I

110TH CONGRESS
2D SESSION

H. R. 6739

To encourage stronger building energy efficiency codes, promote renewable energy technology deployment, and protect the United States from the effects of climate change, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. INSLEE (for himself, Mr. BISHOP of New York, Mr. HINCHEY, Ms. BALDWIN, and Mr. WELCH of Vermont) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To encourage stronger building energy efficiency codes, promote renewable energy technology deployment, and protect the United States from the effects of climate change, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''United States Climate Action Now Act''.

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

TITLE I—BUILDING CODES

SEC. 101. ENCOURAGING STRONGER BUILDING CODES.

(a) IN GENERAL.—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

''(a) UPDATING NATIONAL MODEL BUILDING ENERGY CODES.—

''(1) The Secretary shall support updating the national model building energy codes and standards at least every 3 years to achieve overall energy savings, compared to the 2006 IECC for residential buildings and ASHRAE Standard 90.1 2007 for commercial buildings, of at least—

''(A) 30 percent in editions of each model code or standard released in or after 2010;

''(B) 50 percent in editions of each model code or standard released in or after 2020; and

''(C) targets for intermediate and subsequent years to be set by the Secretary at least 3 years in advance of each target year, coordinated with the IECC and ASHRAE Standard 90.1 cycles, at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective.

''(2)(A) Whenever the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall, not later than 12 months after the date of such revision, determine—

''(i) whether such revision will improve energy efficiency in buildings; and

''(ii) whether such revision will meet the targets under paragraph (1).

''(B) If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard does not meet the targets under paragraph (1), or if a national model code or standard is not updated for more than 3 years, then the Secretary shall with-

in 12 months establish a modified code or standard that meets such targets. Any such modified code or standard—

"(i) shall achieve the maximum level of energy savings that are technically feasible and economically justified, incorporating available appliances, technologies, and construction practices;

"(ii) shall be achieved through amendments or additions to the latest revision of the IECC or ASHRAE Standard 90.1 but may consider other model codes or standards; and

"(iii) shall serve as the baseline for the next determination under subparagraph (A)(i).

"(C) The Secretary shall provide the opportunity for public comment on targets, determinations, and modified codes and standards under this subsection, and shall publish notice of targets, determinations, and modified codes and standards under this subsection in the Federal Register.

"(b) STATE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—

"(1) Not later than 2 years after the date of enactment of the United States Climate Action Now Act, each State shall certify to the Secretary that it

has reviewed and updated the provisions of its residential and commercial building codes regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the 2006 IECC for residential buildings and the ASHRAE Standard 90.1–2007 for commercial buildings, or achieve equivalent or greater energy savings.

''(2)(A) If the Secretary makes an affirmative determination under subsection (a)(2)(A)(i) or establishes a modified code or standard under subsection (a)(2)(B), each State shall within 2 years certify that it has reviewed and updated the provisions of its building code regarding energy efficiency. Such certification shall include a demonstration that such State's code provisions meet or exceed the revised code or standard, or achieve equivalent or greater energy savings.

''(B) If the Secretary fails to make a determination under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2), or makes a negative determination, each State shall within 2 years after the specified date or the date of the determination, certify that it has reviewed the revised code or standard, and updated the provisions of its building

code regarding energy efficiency to meet or exceed any provisions found to improve energy efficiency in buildings, or to achieve equivalent or greater energy savings in other ways.

''(c) STATE CERTIFICATION OF COMPLIANCE WITH BUILDING CODES.—(1) Each State shall, not later than 3 years after a certification under subsection (b), certify that it has achieved compliance with the certified building energy code. Such certification shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the code in the preceding year.

''(2) A State shall be considered to achieve compliance under paragraph (1) if—

''(A) at least 90 percent of new and renovated buildings covered by the code in the preceding year substantially meet all the requirements of the code; or

''(B) the estimated excess energy use of new and renovated buildings that did not meet the code in the preceding year, compared to a baseline of comparable buildings that meet the code, is not more than 10 percent of the estimated energy use of all new and renovated buildings covered by the code in the preceding year.

''(d) FAILURE TO MEET DEADLINES.—

''(1) A State that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on—

''(A) the status of the State with respect to meeting the requirements and submitting the certification; and

''(B) a plan for meeting and requirements and submitting the certification.

''(2) The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (b) and (c) of this section for up to 1 year if a State demonstrates in the report under paragraph (1) that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so, including by developing and implementing a plan under paragraph (1)(B).

''(3) Any State for which the Secretary has not accepted a certification by a deadline under subsection (b) or (c) of this section, with any extension granted under paragraph (2), is out of compliance with this section.

''(4) In any State that is out of compliance with this section, a local government may be in compliance with this section by meeting the certification requirements under subsections (b) and (c) of this section.

''(5) The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on the status of national model building energy codes and standards, the status of code adoption and compliance in the States, and implementation of this section. The report shall include estimates of impacts of past action under this section and potential impacts of further action on lifetime energy use by buildings and resulting energy costs to individuals and businesses.

''(e) TECHNICAL ASSISTANCE.—

''(1) The Secretary shall on a timely basis provide technical assistance to model code-setting and standard development organizations. This assistance shall include technical assistance as requested by the organizations in evaluating code or standards proposals or revisions, building energy analysis and design tools, building demonstrations, and design assistance and training. The Secretary shall submit code and standard amendment proposals, with sup-

porting evidence, sufficient to enable the national model building energy codes and standards to meet the targets in subsection (a)(1).

''(2) The Secretary shall provide technical assistance to States to implement the requirements of this section, including procedures for States to demonstrate that their code provisions achieve equivalent or greater energy savings than the national model codes and standards, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

''(f) AVAILABILITY OF INCENTIVE FUNDING.—

''(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with such codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy ef-

ficiency codes, and to promote building energy efficiency through the use of such codes.

''(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

''(A) to a State that has adopted and is implementing, on a Statewide basis—

''(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2006 IECC, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); and

''(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2007, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (a)(2)(A)(i); or

''(B) in a State in which there is no State-wide energy code either for residential buildings or for commercial buildings, or where State codes fail to comply with subparagraph (A), to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

''(3) Of the amounts made available under this subsection, the Secretary may use amounts required, not exceeding $500,000 for each State, to train State and local officials to implement codes described in paragraph (2).

''(4)(A) There are authorized to be appropriated to carry out this subsection—

''(i) $35,000,000 for each of fiscal years 2009 through 2013; and

''(ii) such sums as are necessary for fiscal year 2013 and each fiscal year thereafter.

''(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed one-half of the excess of funding under this subsection over $5,000,000 for the fiscal year.''.

(b) DEFINITION.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended by adding at the end the following new paragraph:

''(17) The term 'IECC' means the International Energy Conservation Code.''.

TITLE II—TRANSMISSION

SEC. 201. FINDINGS.

The Congress finds that—

(1) electricity produced from renewable resources helps to reduce greenhouse gas emissions, and limits emissions of other pollutants regulated pursuant to the Clean Air Act, enhances national energy security, and provides substantial economic benefits;

(2) the potential exists for a far greater percentage of electric production in the United States to be generated through the use of renewable resources than current levels;

(3) many of the best potential renewable energy resources are located in rural areas far from population centers;

(4) the lack of adequate electric transmission capacity is one of the primary obstacles to the development of electric generation facilities fueled by renewable energy resources;

(5) the economies of many rural areas would substantially benefit from the increased development of electric generation facilities fueled by renewable energy resources; and

(6) it is in the national interest for the Federal Government to implement policies that will enhance the amount of electric transmission capacity available to take full advantage of renewable energy resources to generate electricity.

SEC. 202. NATIONAL RENEWABLE ENERGY ZONES.

Title II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended as follows:

(1) By inserting before the section heading of section 201 (16 U.S.C. 824 et seq.) the following:

"Subtitle A—Regulation of Electric Utility Companies".

(2) By adding at the end the following:

"Subtitle B—National Renewable Energy Zones

"SEC. 231. DEFINITIONS.

''In this subtitle:

''(1) The term 'Commission' means the Federal Energy Regulatory Commission.

''(2) The term 'electricity from renewable energy' means electric energy generated from—

"(A) solar, wind, geothermal, or marine and hydrokinetic renewable energy;

"(B) biomass (as defined in section 203(b) of the Energy Policy Act of 2005);

"(C) landfill gas; or

"(D) qualified hydropower.

"(3) The term 'marine and hydrokinetic renewable energy' means energy derived from—

"(A) waves, tides, and currents in oceans, estuaries, and tidal areas;

"(B) free flowing water in rivers, lakes, and streams;

"(C) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes; or

"(D) differentials in ocean temperature (ocean thermal energy conversion).

"(4) The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

"(5) The term 'qualified hydropower' means—

''(A) incremental hydropower generation that is achieved from increased efficiency or additions of capacity made on or after the earlier of January 1, 2001, or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date; or

''(B) additions of capacity made on or after the earlier of January 1, 2001, or the effective date of an existing applicable State renewable portfolio standard program at an existing nonhydroelectric dam, provided that—

''(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements, including applicable fish passage requirements;

''(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydro-

electric power on the date of the enactment of this paragraph; and

''(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving the environmental quality of the affected waterway.

''SEC. 232. DESIGNATION OF NATIONAL RENEWABLE ENERGY ZONES.

''(a) REPORT.—Within 1 year after the date of enactment of this subtitle, the President shall report to Congress on the barriers to constructing new transmission lines that would increase renewable electric power generation capacity in the United States.

''(b) DESIGNATION.—Within 18 months after the date of enactment of this subtitle, the President shall designate as a National Renewable Energy Zone each area that meets each of the following conditions:

''(1) The potential to generate in excess of 1 gigawatt of electric power from renewable energy if

there were a sufficient level of electric transmission capacity without having a material detrimental impact on reliability.

''(2) An insufficient level of electric transmission capacity to enable one or more load centers to access the potential renewable electric power generation capacity identified pursuant to paragraph (1).

''(3) Substantial demand in one or more load centers for renewable energy that would be generated in the National Renewable Energy Zone if there were a sufficient level of transmission capacity.

''(c) FACTORS.—In making the designations required by subsection (b), the President shall take into account each of the following:

''(1) Federal and State requirements for utilities to incorporate renewable energy as part of the load of electric generating facilities.

''(2) Compatibility with State and regional transmission plans.

''(d) ADDITIONAL FACILITIES.—Within 3 years after the date of enactment of this subtitle, the President shall identify, and provide public notice of, specific new transmission facilities that, if constructed, could substantially increase the generation of electricity from renewable en-

tifying such facilities, the President shall take into account the ability of the facility to provide transmission capacity from the National Renewable Energy Zone to multiple load centers.

''(e) EXCLUSIONS.—The President shall not include in any National Renewable Energy Zone designated under subsection (b), or identify facilities under subsection (d) on, any Federal land that is designated as a wilderness study area, Wilderness Area, unit of the National Park System, national monument, national wildlife refuge, unit of the National Landscape Conservation System, Inventoried Roadless Area within the National Forest System, Wild and Scenic River, National Marine Sanctuary, or unit of the National System of Trails.

''(f) PUBLIC VIEWS AND CONSULTATION.—Before making any designation under subsection (b) or identifying facilities under subsection (d), the President shall consult with—

''(1) the Governors of affected States;

''(2) the public;

''(3) electric utilities and owners and operators of transmission facilities;

''(4) public utilities commissions and regional electricity planning organizations;

''(5) Federal and State land management and energy and environmental agencies;

''(6) renewable energy companies;

''(7) local government officials;

''(8) renewable energy and energy efficiency interest groups;

''(9) Indian tribes; and

''(10) environmental protection and land, water, and wildlife conservation groups.

''(g) EXPANSION.—The President shall, every 3 years after the date of enactment of this subtitle, consider whether to expand an existing National Renewable Energy Zone or designate a new National Renewable Energy Zone pursuant to the criteria set forth in subsection (b).

''(h) DELISTING.—The President, after opportunity for public comment, shall every 9 years review the National Renewable Energy Zones designated pursuant to subsection (b) and delist those Zones that no longer meet the criteria specified in that subsection.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2009 through 2012 such sums as may be necessary to carry out this section.''.

TITLE III—EXPEDITED INTERCONNECTION STANDARDS

SEC. 301. ADOPTION OF EXPEDITED INTERCONNECTION STANDARDS FOR SMALL GENERATORS.

(a) INTERCONNECTION FOR UTILITIES NOT SUBJECT TO FEDERAL POWER ACT JURISDICTION.—Section 113(b) of the Public Utility Regulatory Policy Act of 1978 (16 U.S.C. 2623(b)) is amended by adding the following at the end thereof:

''(6) INTERCONNECTION STANDARDS.—

''(A) IN GENERAL.—Each electric utility shall provide interconnection service to devices used for the production of electricity having a capacity of no more than 20 megawatts. Such interconnection shall be consistent with the standards promulgated by the Federal Energy Regulatory Commission through Order Number 2006.

''(B) PURPOSES OF STANDARDS.—The standard adopted under this paragraph shall be designed to—

''(i) encourage the use of distributed renewable and combined heat and power electricity generation; and

"(ii) ensure the safety and reliability of devices used for the production of electricity and the local distribution systems interconnected with devices used for the production of electricity.

"(C) EXPEDITED PROCEDURES.—Each standard under this section shall include separate expedited procedures for interconnecting devices used for the production of electricity having a capacity of up to at least 10 kilowatts and a separate standard that expedites interconnection for devices used for the production of electricity having a capacity of no more than 2000 kilowatts. In designing such expedited procedures, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall consider model interconnection rules published by the Interstate Renewable Energy Council.

"(D) SAFETY, RELIABILITY, PERFORMANCE, AND COST.—Each standard under this section shall establish those measures for the safety and reliability of the affected equipment and transmission systems as may be appro-

priate. Such standards shall be consistent with the reliability standards under section 215 of the Federal Power Act and all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, or the American National Standards Institute, and the North American Electric Reliability Corporation, yet constitute the minimum cost and technical burdens to the interconnecting devices used for the production of electricity.

''(E) ADDITIONAL CHARGES.—The standards under this section shall prohibit the imposition of additional charges by the owners or operators of electric utilities for equipment or services for interconnection that are additional to those necessary to achieve the objectives of this paragraph.

''(F) EXEMPTIONS.—Notwithstanding any other provision of this section, any State regulatory authority or electric utility that adopted standards consistent with this paragraph before the enactment of this paragraph shall not be required to take any additional action under this

paragraph. Such an exemption shall be effective upon the issuance by the State regulatory authority (or the electric utility, in the case of a nonregulated electric utility) within 120 days after the date of enactment of this paragraph of a public notice demonstrating that such interconnection standards have been adopted.''.

(b) CONFORMING AMENDMENT.—Section 113(a) of the Public Utility Regulatory Policy Act of 1978 (16 U.S.C. 2623(a)) is amended by adding the following at the end thereof: ''For the purpose of applying this subsection to the standard under paragraph (6) of subsection (b), the date of the enactment of such paragraph (6) shall be substituted for the date of the enactment of this Act.''.

TITLE IV—BIOENERGY PARTNERSHIP

SEC. 401. NATIONAL BIOENERGY PARTNERSHIP.

(a) IN GENERAL.—The Secretary of Energy shall establish a National Bioenergy Partnership to provide coordination among programs of State governments, the Federal Government, and the private sector that support the institutional and physical infrastructure necessary to promote the deployment of sustainable biomass fuels and bioenergy technologies for the United States.

(b) PROGRAM.—The National Bioenergy Partnership shall consist of five regions, to be administered by the CONEG Policy Research Center, the Council of Great Lakes Governors, the Southern States Energy Board, the Western Governors Association, and the Pacific Regional Biomass Energy Partnership led by the Washington State University Energy Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2009 through 2013 to carry out this section—

(1) $20,000,000, to be allocated among the five regions described in subsection (b) on the basis of the number of States in each region, for distribution among the member States of that region based on procedures developed by the member States of the region; and

(2) $5,000,000, to be allocated equally among the five regions described in subsection (b) for regionwide activities, including technical assistance and regional studies and coordination.

TITLE V—REDUCTION OF BLACK CARBON EMISSIONS TO PRESERVE THE ARCTIC

SEC. 501. FINDINGS.

The Congress finds the following:

(1) Black carbon is a largely unregulated greenhouse particulate pollutant that contributes significantly to overall greenhouse pollution by attracting the sun's heat and has a particularly detrimental effect when it falls onto the Arctic and other ice because it increases the absorption of solar radiation, reducing the albedo effect, and leads to faster ice heating and melting. The atmospheric residence of black carbon is less than 2 weeks, making this pollutant a candidate for immediate greenhouse-effect amelioration.

(2) Through various clean air programs, the United States has reduced much of its black carbon pollution, though some industries (e.g., commercial shipping and certain other diesel-engine powered machines) could improve and help spur technological innovation in other countries where major black carbon pollution still occurs through industrial activities, agriculture and forestry practices, and residential cooking with dirty fuels.

(3) The Committee on Oversight and Government Reform of the House of Representatives received testimony establishing that black carbon is a serious threat to health and that reductions in black carbon will produce immediate health improvements.

(4) Black carbon is not explicitly regulated by the United Nations Framework Convention on Climate Change, other international instruments, or by present United States Federal law.

(5) The United States foreign policies and assistance programs, as well as directions to multilateral lending organizations such as the World Bank, possess the potential to significantly reduce black carbon pollution globally.

(6) Taking immediate cost-effective and technologically feasible action to protect the Arctic, especially by significantly reducing black carbon pollution, will protect an ecosystem under imminent threat due to global warming and will establish a strong foundation for further United States leadership in combating global warming.

SEC. 502. PURPOSES.

The purposes of this title are—

(1) to immediately identify ways to reduce black carbon emissions and pollution, both in the United States and world-wide at low cost, to stem and reverse the melting of Arctic Sea ice, as well as contribute to reduction of overall global warming; and

(2) to establish the United States as a leader in protecting the Arctic environment.

SEC. 503. DEFINITIONS.

As used in this title:

(1) The term ''Administrator'' means the head of the Environmental Protection Agency, or that person's designee.

(2) The term ''black carbon'' means the soot-based absorbing component of carbonaceous aerosols, known to attract the sun's rays and increase global warming, and includes black carbon and organic carbon complexes that induce net global warming.

(3) The term ''person'' means any individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State, municipality, or political subdivision of a State, or of any foreign government, any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States.

(4) The term ''soot'' means the carbonaceous aerosol product of incomplete combustion, including both black carbon and organic carbon.

(5) The term ''technologically feasible'' means practices and technology that have been experimentally demonstrated to reduce greenhouse gas

emissions. The term includes promising new technology that has not yet been implemented by any person.

SEC. 504. BLACK CARBON ABATEMENT STUDY.

(a) STUDY.—The Administrator shall conduct a study of black carbon emissions in consultation with the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, the Agency for International Development, the Department of the Interior, and other agencies. The study shall include each of the following:

(1) An identification of—

(A) the latest scientific data relevant to the climate-related impacts of black carbon emissions from diesel engines and other sources;

(B) the major sources of black carbon emissions in the United States and worldwide, and an estimate of black carbon emissions from those sources;

(C) the diesel and other direct emission control technologies, operations, or strategies to remove or reduce emissions of black carbon, including estimates of the costs and effectiveness of the measures;

(D) the entire lifecycle and net climate impacts of installation of diesel particulate filters on existing heavy-duty diesel engines; and

(E) control technologies, operations, or strategies for black carbon emissions from residential cookstoves, forest burning, and other agriculture-based burning, including estimates of the costs and effectiveness of the measures.

(2) Recommendations of the Administrator regarding—

(A) areas of focus for additional research for technologies, operations, and strategies with the highest potential to reduce emissions of black carbon; and

(B) actions the Federal Government could carry out to encourage or require additional black carbon emission reductions.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the study.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 to carry out this title.

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