112TH CONGRESS
1ST SESSION

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To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address climate change, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. INHOFE (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. MCCONNELL, Mr. MORAN, Ms. MURKOWSKI, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on

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# A BILL

To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address 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.**

This Act may be cited as the ''Energy Tax Prevention Act of 2011''.

**SEC. 2. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.**

(a) IN GENERAL.—Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

**''SEC. 330. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.**

''(a) DEFINITION.—In this section, the term 'greenhouse gas' means any of the following:

''(1) Water vapor.

''(2) Carbon dioxide.

''(3) Methane.

''(4) Nitrous oxide.

''(5) Sulfur hexafluoride.

''(6) Hydrofluorocarbons.

''(7) Perfluorocarbons.

''(8) Any other substance subject to, or proposed to be subject to, regulation, action, or consideration under this Act to address climate change.

''(b) LIMITATION ON AGENCY ACTION.—

''(1) LIMITATION.—

''(A) IN GENERAL.—The Administrator may not, under this Act, promulgate any regu-

lation concerning, take action relating to, or take into consideration the emission of a greenhouse gas to address climate change.

"(B) AIR POLLUTANT DEFINITION.—The definition of the term 'air pollutant' in section 302(g) does not include a greenhouse gas. Nothwithstanding the previous sentence, such definition may include a greenhouse gas for purposes of addressing concerns other than climate change.

"(2) EXCEPTIONS.—Paragraph (1) does not prohibit the following:

"(A) Notwithstanding paragraph (4)(B), implementation and enforcement of the rule entitled 'Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards' (75 Fed. Reg. 25324 (May 7, 2010) and without further revision) and finalization, implementation, enforcement, and revision of the proposed rule entitled 'Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles' published at 75 Fed. Reg. 74152 (November 30, 2010).

"(B) Implementation and enforcement of section 211(o).

"(C) Statutorily authorized Federal research, development, and demonstration programs addressing climate change.

"(D) Implementation and enforcement of title VI to the extent such implementation or enforcement only involves one or more class I or class II substances (as such terms are defined in section 601).

"(E) Implementation and enforcement of section 821 (42 U.S.C. 7651k note) of Public Law 101–549 (commonly referred to as the 'Clean Air Act Amendments of 1990').

"(3) INAPPLICABILITY OF PROVISIONS.—Nothing listed in paragraph (2) shall cause a greenhouse gas to be subject to part C of title I (relating to prevention of significant deterioration of air quality) or considered an air pollutant for purposes of title V (relating to air permits).

"(4) CERTAIN PRIOR AGENCY ACTIONS.—The following rules, and actions (including any supplement or revision to such rules and actions) are repealed and shall have no legal effect:

"(A) 'Mandatory Reporting of Greenhouse Gases', published at 74 Fed. Reg. 56260 (October 30, 2009).

"(B) 'Endangerment and Cause or Contribute Findings for Greenhouse Gases under section 202(a) of the Clean Air Act' published at 74 Fed. Reg. 66496 (Dec. 15, 2009).

"(C) 'Reconsideration of the Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs' published at 75 Fed. Reg. 17004 (April 2, 2010) and the memorandum from Stephen L. Johnson, Environmental Protection Agency (EPA) Administrator, to EPA Regional Administrators, concerning 'EPA's Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program' (Dec. 18, 2008).

"(D) 'Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule', published at 75 Fed. Reg. 31514 (June 3, 2010).

"(E) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of

Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call', published at 75 Fed. Reg. 77698 (December 13, 2010).

"(F) 'Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure to Submit State Implementation Plan Revisions Required for Greenhouse Gases', published at 75 Fed. Reg. 81874 (December 29, 2010).

"(G) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan', published at 75 Fed. Reg. 82246 (December 30, 2010).

"(H) 'Action To Ensure Authority To Implement Title V Permitting Programs Under the Greenhouse Gas Tailoring Rule', published at 75 Fed. Reg. 82254 (December 30, 2010).

"(I) 'Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant De-

terioration Program', published at 75 Fed. Reg. 82430 (December 30, 2010).

"(J) 'Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule', published at 75 Fed. Reg. 82536 (December 30, 2010).

"(K) 'Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program; Proposed Rule', published at 75 Fed. Reg. 82365 (December 30, 2010).

"(L) Except for action listed in paragraph (2), any other Federal action under this Act occurring before the date of enactment of this section that applies a stationary source permitting requirement or an emissions standard for a greenhouse gas to address climate change.

"(5) STATE ACTION.—

"(A) NO LIMITATION.—This section does not limit or otherwise affect the authority of a State to adopt, amend, enforce, or repeal State

laws and regulations pertaining to the emission of a greenhouse gas.

''(B) EXCEPTION.—

''(i) RULE.—Notwithstanding subparagraph (A), any provision described in clause (ii)—

''(I) is not federally enforceable;

''(II) is not deemed to be a part of Federal law; and

''(III) is deemed to be stricken from the plan described in clause (ii)(I) or the program or permit described in clause (ii)(II), as applicable.

''(ii) PROVISIONS DEFINED.—For purposes of clause (i), the term 'provision' means any provision that—

''(I) is contained in a State implementation plan under section 110 and authorizes or requires a limitation on, or imposes a permit requirement for, the emission of a greenhouse gas to address climate change; or

''(II) is part of an operating permit program under title V, or a permit issued pursuant to title V, and

authorizes or requires a limitation on the emission of a greenhouse gas to address climate change.

''(C) ACTION BY ADMINISTRATOR.—The Administrator may not approve or make federally enforceable any provision described in subparagraph (B)(ii).''.

**SEC. 3. PRESERVING ONE NATIONAL STANDARD FOR AUTOMOBILES.**

Section 209(b) of the Clean Air Act (42 U.S.C. 7543) is amended by adding at the end the following:

''(4) With respect to standards for emissions of greenhouse gases (as defined in section 330) for model year 2017 or any subsequent model year for new motor vehicles and new motor vehicle engines—

''(A) the Administrator may not waive application of subsection (a); and

''(B) no waiver granted prior to the date of enactment of this paragraph may be considered to waive the application of subsection (a).''.