Lecture 24: What's Next?

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Environmental Economics

Econ 4075

What's Next?

Outline:

1) West Virginia v. EPA
2) Bipartisan Infrastructure Law
3) Inflation Reduction Act

Part 1: West Virginia vs. EPA

Policy Legal Vulnerability

Policymakers pursue their regulatory agenda based on many factors:

- Political direction from the elected president & their constituency.
- Whether a new rule is likely to be enduring.
- Time, resources, and labor effort.

A common source of policy vulnerability is legal challenge. Corporations and environmental groups sue EPA over almost every major action.

Chevron vs. Natural Resources Defense Council

Under the Clean Air Act amendments of 1977, major modifications to existing plants were "new sources" and could go through New Source Review.

- In 1981, the Reagan administration re-defined "new source" to mean an entirely new facility.
- NRDC successfully sued EPA in the DC circuit, saying EPA had capriciously changed its own definition.
- Chevron then appealed to the Supreme Court, which ruled unanimously 6-0 in favor of Chevron.

RBG wrote the initial opinion on the NRDC case while serving as a DC circuit court judge. Image source.

Aside: The Chevron Pascagoula Refinery, Mississippi

Image source.

Chevron vs. Natural Resources Defense Council

"When a challenge to an agency construction of a statutory provision, fairly conceptualized, really centers on the wisdom of the agency's policy, rather than whether it is a reasonable choice within a gap left open by Congress, the challenge must fail. In such a case, ***federal judges—who have no constituency—have a duty to respect legitimate policy choices made by those who do.*** *The responsibilities for assessing the wisdom of such policy choices and resolving the struggle between competing views of the public interest are not judicial ones ...."*

— Chevron, 467 U.S. at 866

The Chevron Doctrine

Some language in environmental laws is clear, but it is often ambiguous. Ambiguity makes environmental policies vulnerable to the political persuasion of judges. The Chevron vs. NRDC case created a precedent for judges and a clearer separation of powers.

- **Chevron deference:** When reviewing an agency's action over ambiguous sections of statute, jurists should defer to the agency's understanding of laws that Congress directed the agency to administer.
  - ➢ See more from the NRDC on a current case that could officially overturn Chevron.

Background on WV vs. EPA

Prior events:

- Massachusetts vs. EPA
  - EPA has authority to regulate GHGs. If GHGs are harmful, then EPA cannot delay issuing vehicle emissions standards for GHGs.
- GHG Endangerment Finding (2009): six GHGs are harmful to public health and welfare.
  - New heavy and light duty vehicle emissions standards
  - The 2015 Clean Power Plan would have reduced GHG emissions from existing power plants and shifted generation to cleaner sources. It gave states the authority to implement these standards and design a wide variety of programs, including allowance trading, to meet the GHG goals.
    - Read an NRDC article summary of the CPP.

West Virginia vs. EPA

States and power companies sued EPA for over-reach in the CPP, alleging that generation shifting was not a valid best technology that could be used to meet EPA's standards.

- Congress/CAA permits emission standards based on "best technologies" within the fenceline.
- Generation shifting applies to an entire state electricity sector, hence regulating "beyond the fenceline" of the air pollution source.

The Winfield coal-fired power plant in West Virginia. Source: Vox "A new Supreme Court case could gut the government's power to fight climate change" (2021)

Merits of Each Side

Shortcomings in the petitioner's argument:

- Clean Power Plan never implemented, so no standing to sue EPA.
- Invocation of **major questions doctrine** goes against judicial precedent in Chevron doctrine.

Shortcomings in the EPA defense:

- CPP and generation shifting was cost-benefit justified ($22.6b net benefits), but this fact was not used to justify the selected standard (see Cecot, 2022).
  - Led to criticism that CPP was not science-based and EPA would set standards "wherever the Agency sees fit."

Long-Term Concerns

SCOTUS ruled in favor of WV. Many concerns with the ruling have been expressed, but a few big ones:

- Precedent to invoke major questions doctrine implies significant regulations will be over-turnable by courts, including past regulations.
- Increased uncertainty around delegated powers weakens agency flexibility and ability to act quickly, pushes many actions back to Congress.
  - Unclear if congressional authority to delegate also impacted.
- Prohibiting regulation “beyond the fenceline” through the CAA limits the potential range of regulatory options for GHGs.
  - Generation shifting often much cheaper than other GHG abatement, so weakens reduction options set for new or existing plants.

RFF Session

Two questions uncertain:

1. How far-reaching is the ruling?
   - Holmstead: narrowly affects power generation shifting.
   - Heinzerling: potentially affects all future agency actions not limited to climate change.
2. Elected congress, unelected bureaucrats, or unelected judges?

Link to RFF Event video.

Part 2: Bipartisan Infrastructure Law

Main Provisions of the Bipartisan Infrastructure Law

Massive $550b over 10 years. Environmentally-relevant portions of the BIL:

- $90b for newer buses, trains, and transit stops
- $66b for more and cleaner passenger rail
- $65b grid modernization and clean energy transmission
- $55b to eliminate lead pipes
- $50b flood, drought, wildfire, etc. preparedness
- $21b to clean Superfund and brownfield sites
- $7.5b for national network of 500,000 EV chargers
- $5b for 24,000 electric school buses

Electrification of Buses

Some benefits of electrifying school buses:

- Reduced visits to hospitals and clinics for children and adults (Beatty and Shimshack, 2011).
- Aerobic capacity and test scores (Austin et al, 2019).

Figure: A Diesel Particulate Filter at the End of its Life

Aerobic Capacity (VO2 Max)

Natural experiment on school bus retrofits:

- 2,600 buses retrofitted in Georgia 2007-2015 (150,000 students).

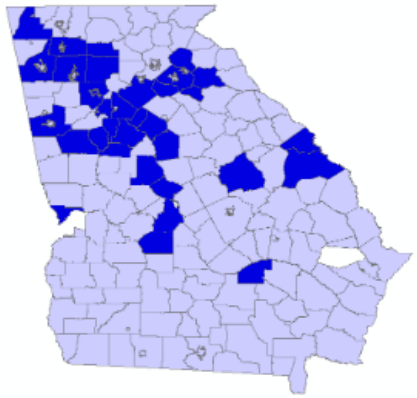


Figure: Retrofitting Districts (2007-2015)

	Δ Aerobic Capacity (1)	Δ BMI (2)
% Retrofit	1.740**	-0.274
	(0.80)	(0.35)
Bus Chars.	✓	✓
Demog.	✓	✓
R2	0.189	0.053
N	856	856
n	180	180
Dep. Var. mean	41.2	21.1
% Change	4.2	-1.3

Satellite-based PM 2.5

National version:

- 18,000 buses retrofitted nationally 2008-2016 ($170m)

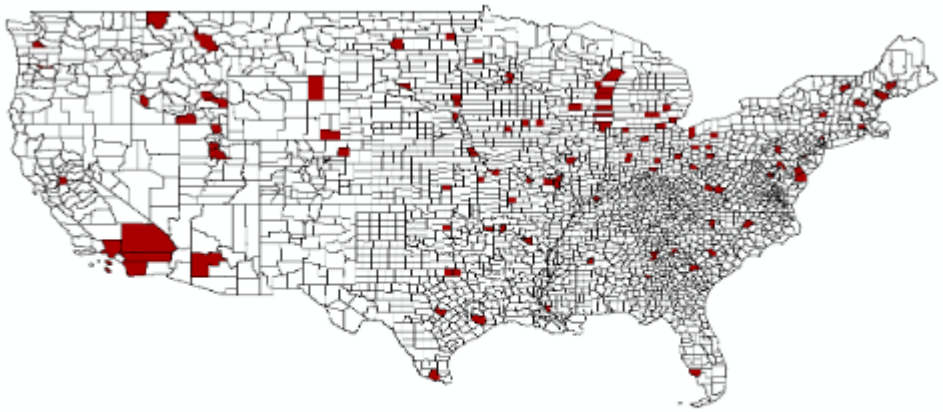


Figure: Retrofitting Counties (2008-2016)

	(1) Monthly Average PM	(2) Monthly Average PM
Buses Retrofitted in Year t	-0.00042**	
	(0.0002)	
Cumulative Buses Retrofitted		-0.00036***
		(0.0003)
Δ PM Concentration	0.0356	0.0619
% Change from Mean	0.39%	0.68%
County-Year-Months	636,072	636,072
Counties & County Equivalents	3,118	3,118

Test Scores

Also, sizeable impact on academic performance for both language arts and math test scores.

- PM 2.5 benefits would have been **$245m**.
- Test score benefits, where 1 percentile increase is $1,041 extra income after discounting implies **$4.5B** benefit.

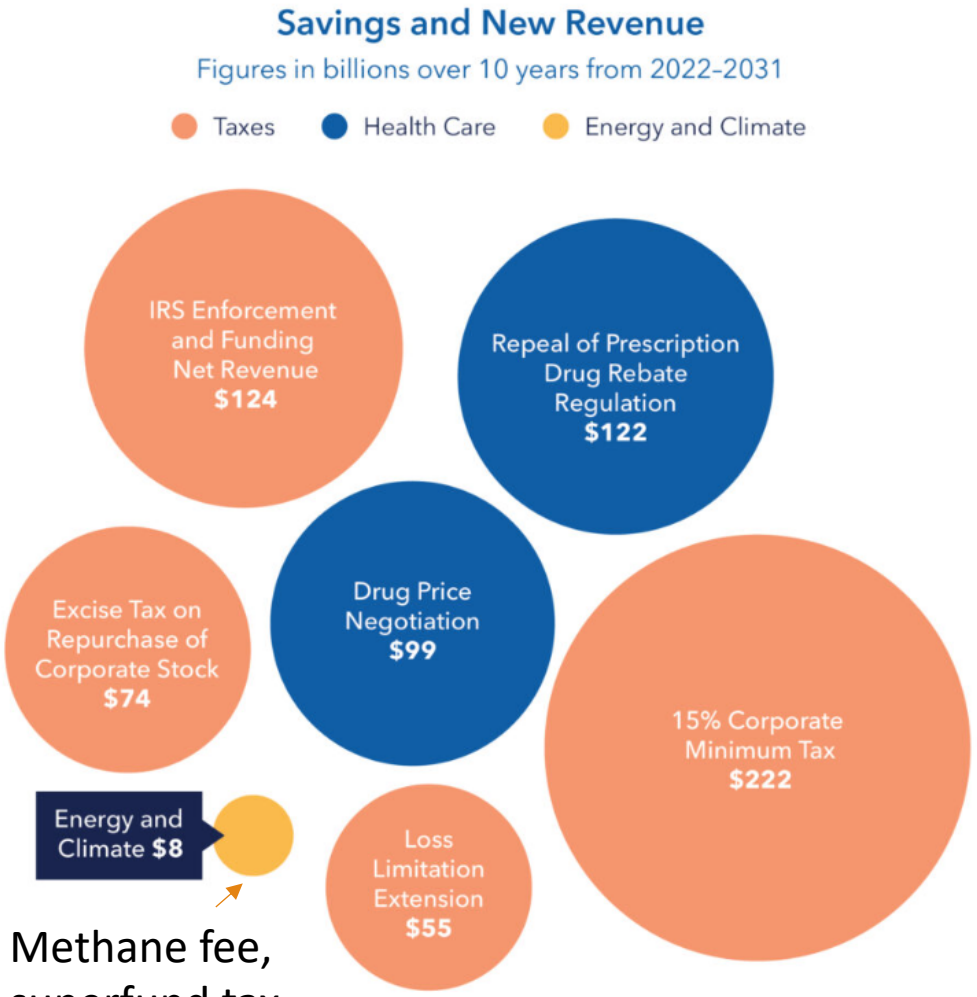
	(1) ELA	(2) Math	(3) ELA	(4) Math
Proportion Retrofitted in Year t	0.0678*	0.0860**		
	(0.0361)	(0.0408)		
Cumulative Proportion of Fleet Retrofitted			0.0549**	0.0603**
			(0.0245)	(0.0246)
County-Year Observations	19,477	19,266	23,133	22,961
State-Year Observations	309	305	372	369

Part 3: Inflation Reduction Act

Why is it called the Inflation Reduction Act?

The IRA is a budget reconciliation bill, which makes it easier to pass because no susceptibility to filibuster and only 50(+1 VP) votes needed.

- Reduces the deficit by $238 billion over a decade (CBO, 2022).
- General agreement that the bill has minimal effect on inflation.
  - Some uncertainty if increase or decrease (CBO, 2022).



Methane fee, superfund tax.

Main Provisions

Also:

- Methane fee
- Greenhouse Gas Reduction Fund
- New leasing of oil and gas fields but edits to pricing structure (12% → 16% royalty).

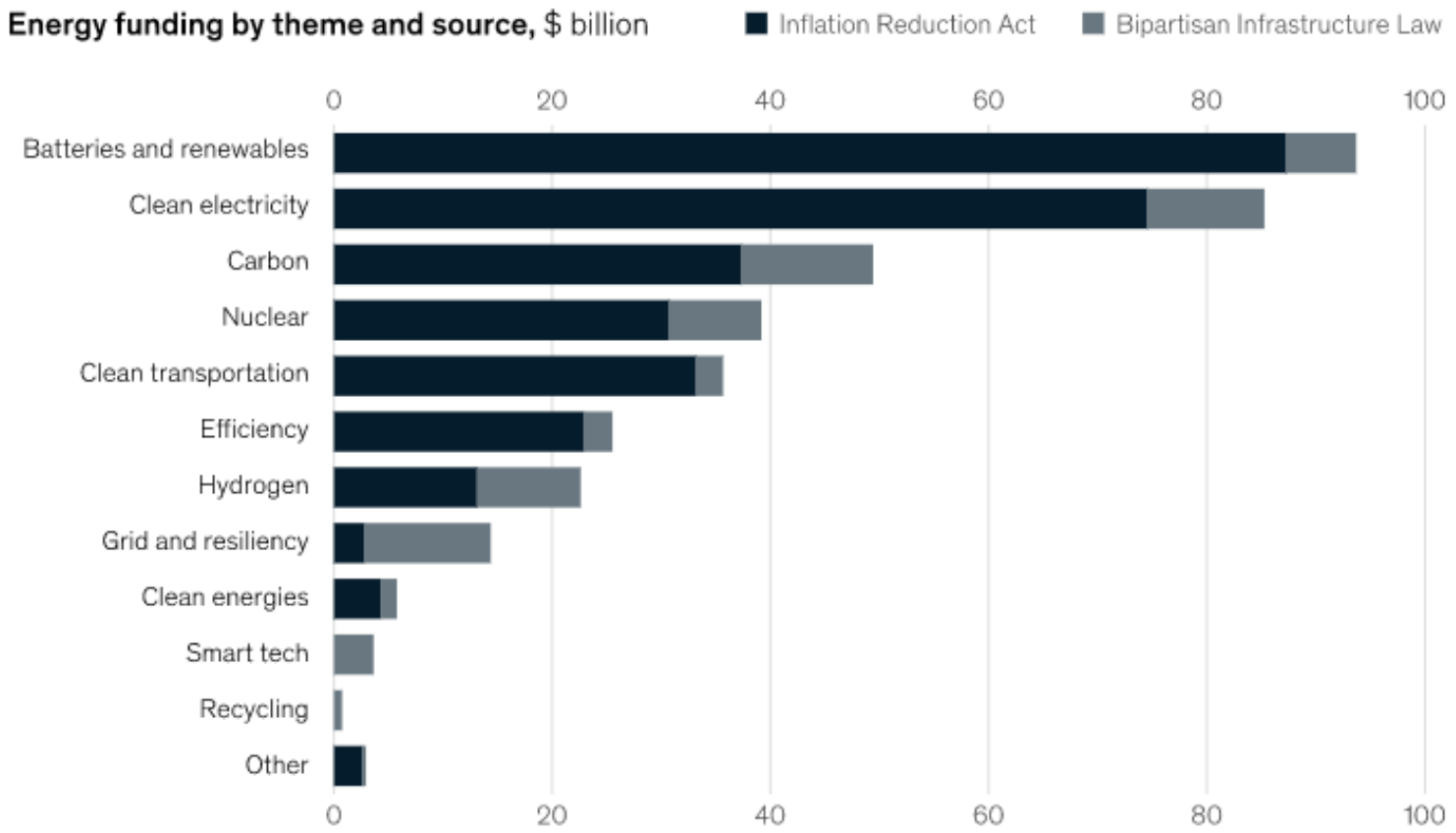
Inflation Reduction Act Summary

Policy	Cost (-)/Savings (2022-2031)
Energy and Climate	**-$386 billion**
Clean Electricity Tax Credits	-$161 billion
Air Pollution, Hazardous Materials, Transportation and Infrastructure	-$40 billion
Individual Clean Energy Incentives	-$37 billion
Clean Manufacturing Tax Credits	-$37 billion
Clean Fuel and Vehicle Tax Credits	-$36 billion
Conservation, Rural Development, Forestry	-$35 billion
Building Efficiency, Electrification, Transmission, Industrial, DOE Grants and Loans	-$27 billion
Other Energy and Climate Spending	-$14 billion

Figure source.

IRA vs. BIL for Climate

Energy funding from the Bipartisan Infrastructure Law and the Inflation Reduction Act spans major funding themes, totaling $370 billion.



Source: [McKinsey and Company, 2022.]

Long-term Impact?

Some high-level impacts:

- ↓ retail electricity prices
- ↑ GDP from government spending, capital investment
- ↓↓ GHGs from 2005 levels by 2030.
  - ➢ Mostly electricity and transportation sectors.
  - ➢ Closer to meeting Paris Climate Goals, but not there yet.
- More recent work suggests larger IRA impact than anticipated at 43-48% drop from 2005 (Bistline et al. 2023).

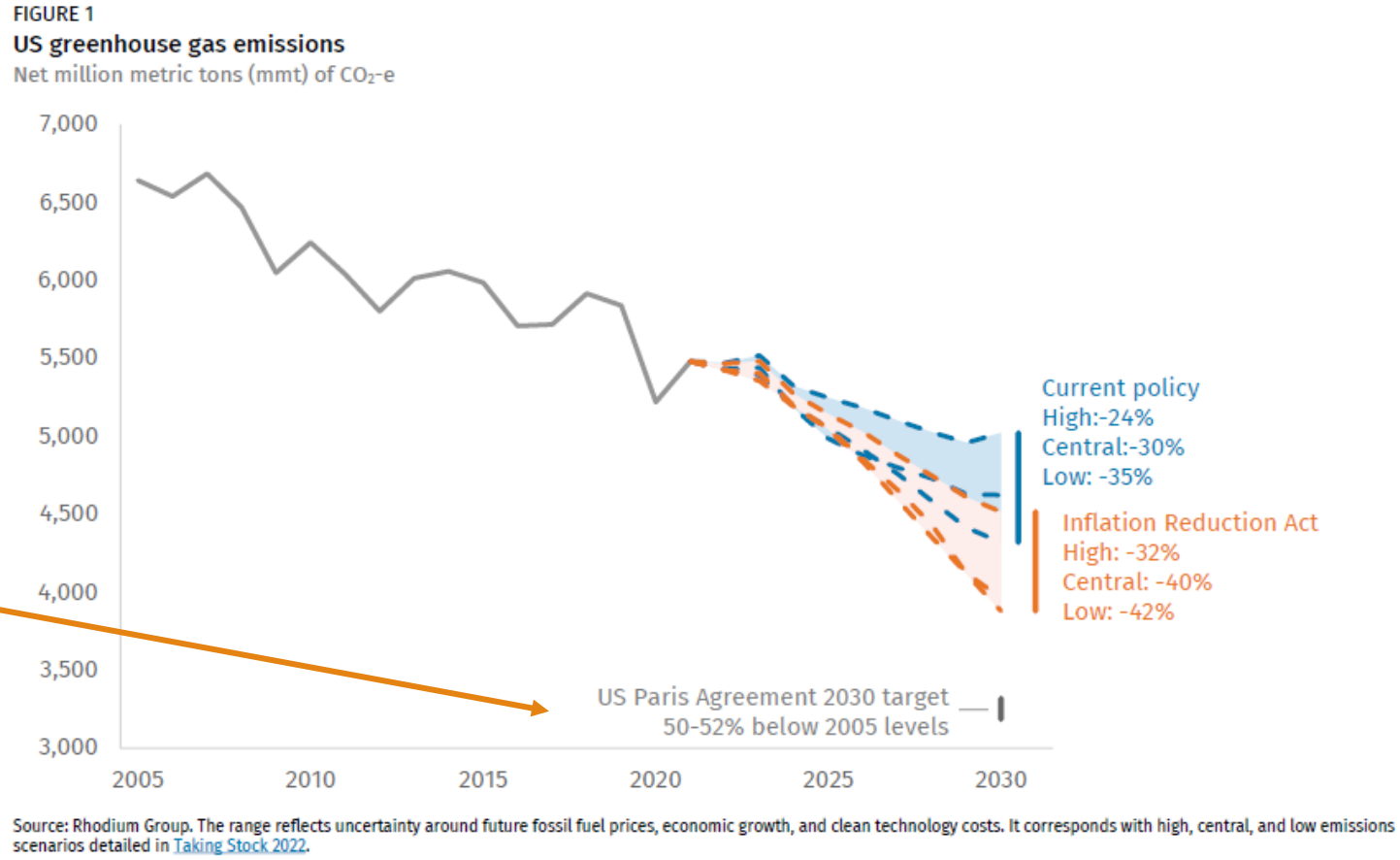


Figure source.

Clean Energy Tax Credits

Extension of clean energy tax credits to 2025, then technology neutral renewables credits after.

- Production tax credit ($5/MWh)
- Investment tax credit (6% on investment)

Other major tax credits:

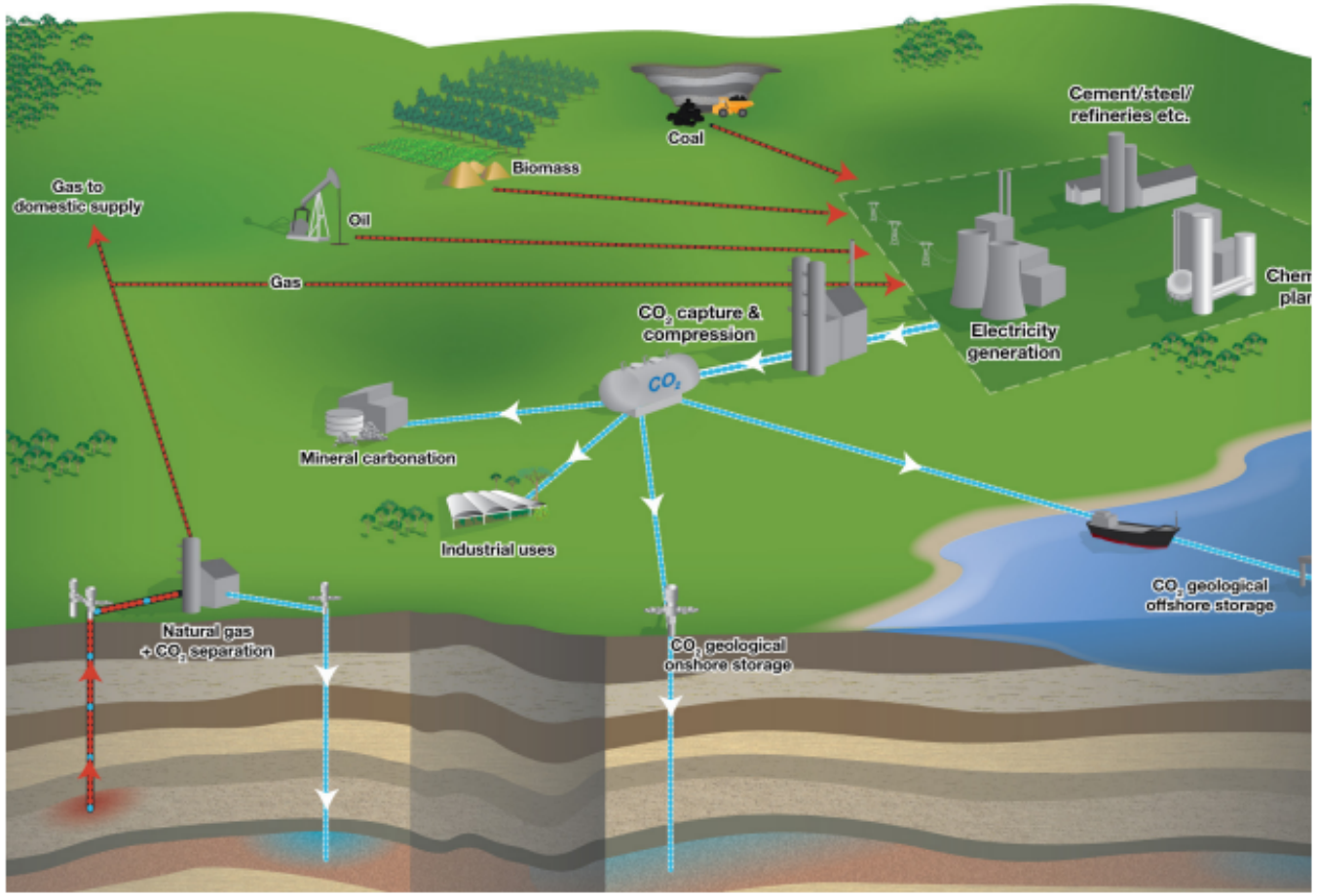
- Hydrogen and nuclear tax credits.
- $85 per ton tax credit for carbon capture.

Figure: Newest Siemens Gamesa windmills have a propeller spread of 240 meters and costs $13-20 million (Image source).

Carbon Capture and Sequestration

CCS dramatically lowers GHGs emissions overall, but also increases burning of fossil fuels to power CCS tech itself and continues operation. Mixed effects:

- Some GHGs from transporting additional fossil fuels unless clean transport
- More PM, NOx
- Threefold increase in local ammonia due to solvents that capture CO2.



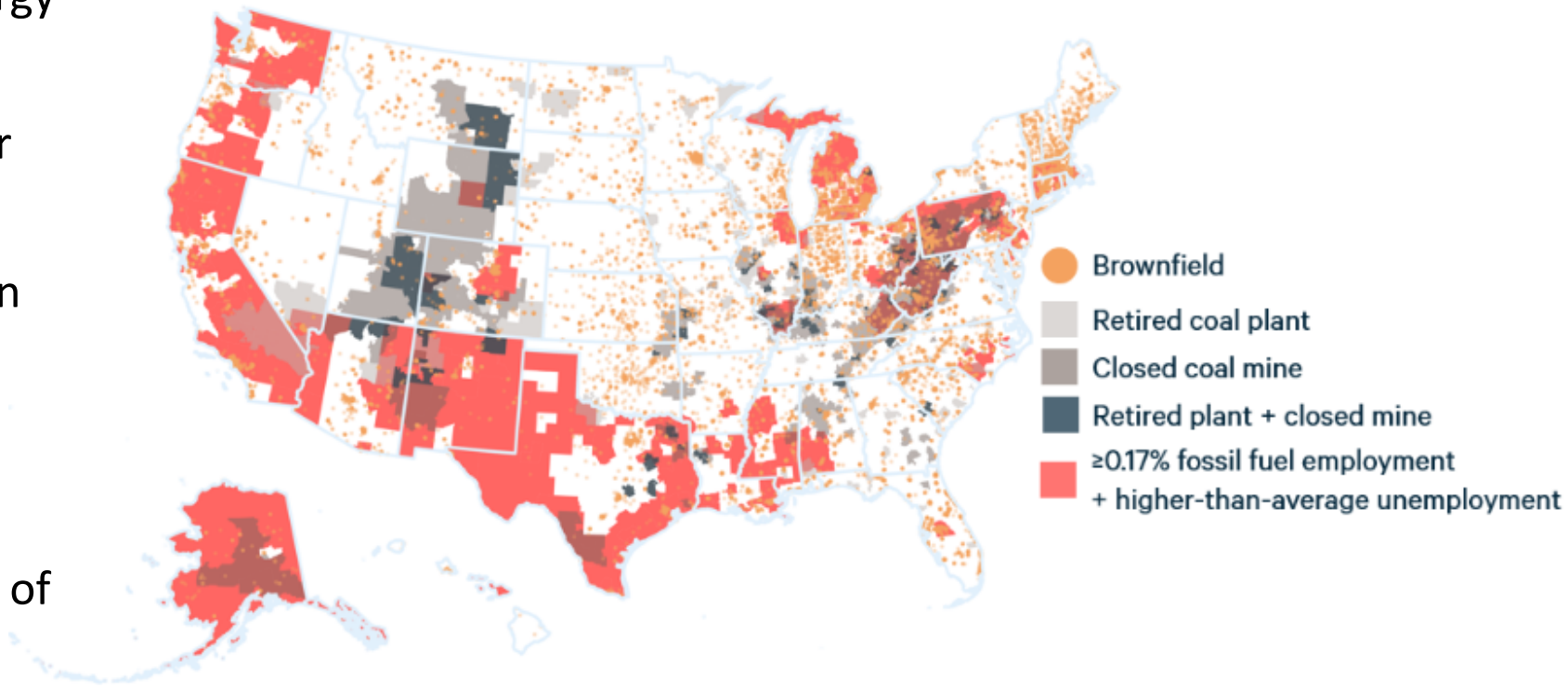
Source: European Environment Agency, 2011

Energy Communities

Special consideration given to “energy communities.”

- Bonus tax credits ($0.50) for electricity production
- Bonus tax credits 6 – 16% on investments in electricity production

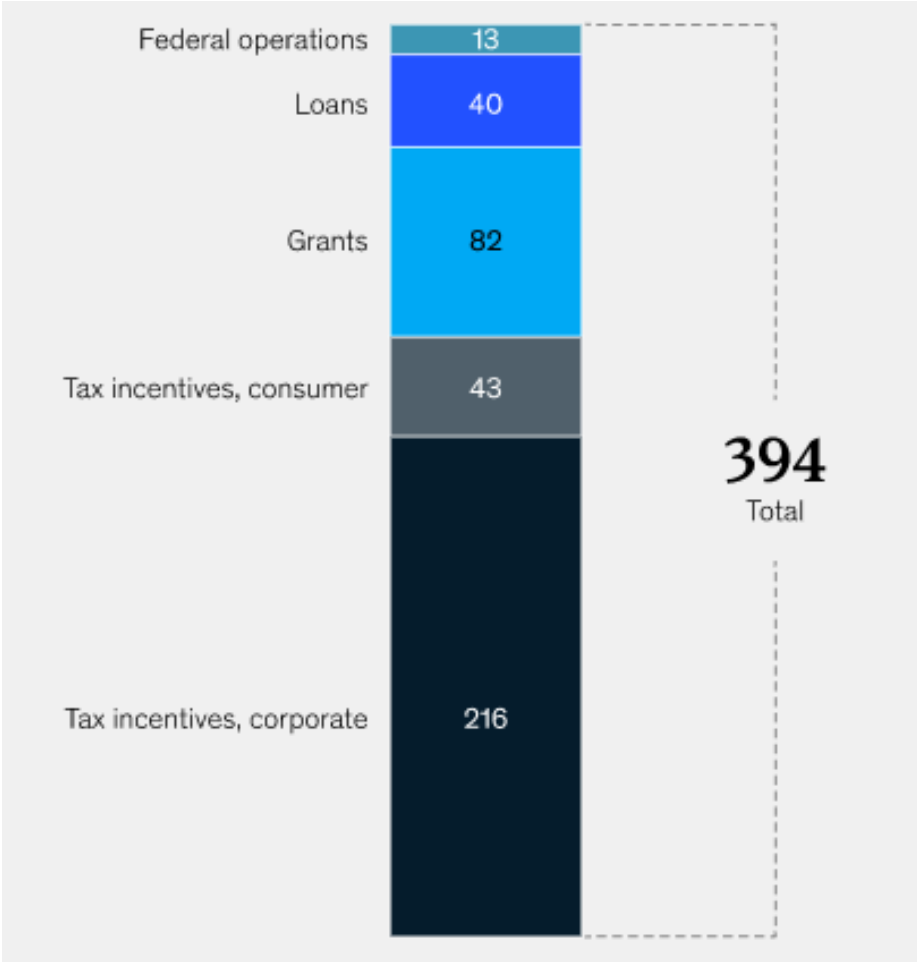
Increased political support, notions of fairness, and also extent of subsidy.



Consumer Tax Credits

Roughly $43 billion in tax credits directly to consumers:

- Heat pumps and electric water heaters (capped at $2000)
- Rooftop solar (up to 30% of cost, capped at $1200 total)
- Electric vehicles ($7500 for new and $4000 for used EVs)



Source: McKinsey and Company, 2022.

Who Benefits from Clean Energy Tax Credits?

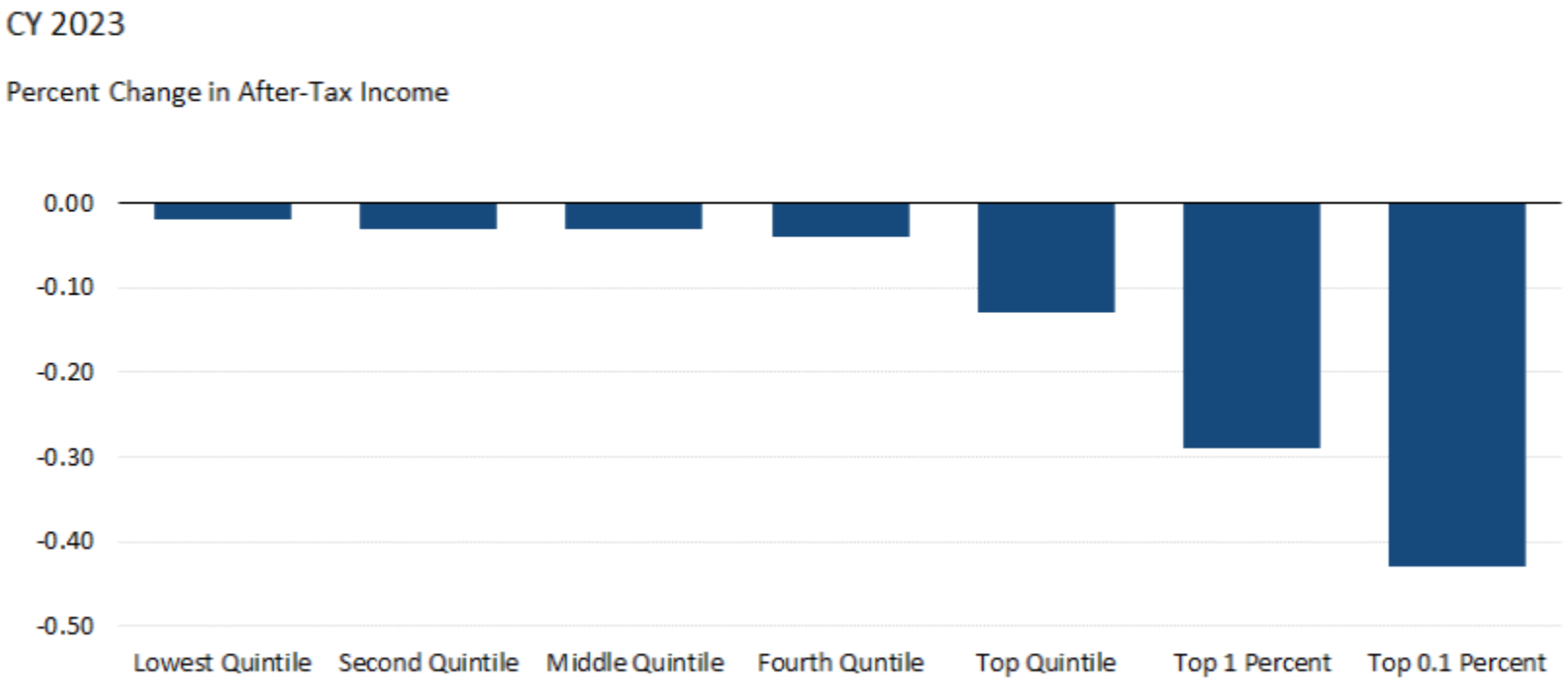
Consumer tax credits benefit wealthiest income quintiles (Borenstein and Davis, 2016). Using tax return data on home weatherization, hybrid/electric vehicles and solar panel credits:

- Top quintile received 60% of benefits, bottom three 10%.
- Top quintile received 90% of all credits for electric vehicles.

Explanation: renters aren't eligible for home upgrades, share of taxpayers that file vs. receive automatic deduction.

Who Pays?

Distributional Effects of the Inflation Reduction Act of 2022* as Passed by the Senate on August 7, 2022



Source: Urban-Brookings Tax Policy Center Microsimulation Model (version 0722-1). **Note:** *Excludes Premium Tax Credit

Link.

Greenhouse Gas Reduction Fund

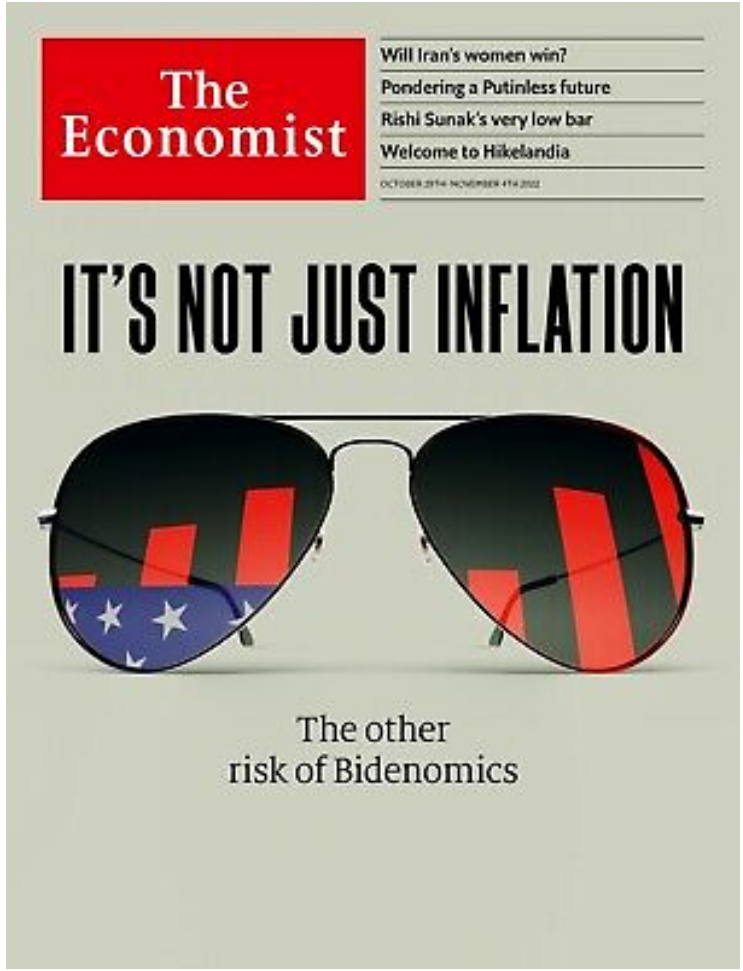
The IRA created a new national climate bank, the Greenhouse Gas Reduction Fund **($27B)** that provides competitive grants for clean energy and climate-related projects that reduce GHGs.

- $7b for distributed zero-emission electricity production to low-income communities such as solar rooftop grants
- $20b in financial assistance in competitive grants for projects that reduce GHGs ($8b specifically for low-income communities).

Controversy

The IRA and BIL have been criticized by various groups.

- "Bidenomics" industrial policy, at 0.7% of GDP, is more dirigiste than France.
  - ➢ Inflation, inefficiency?
- Protectionism of US firms through Buy America policies.
  - ➢ Other countries could subsidize their firms too.



Next class

Wednesday's class will feature a review game for the final. There are no required readings, but please start studying for the final next Monday.