional Republicans in their quest to repeal the IRA, it is that more than 40 percent of its projects, along with those from the 2022 CHIPS and Science Act, which have collectively received \$228

billion, have been paused, delayed, or canceled.⁵¹ As of late October 2024, the Climate Program Portal estimates 35 percent of the IRA’s climate funding has yet to be spent, with roughly one third of these funds still unallocated by the time Trump assumed executive authority on January 20, 2025.^{52,53} The green hook may not have sunk in too deep as of yet to be extracted with more than minimal pain.

The incoming Trump administration has already done its part, issuing an executive order just hours after taking the oath of office that immediately paused the disbursement of IRA funds, at least temporarily, and moved to “eliminate” the federal EV mandate.⁵⁴

Still, if Congress fails to repeal the IRA, in part or *in toto*, that would leave the burden to act on legislators in the various states. While state legislators cannot do much to directly address the massive, open-ended federal subsidies to the wind and solar industries and EV manufacturers, there are a few ways they can indirectly fight back.

For instance, states could adopt the American Legislative Exchange Council’s (ALEC) model bill, “The Electric Reliability Act,” which would require new firm power to be brought online before closing

[energy-investment-republican-districts/](#).

48 Clean Economy Tracker, Atlas Public Policy and Utah State University, accessed February 13, 2025, <https://cleaneconomytracker.org/>.

49 Travis Fisher, Adam N. Michel, and Joshua Loucks, “On Inflation Reduction Act Reform, Anything Short of Full Repeal Is Failure,” Cato Institute, November 12, 2024. <https://www.cato.org/blog/inflation-reduction-act-reform-anything-short-full-repeal-failure>.

50 Jacob Whiton and Greg LeRoy, *Power Outrage: Will Heavily Subsidized Battery Factories Generate Substandard Jobs?*, Good Jobs First, July 6, 2023, <https://goodjobsfirst.org/wp-content/uploads/2023/07/Will-Heavily-Subsidized-Battery-Factories-Generate-Substandard-Jobs.pdf>.

51 Sarah Rudge, “Delays Hit 40% of Biden’s Manufacturing Projects: What Went Wrong?,” *Manufacturing Today*, August 29, 2024, <https://manufacturing-today.com/news/delays-hit-40-of-bidens-manufacturing-projects-what-went-wrong/>.

52 Tom Taylor, “What climate funding remains from the IRA?,” Climate Program Portal, October 25, 2024, <https://climateprogramportal.org/2024/10/25/what-climate-funding-remains-from-the-ira/>.

53 Annabelle Rosser, “Two Years of Climate Funding from IRA,” Climate Portal Program, August 15, 2024, <https://climateprogramportal.org/2024/08/15/two-years-of-climate-funding-from-ira/>.

54 “Unleashing American Energy,” *Executive Order 14154*, The White House, January 20, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>.

existing firm power sources.⁵⁵ (See Appendix I) Replacement of firm power plants that produce power on demand with variable wind and solar is insufficient to secure grid reliability with present demand, much less with the added demand likely to flow from the EPA's de-facto EV mandate, which essentially requires that a minimum of 56 percent of new cars and trucks sold in the United States by 2032 would have to be EVs in order to meet the new emissions standards.⁵⁶

State legislators could also adopt a law requiring state energy commissions to forbid the closure of existing baseload power plants until it can be proven the added demand for electric power from the EPA's new vehicle emissions rule will not hamper reliability. To achieve that goal, the owners of new EVs should pay a surcharge for ongoing grid updates and expansions rather than having general ratepayers subsidize the added strain that EVs are putting on the grid. State policymakers should also direct energy commissions to require that for every X percent in demand new EVs place on the grid, some amount of new on-demand power supply (coal, natural gas, or nuclear) should be added to the grid or existing plants be upgraded to supply more power. If necessary, before implementing these requirements, legislators should direct their respective states' public utility commissions to study the concerns raised by added demand and the growth of intermittent power and issue reports open for public review and comment.

Legislators could also consider policies similar to those ensconced within the ALEC's draft model bill, the Equitable Escalation of Electricity Demand Act.⁵⁷ (See Appendix II) Because federal policies like the IRA, EPA emissions standards, and Department of Energy appliance efficiency

“Legislators could also consider policies similar to those ensconced within the ALEC’s draft model bill, the Equitable Escalation of Electricity Demand Act.”

standards are incentivizing and mandating the widespread adoption of EVs and electric appliances, grid operators project an imminent rapid increase in overall electricity demand, which will require large investments in power production and grid infrastructure.

The ALEC model bill states that the cost of technologies that demand large increases in domestic power, like electric vehicles—if they achieve widespread adoption due to IRA incentives and EPA mandates— should be borne by those who benefit directly from the new power supply, not ratepayers in general.

To both cover this cost and provide sufficient additional dispatchable power, this bill would place a fee on all new EV charging stations connected to the electric grid and all new electric vehicles sold. The fee would be separate from any fee levied on EVs for infrastructure construction and maintenance, and would be dedicated to the construction of new dispatchable power supplies to meet expected demand, without socializing the cost across all ratepayers.

One more way to push back would be to adopt ALEC's “Act to Prohibit State Procurement of Electric Vehicles with Forced Labor Components” model legislation, developed with the help of The

55 American Legislative Exchange Council, “The Electric Reliability Act,” December 22, 2023, <https://alec.org/model-policy/the-electric-reliability-act/>.

56 U.S. Environmental Protection Agency, “Final Rule: Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles,” March 20, 2024, <https://www.epa.gov/regulations-emissions-vehicles-and-engines/final-rule-multi-pollutant-emissions-standards-model>.

57 American Legislative Exchange Council, “The Equitable Escalation of Electricity Demand Act,” July 25, 2024, <https://heartlandimpact.org/2024/08/26/model-legislation-equitable-escalation-of-electricity-demand-act/>.

Heartland Institute.⁵⁸ (See Appendix III) Aside from pushing back on Washington’s green schemes, adopting this model legislation would have the additional benefit of defending America’s principled and legally required positions upholding religious liberty and personal freedom, and outlawing child labor.

As the model legislation reads, “Taxpayer dollars should not be used to create demand for this inhumane practice, and states should restrict government procurement of electric vehicles unless the manufacturers responsible for the supply chain can show that the taxpayer dollars will not be used to buy a vehicle made with forced labor.”⁵⁹ If states were to adopt this bill, it would essentially bar state and county agencies, and municipal governments from purchasing any electric vehicle for which the “slave and child labor free” guarantee cannot be transparently established—which applies to the vast majority of all EVs on the market. If this law is not adopted by the federal government, it should be adopted by all states and applied to the various political subdivisions of them: counties, cities, towns, et cetera.

Finally, legislators could consider barring the sale of EVs produced using child and/or slave labor in their state. Congress is charged with regulating interstate commerce, an authority it has compromised through its delegation of regulatory authority to agencies like



the EPA and to states like California with waivers. When it comes to EVs, Congress’ interstate commerce authority clashes with other provisions of the Constitution that bar slavery and religious persecution, as well as with federal laws barring child labor. Because the EPA has recognized the authority of some states to set stricter clean air standards than federal law demands, states could fight for authority to uphold the Constitution and federal law in the face of federal regulations from the EPA that seem to undermine them in spirit and practicality, if not in letter.

58 American Legislative Exchange Council, “Act to Prohibit State Procurement of Electric Vehicles with Forced Labor Components,” August 28, 2023, <https://alec.org/model-policy/act-to-prohibit-state-procurement-of-electric-vehicles-with-forced-labor-components/>.

59 *Ibid.*

Conclusion

Renewable energy subsidies distort market dynamics by artificially lowering the cost of certain renewable technologies, like solar and wind. In the absence of these subsidies, the true costs of these technologies, including their intermittency and storage needs, would be more apparent. By providing financial support, the federal government is effectively masking economic reality, distorting markets and investment, resulting in an inefficient allocation of scarce resources.

Subsidies also create an environment where only certain technologies benefit, especially ones that are politically favored, often at the expense of better, less expensive, more effective and innovative technologies and systems. For example, solar and wind have dominated renewable energy subsidies, but other technologies, such as advanced nuclear, may be overlooked despite their long-term potential. This can slow down technological innovation across the sector, as energy companies may focus more on securing subsidies than developing new, more cost-effective technologies.

Further, renewable energy subsidies create a dependency on government support, especially if the subsidies are maintained for extended periods. Instead of encouraging the renewable energy sector to become competitive on its own merits, subsidies like those found in the IRA perpetuate a culture of reliance on government handouts. This undermines the fundamental principles of market competition, where companies should thrive based on their ability to satisfy consumer demand through innovation and price competition, not on their ability to secure taxpayer-funded support.

A long-term subsidy regime also reduces the incentive for renewable energy companies to improve their technologies or reduce their costs. If companies know they can rely on government funding to maintain profitability, they have less pressure to innovate, become more efficient, or

“Renewable energy subsidies distort market dynamics by artificially lowering the cost of certain renewable technologies, like solar and wind. In the absence of these subsidies, the true costs of these technologies, including their intermittency and storage needs, would be more apparent. By providing financial support, the federal government is effectively masking economic reality, distorting markets and investment, resulting in an inefficient allocation of scarce resources.”

reduce costs, which could ultimately delay the industry’s competitiveness.

Renewable energy is still more expensive than traditional forms of energy like coal, natural gas, and nuclear, even with ample federal subsidies. While prices for solar and wind energy have dropped over the years, they are still unable to compete without government mandates and financial support. This leads to a situation where taxpayers are footing the bill for energy that costs them more while being less reliable than traditional conventional energy sources.

And where is all this taxpayer money going? As the Cato Institute notes, “Corporate owners and executives—not taxpayers or workers—are the primary beneficiaries of federal favoritism. Politically connected corporations like NextEra Energy and First Solar, Inc. have received billions at taxpayers’ expense. Additionally, more than \$1 billion of Biden’s IRA subsidies are also going to Trina Solar,

China's largest solar manufacturer."⁶⁰ Even with IRA subsidies and tax credits, dozens of companies in the renewable energy field, including EV and battery manufacturers, have declared bankruptcy or are in the process of restructuring.^{61, 62, 63, 64} These closures and bankruptcies represent billions of taxpayer dollars wasted in untenable IRA spending.

While renewable energy subsidies are purportedly aimed at addressing climate change and transitioning to cleaner energy, they create inefficiencies, distort markets, and result in long-term economic and environmental challenges. It is also doubtful they have any impact on overall greenhouse gas emissions or climate change. Instead of relying on subsidies, energy policy should focus on creating a level playing field, where energy producers compete based on the true costs of their technologies, including externalities like environmental impacts. This approach

would encourage innovation, improve market competitiveness, and ensure that energy resources are used in the most efficient and sustainable way possible.

For all of these reasons and more, Congress should repeal the Inflation Reduction Act in totality. If Congress cannot or will not act, then state legislators should be prepared to pick up the slack. In fact, they should be prepared to move forward regardless of what happens in Washington.

While state government action can only have an effect around the margins, legislation copied directly, or based on, the Electric Reliability Act, the Equitable Escalation of Electricity Demand Act, and the Act to Prohibit State Procurement of Electric Vehicles with Forced Labor Components, can serve as useful tools in blunting the fiscal impact of the IRA.

60 Supra, note 49. (Fisher)

61 Kirk O'Neil, "Struggling EV company shuts down, files Chapter 11 bankruptcy," *The Street*, December 5, 2024, <https://www.thestreet.com/automotive/another-struggling-ev-maker-files-for-chapter-11-bankruptcy>.

62 Dan Primack, "EV battery maker Northvolt goes bankrupt," *Axios*, November 22, 2024, <https://www.axios.com/2024/11/22/ev-battery-maker-northvolt-bankrupt>.

63 Ara Agopian, "The Complete List of Solar Bankruptcies and Business Closures," *SolarInsure*, November 17, 2024, <https://www.solarinsure.com/the-complete-list-of-solar-bankruptcies-and-business-closures>.

64 Jake Hertz, "7 Battery & EV Companies That Have Filed for Bankruptcy," *Battery Technology*, August 21, 2024, <https://www.batteryteconline.com/automotive-mobility/7-battery-ev-companies-that-have-filed-for-bankruptcy>.

Appendix I

Text of the Electric Reliability Act

Summary

The Electric Reliability Act will protect reliability by ensuring there are as much or more firm power replacements online before the retirement of firm power. Power plants are closing across the country before new sources of electricity come online, putting Americans at risk of rolling blackouts and ever higher prices. There is also an attempt to replace firm on demand generation with unpredictable part-time wind and solar generation. Because electric grids can store no power, demand must be met with supply immediately. In order to maintain reliability and prevent blackouts, firm power of at least 115% of estimated peak demand is necessary. An additional benefit of this legislation is cost containment. Because electricity shortages drive up consumer costs. When there is not enough electricity available to meet demand, wholesale prices spike. These costly spikes caused by shortages are passed on to consumers, as well as increased costs caused by chronic shortages.

The Electric Reliability Act

The legislature of [name of state] finds that:

1. American families and American industries depend on reliable and affordable electricity for everything they do, from lifesaving medical equipment to lifesaving climate control in their homes and workplaces;
2. electricity demand must be met with electricity supply instantly, or interruptions of service result;
3. 230 coal plants, which produced 20% of American electricity in 2022, are being targeted for closure by activist groups, state and federal regulators, and utilities, with dozens across the nation slated for closure in the next three years;
4. 80,000 wind towers produced 9% of American electricity in 2022, about 6,000 are added per year, but at least 750,000 more are needed to replace coal and natural gas generation, and sufficient battery storage is needed to cover the 70% of the time during which wind turbines produce little to no electricity;
5. solar produced less than 3% of American electricity in 2022, and only produces electricity during daylight hours when the sun shines, little or none during daily peak demand of 5 pm to 9 pm;
6. the North American Electric Reliability Corp. (NERC), the Regional Transmission Organizations (RTOs) MISO, and PJM have warned that large swathes of the United States face elevated risks of electricity shortfalls now and in the future;
7. restricting the supply of electricity without immediate substitutes jeopardizes reliability and affordability and will cause interruptions of service, often when needed most, during the hottest or coldest months;
8. electric usage in the United States has remained flat for the last 20 years, yet investments in new

generation has accelerated;

9. rising electricity prices and decreased reliability will contribute to overall inflation;
10. America's coal and natural gas plants should not be recklessly decommissioned or regulated out of existence, they should be kept online (readily available) to provide flexibility for national security in times of war, economic security, supply security, price stability, and reliability.;
11. winter storms have caused millions to lose electricity for extended periods, costing lives and billions in damages because of electricity shortages and outages; and
12. affordable and reliable electricity is of major importance to the poor, because they spend the largest percentage of their income on energy and are harmed the most by high energy prices.

SECTION 1. Definitions

As used in this section:

- (a) "Dispatchable" or on demand power means a source of electricity that is readily available for use on demand and can be dispatched upon request of a power grid operator, or one that can have its power output adjusted according to market needs, except for routine maintenance or repairs;
- (b) "Reliable" means a source of electricity that is not subject to intermittent availability, has a performance standard of 80% or greater and only falls below that level during routine maintenance or repairs;
- (c) "Electric generation facility" means a facility that uses water, coal, natural gas, or nuclear to generate reliable or dispatchable electricity for provision to customers;
- (d) "Firm power" includes dispatchable, reliable power generation, as well as battery storage in excess of 24 hours. Firm power does not include power that is not dispatchable.

SECTION 2. Protecting Electricity Users Reliability and Availability

- (a) The commission shall not authorize or approve the retirement of a firm electric generation facility as proposed in a rate case, integrated resource plan or other submission to the commission, until there is the equal or greater contracted new firm power presently available on the grid, not from prospects in the future, to replace the loss of firm power brought about by the proposed closure.

In assessing the amount of firm replacement power needed, the commission shall consider imminent and planned firm power closures in other states of the member RTO as well as in our own state. If other states are not replacing their retired or firm power, or their firm power scheduled for retirement, with an equal or greater amounts of firm power, the commission shall add these shortages to their firm power replacement calculations before approving the closure.

- (b) If the Federal Government, through regulation, forces costly upgrades or other requirements leading to the closure of existing firm power plants, the State and commission shall seek waivers until there is replacement firm power available to the electric grid to replace the retirement.

If waivers are not granted, the state and commission shall seek a court injunction and bring litigation against the implementation of the regulations until firm power replacement is brought online. In order to protect electric reliability.

SECTION 3. Severability

Each section, paragraph, and portion of each paragraph of this Act is severable. If one or more sections,

paragraphs, or portions of one or more paragraphs of this Act are held invalid on their face or as applied to particular facts, then the remaining portions and applications of the Act shall be given full effect to the greatest extent practicable.

SECTION 4. Applicability and Effective Date

Appendix II

Text of the Equitable Escalation of Electricity Demand Act

Summary

The Equitable Escalation of Electricity Demand Act will ensure that the entities most responsible for the anticipated rapid growth in electricity demand pay the true costs and not shift additional burdensome costs from escalating demand onto ratepayers. The technology industry plans to accelerate the construction and utilization of electronic data centers and artificial intelligence projects, which require tremendous amounts of electricity. And federal and policies are incentivizing and mandating the widespread adoption of electric vehicles (herein after, EVs). These are the primary reasons grid operators project an imminent rapid increase in overall electricity demand, which will require large investments in power production and grid infrastructure. Present electricity generation is insufficient to safely meet projected demand. The cost of technologies that demand large increases in domestic power, like electric vehicles, should they achieve widespread adoption, and large data center, should be borne by those who benefit directly from the new power supply, not ratepayers in general. The added cost should not be socialized. This Act applies a reasonable fee to new electronic data centers sufficient to safeguard common ratepayers from bearing the financial burden of the data centers' anticipated strain imposed on the electric grid.

The Equitable Escalation of Electricity Demand Act

The legislature of [name of state] finds that:

1. Artificial Intelligence (AI) as commonly understood, is becoming increasingly integrated into everyday life and across multiple sectors – if not every sector – of the American economy;
2. AI is currently placing strains on current power grids and its demand is expected to increase;
3. The Environmental Protection Agency's rules released in 2024 aim to drastically increase the purchase and use of electric and plug-in hybrid electric vehicles;
4. electric grid operators project a rapid increase in American electricity demand, up 4.7% between 2023 and 2028, caused by growth in data centers and electric vehicles,
5. rapid growth of electricity demand without sufficient baseload generation in place to meet the demand jeopardizes reliability and affordability and will cause interruptions of service, often when needed most, during the hottest or coldest months;
6. 230 coal plants, which produced 20% of American electricity in 2022, are being targeted for closure by activist groups, state and federal regulators, and utilities, with dozens across the nation slated for closure in the next three years;
7. the North American Electric Reliability Corp. (NERC), the Regional Transmission Organizations (RTOs) MISO, and PMJ have warned that large swathes of the United States face elevated risks of electricity shortfalls now and in the future;
8. restricting the supply of electricity without immediate substitutes jeopardizes reliability and affordability and will cause interruptions of service, often when needed most, during the hottest or

coldest months;

9. America's coal and natural gas plants should not be recklessly decommissioned or regulated out of existence, they should be kept online (readily available) to meet the projected rapid increase in electricity demand caused by new data centers and electric vehicles;
10. the [name of state public utilities commission] must prioritize retaining and adding dispatchable, on-demand baseload power to meet the anticipated increase in demand; and
11. newly built data centers should be the first to have their power curtailed in the event that new dispatchable power is not added to the grid and electricity blackouts or brownouts occur.
12. Those benefitting directly from new dispatchable power supplies, like EV and PHEV users and data centers, should have to cover the cost of the additional demand they are placing on the electric grid.

SECTION 1. Definitions

As used in this section:

- (a) "Dispatchable" or on demand power means a source of electricity that is readily available for use on demand and can be dispatched upon request of a power grid operator, or one that can have its power output adjusted according to market needs, except for routine maintenance or repairs;
- (b) "Reliable" means a source of electricity that is not subject to intermittent availability, has a performance standard of 80% or greater and only falls below that level during routine maintenance or repairs;
- (c) "Electric generation facility" means a facility that uses water, coal, natural gas, or nuclear to generate reliable or dispatchable electricity for provision to customers;
- (d) "Firm power" includes dispatchable, reliable power generation, as well as battery storage in excess of 24 hours. Firm power does not include power that is not dispatchable.
- (e) "data center" means a physical location and/or facility that stores computing machines and their related hardware equipment.
- (f) "Economic incentives" means state grants, cash grants, tax exemptions, tax refunds, tax credits, state funds, and other state incentives under chapter [X] or administered by the state's, or political subdivision thereof, economic development agency.
- (g) "Electric Vehicle" means a vehicle that uses electricity stored in a rechargeable battery and an electric motor instead of a gasoline or other carbon-based fuel tank and internal combustion engine.
- (h) "Plug In Hybrid Electric Vehicle" means any vehicle that uses a combination of gasoline or other carbon-based fuel and electric generation or storage; they have a battery, an electric motor, a gasoline or other carbon-based fuel tank, and an internal combustion engine.

SECTION 2. Protecting Electricity Users Reliability and Availability

1. Electric and Plug In Hybrid Electric Vehicles

- (1) To cover the cost to provide sufficient additional dispatchable power, a fee of X (Fill In) shall be placed on all new Electric Vehicle (EV) and Plug In Hybrid Electric Vehicle (PHEV) charging stations connected

to the electric grid and all new electric or plug in hybrid electric vehicles sold or licensed to operate in [the State]. The fee is separate and apart from any fee levied on EV or PHEV's for infrastructure construction and maintenance, and rather is dedicated to the construction of new dispatchable power supplies to meet expected demand, without socializing the cost across all ratepayers.

(2) For charging stations installed and owned by the state, a fee shall be assessed to users of the charging station. The fee should be deposited in the appropriate state segregated fund designated for electrical grid maintenance and/or upgrade. A receipt should be provided to the consumer noting the amount of the fee and its purpose.

1. Data Centers

(1) New data centers requiring dispatchable power will be responsible for its provision, either by contracting directly with the local utility for the construction of dispatchable power with the approval for new power sources having to go through the usual regulatory process undertaken by the commission, except for the price which will be negotiated between the utility and the source of the new demand, with safeguards so any cost overruns are not borne by ratepayers in general. Any excess power from the dedicated dispatchable source can be sold onto the broader grid at wholesale rates, with the profits of those sales split between the utility and the demanding source, per their contract.

(2) If any state, or political subdivision thereof, provides economic incentives for the construction, opening, or operations of a new data center, they shall enter into a memorandum of understanding or other similar instrument regarding (B)(1) such that failure or refusal to meet the terms of the aforementioned memorandum of understanding, the state's public service commission or similar regulatory agency is authorized to notify the relevant state and local agencies to commence proceedings to recoup the current cash value of the economic incentives from the parent company of the data center.

(3) If new data centers requiring dispatchable power cannot come to an agreement with the local utility to construct new dispatchable power, they may submit their own plan to the commission for how they will develop and deliver that power. Any dispatchable power source they construct and maintain will have to comply with the same environmental, safety, and health regulations utilities operate under, and any excess power generated by the new source, if connected to the grid, can be sold to a contracting utility at an agreed upon price.

SECTION 3. Severability

Each section, paragraph, and portion of each paragraph of this Act is severable. If one or more sections, paragraphs, or portions of one or more paragraphs of this Act are held invalid on their face or as applied to particular facts, then the remaining portions and applications of the Act shall be given full effect to the greatest extent practicable.

SECTION 4. Applicability and Effective Date

Appendix III

Text of the Act to Prohibit State Procurement of Electric Vehicles with Forced Labor Components

Summary

Many electric vehicles are made from components created through forced labor. Taxpayer dollars should not be used to create demand for this inhumane practice, and states should restrict government procurement of electric vehicles unless the manufacturers responsible for the supply chain can show that the taxpayer dollars will not be used to buy a vehicle made with forced labor.

Act to Prohibit State Procurement of Electric Vehicles with Forced Labor Components

AN ACT relating to government procurement of electric vehicles; prohibiting government contracts procuring electric vehicles that may have been made through forced labor; setting remedies and penalties for manufacturers; and providing an effective date.

SECTION 1. Legislative Findings

The State of [name of state] finds that:

1. many electric vehicles are being made with components created through the use of forced labor, including materials mined by Uyghurs and other Muslim minorities in China's Xinjiang region;
2. concerns about the use of forced labor to create these components and materials prompted the federal government to pass the Uyghur Forced Labor Prevention Act (UFLPA) with overwhelming bipartisan support;
3. under the UFLPA, there is a rebuttable presumption that any product manufactured in whole or in part in the Xinjiang Uyghur Autonomous Region was produced by forced labor;
4. the federal government recently restricted the application of its newly created tax credits for electric vehicles, so that "[b]eginning in 2024, an eligible clean vehicle may not contain any battery components that are manufactured by a foreign entity of concern and beginning in 2025 an eligible clean vehicle may not contain any critical minerals that were extracted, processed, or recycled by a foreign entity of concern";
5. the federal government recently proposed a regulation for another act that any company subject to China's jurisdiction will be defined as a "foreign entity of concern," which would prevent federal tax credits from supporting sales of electric vehicles made with battery components from Chinese entities;
6. in addition, many electric vehicles also are being made with components created through the use of oppressive child labor, most notably, through cobalt ore mined in dangerous conditions by thousands of young children in the Democratic Republic of the Congo and sent to China for use in manufacturing lithium-ion batteries;
7. the federal government recently concluded that "downstream products containing lithium-ion batteries may be produced with an input produced with child labor, such as electric cars;"

8. the use of forced labor is repugnant and deplorable, violates basic human rights, constitutes unacceptable discrimination, and damages free and fair competition; and
9. state governments should take steps to ensure that taxpayer dollars are not being used to pay for electric vehicles that may have been partially manufactured through forced labor.

SECTION 2. Definitions

(A) “Forced labor” means all work or service that is (i) obtained by force, fraud, or coercion, including by threat of serious harm to, or physical restraint against, any person; by means of any scheme, plan, or pattern intended to cause the person to believe that if the person did not perform such labor or services, the person or another person would suffer serious harm or physical restraint; or by means of the abuse or threatened abuse of law or the legal process; (ii) imposed on the basis of a protected characteristic; (iii) not offered or provided voluntarily by the worker; or (iv) produced through oppressive child labor.

(B) “Electric vehicle” means a motor vehicle which is propelled to a significant extent by an electric motor which draws electricity from a battery which is capable of being recharged from an external source of electricity.

(C) “Governmental entity” means a state agency or political subdivision of the state, including but not limited to any county, city [list all other subdivisions possible in the state (village, borough, school district, water district, etc.)], or any school, college, university, administration, authority, or other enterprise operated by the state or any political subdivision of the state.

(D) “Oppressive child labor” means a condition of employment under which any person under the age of fourteen years is employed in an occupation hazardous for the employment of children, such as manufacturing or mining.

(E) “Protected characteristic” means any characteristic protected by [state civil rights law].

SECTION 3. Provision Required in Public Contract

No governmental entity may enter into a contract for the procurement of electric vehicles, or any component of an electric vehicle, unless the governmental entity is provided a sworn certification from the manufacturer that (i) consents to personal jurisdiction by the state over the manufacturer; and (ii) certifies that no entity involved in the production of the electric vehicle or component for sale, including the production of any constituent part, or the mining or other sourcing of any materials, used forced labor or oppressive child labor in its activities.

SECTION 4. Remedies and Enforcement

(A) In addition to any other remedies available at law or equity, if the manufacturer or seller provide false or misleading information under Subsection 3, then a civil penalty shall be imposed against the manufacturer or seller for the greater of \$10,000 per false or misleading statement, or one-half of the total price paid by the governmental entity for the vehicles or components.

(B) Any government entity that knowingly violates SECTION 3 shall return to the state the greater of \$10,000 per false or misleading statement, or the total price paid by the governmental entity for the vehicles or components.

(C) Any employee that knowingly violates SECTION 3 shall personally pay a fine of \$5,000 to the school

library fund.

(D) Each member voting in the affirmative of any board that authorizes a purchase that violates SECTION 3 shall personally pay a \$5,000 fine to the school library fund.

(E) Any citizen within the district of any government entity that violates this statute has standing to bring enforcement of this statute.

SECTION 5. Severability

Each section, paragraph, and portion of each paragraph of this Act is severable. If one or more sections, paragraphs, or portions of one or more paragraphs of this Act are held invalid on their face or as applied to particular facts, then the remaining portions and applications of the Act shall be given full effect to the greatest extent practicable.

SECTION 6. Applicability and Effective Date

This Act applies to all electric vehicle procurement contracts entered into, amended, or renewed after [DATE].



THE
HEARTLAND
INSTITUTE

3939 North Wilke Road
Arlington Heights, IL 60004

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or call (312) 377-4000.