


CITY COUNCIL ACTION REQUEST

Department(s): Environmental Services	Date: 9/30/2019	Coordination: City Attorney's Office; Office of Intergovernmental Relations	Dept. Approval: /s/ Kerrie Romanow
			CMO Approval: 

SUBJECT: H.R.763 (Deutch): Energy Innovation and Carbon Dividend Act of 2019

RECOMMENDED POSITION: Support if amended

RECOMMENDED ACTION:

1. Adopt a position of support if amended for H.R. 763 (Deutch).
2. Recommend this item be agendaized for the November 5, 2019 City Council Meeting so that the City's Legislative Representative can advocate the City's support if amend position for H.R. 763

BILL SYNOPSIS:

H.R. 763 would set a revenue-neutral carbon fee. The fee is imposed on the producers or importers of carbon-based fuels and is equal to the greenhouse gas (GHG) content of the fuel multiplied by the carbon fee rate. The carbon fee rate starts at \$15 in 2019 and increases by \$10 each year. The fees are deposited into a Carbon Dividend Trust Fund and used for administrative expenses and dividend payments to U.S. citizens or lawful residents.

The bill would suspend the U.S. Environmental Protection Agency's (EPA) existing authority under the Clean Air Act to set carbon pollution limits on power plants and industry for at least 10 years. The suspensions expire if the emissions targets established by this bill are not reached after 10 years and thereafter.

IMPACTS TO CITY OF SAN JOSE:

Climate Smart San José identifies carbon fees as a potentially cost-effective way to reduce GHG emissions and account for the negative externalities of burning fossil fuels. Currently, eight federal carbon pricing bills have been introduced. The bills are competing efforts to lay down markers on carbon tax legislation. In alignment with Climate Smart San José and the Paris Climate Agreement, the long-term goal of these bills is to reduce US emissions by 80 to 90 percent below 2015 levels by 2050. However, each bill differs in its approach on the carbon fee rate, who pays the fee, allocation of fee revenues, and how the impacts on low-income families are mitigated.

- H.R. 763 (Deutch) – imposes a carbon fee starting at \$15 with revenues towards dividend payments to U.S. citizens
- H.R. 1960 (Beyer) – creates federal cap and trade program with revenues toward dividend payments to U.S. citizens
- H.R. 3966 (Lipinski) – imposes a carbon fee starting at \$40 with revenues toward offsetting social security payroll taxes
- H.R. 4051 (Panetta) – imposes a carbon fee starting at \$15 with revenues toward dividend payments to U.S. citizens and investment in infrastructure, energy innovation, and workforce development
- H.R. 4058 (Rooney) – imposes a carbon fee starting at \$30 with revenues toward offsetting payroll taxes
- H.R. 4142 (Larson) – imposes a carbon fee starting at \$52 with revenues toward dividend payments to U.S. citizens and investment in infrastructure, energy innovation, and clean water
- S. 940 (Van Hollen) – identical companion measure to H.R. 1960

- S. 2284 (Coons) – identical companion measure to H.R. 4051

Staff is supportive of H.R. 763's revenue-neutral carbon fee in principle. Since a revenue-neutral fee redistributes the fees generated, it has the potential to provide benefits to all Americans. If carbon prices are set appropriately and fees are redistributed equally to all households, the dividends received by low- and middle-income households can potentially exceed their increased expenditures caused by the carbon fee. An analysis provided by the Citizens Climate Lobby, the authors of H.R. 763, shows that all households and particularly low- and middle-income households in San José's congressional districts would benefit from dividends.

According to a 2018 Columbia University study, "The carbon tax rates needed to achieve these long-term targets are unknown because they depend on highly uncertain factors such as economic growth, technological progress and policy development."¹ Given these uncertainties, staff recommends supporting carbon pricing bills that uphold and protect existing environmental regulations and current carbon pricing programs, like the Clean Air Act and California's Cap and Trade Program. As it is currently written, H.R. 763 would suspend the EPA's authority to regulate carbon emissions under the Clean Air Act for at least 10 years. Staff recommends adding language to ensure the EPA's existing authority can be used as an effective backstop in the event that carbon emissions increase.

H.R. 763 does not currently contain language on how existing carbon pricing mechanisms, like Cap and Trade, will be treated. While H.R. 763 would not preempt State law, it is unclear if businesses would have to pay both the federal fee and into the Cap and Trade Program, or if measures will be put in place to ensure businesses are not double-taxed for the same ton of carbon. Staff recommends adding language to H.R. 763 to ensure Cap and Trade program and the programs dependent on Cap and Trade revenue will be minimally impacted. As of September 2019, Santa Clara County has benefitted from more than \$172 million in Cap and Trade revenue. These programs have benefits beyond emissions reductions including affordable housing, workforce development, healthy transportation, and water conservation.

POLICY ALIGNMENT:

Advocating for a revenue-neutral carbon fee would align with the 2019 Legislative Program position approved by Council, "Climate Smart Carbon Accounting – Support policies that establish a carbon accounting standard, designate a tracking mechanism, and create an entity to manage carbon accounting on a statewide or regional level."

SUPPORTERS/OPPONENTS:

Support

American Nurses Association Michigan
 Applied Medical Visualizations
 Architectural Nexus, Inc.
 Audubon Maryland-DC Chapter
 Batzel Law PLLC
 Bloom Real Estates
 Birmingham, Alabama Transit Citizens Advisory Board
 Bloomington, Indiana Environmental Commission
 Carbon To Clean
 Carnival Corp
 City of Anchorage, Alaska
 City of Cincinnati, Ohio
 City of Coconut Creek, Florida

¹ Kaufman, N. (2018, November 27). Columbia University School of International and Public Affairs Center on Global Energy Policy. Retrieved from: <https://energypolicy.columbia.edu/research/commentary/how-bipartisan-energy-innovation-and-carbon-dividend-act-compares-other-carbon-tax-proposals>

City of Corvallis, Oregon
City of Durham, North Carolina
City of Encinitas, California
City of Hoboken, New Jersey
City of Jackson, Mississippi
City of Olympia, Washington
County of Palm Beach, Florida
City of Richmond, California
City of Rochester, New York
City of Santa Ana, California
City of Syracuse, New York
Citizens' Climate Lobby
Clean Energy Technology Resources, LLC
Clinard insurance Group Inc.
Climate Leadership Council
CoolGreenPower LLC
County of Los Angeles, California
County of Tompkins, New York
Dandelion Energy
Environmental Defense Fund
Helios Solar LLC
Ipsun Solar
Natural Resources Defense Council
Silicon Valley Leadership Group
World Resources Institute

Oppose

Food and Water Watch
The Center for Biological Diversity

STATUS OF BILL:

On January 25, 2019, H.R. 763 was referred to three House committees including the Committee on Ways and Means, Committee on Energy and Commerce, and Committee on Foreign Affairs.

FOR QUESTIONS CONTACT: Ken Davies, Deputy Director, Climate Smart San José, 408-975-2587

116TH CONGRESS
1ST SESSION

H. R. 763

To create a Carbon Dividend Trust Fund for the American people in order to encourage market-driven innovation of clean energy technologies and market efficiencies which will reduce harmful pollution and leave a healthier, more stable, and more prosperous nation for future generations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. DEUTCH (for himself, Mr. LIPINSKI, Mr. CRIST, Mr. PETERS, Ms. ESHOO, Ms. JUDY CHU of California, and Mr. ROONEY of Florida) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To create a Carbon Dividend Trust Fund for the American people in order to encourage market-driven innovation of clean energy technologies and market efficiencies which will reduce harmful pollution and leave a healthier, more stable, and more prosperous nation for future generations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Energy Innovation and
3 Carbon Dividend Act of 2019”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) efficient markets strengthen our economy
7 and benefit our Nation by encouraging competition,
8 innovation, and technological progress;

9 (2) efficient markets should reflect all costs of
10 goods to ensure that they advance America’s pros-
11 perity and national interests;

12 (3) emissions of carbon pollution and other
13 harmful pollutants into our Nation’s air impose sub-
14 stantial costs on all Americans and on future gen-
15 erations; and

16 (4) creation of a Carbon Dividend Trust Fund,
17 to be distributed to the American people, will make
18 markets more efficient, create jobs, and stimulate
19 competition, innovation, and technological progress
20 that benefit all Americans and future generations.

21 **SEC. 3. CARBON DIVIDENDS AND CARBON FEE.**

22 (a) IN GENERAL.—The Internal Revenue Code of
23 1986 is amended by adding at the end the following new
24 subtitle:

1 **“Subtitle L—CARBON DIVIDENDS**
 2 **AND CARBON FEE**

“CHAPTER 101. CARBON FEES.

“CHAPTER 102. CARBON BORDER FEE ADJUSTMENT.

3 **“CHAPTER 101—CARBON FEES**

“Sec. 9901. Definitions.

“Sec. 9902. Carbon fee.

“Sec. 9903. Emissions reduction schedule.

“Sec. 9904. Fee on fluorinated greenhouse gases.

“Sec. 9905. Decommissioning of Carbon Administration.

“Sec. 9906. Carbon Capture and Sequestration.

“Sec. 9907. Administrative authority.

4 **“SEC. 9901. DEFINITIONS.**

5 “For purposes of this subtitle:

6 “(a) ADMINISTRATOR.—The term ‘Administrator’
 7 means the Administrator of the Environmental Protection
 8 Agency.

9 “(b) CARBON DIOXIDE EQUIVALENT OR CO₂-E.—
 10 The term ‘carbon dioxide equivalent’ or ‘CO₂-e’ means the
 11 number of metric tons of carbon dioxide emissions with
 12 the same global warming potential as one metric ton of
 13 another greenhouse gas.

14 “(c) CARBON-INTENSIVE PRODUCT.—The term ‘car-
 15 bon-intensive product’ means, as identified by the Sec-
 16 retary by rule—

17 “(1) any manufactured or agricultural product
 18 which the Secretary in consultation with the Admin-
 19 istrator determines is emissions-intensive and trade-

1 exposed, except that no covered fuel is a carbon-in-
2 tensive product, and

3 “(2) until such time that the Secretary promul-
4 gates rules identifying carbon-intensive products, the
5 following shall be considered carbon-intensive prod-
6 ucts: iron, steel, steel mill products (including pipe
7 and tube), aluminum, cement, glass (including flat,
8 container, and specialty glass and fiberglass), pulp,
9 paper, chemicals, or industrial ceramics.

10 “(d) CARBON LEAKAGE.—The term ‘carbon leakage’
11 means an increase of global greenhouse gas emissions
12 which are substantially due to the relocation of greenhouse
13 gas sources from the United States to jurisdictions which
14 lack comparable controls upon greenhouse gas emissions.

15 “(e) COST OF CARBON OR CARBON COSTS.—The
16 term ‘cost of carbon’ or ‘carbon costs’ means a national
17 or sub-national government policy which explicitly places
18 a price on greenhouse gas pollution and shall be limited
19 to either a tax on greenhouse gases or a system of cap-
20 and-trade. The cost of carbon is expressed as the price
21 per metric ton of CO₂-e.

22 “(f) COVERED ENTITY.—The term ‘covered entity’
23 means—

24 “(1) in the case of crude oil—

1 “(A) a refinery operating in the United
2 States, and

3 “(B) any importer of any petroleum or pe-
4 troleum product into the United States,

5 “(2) in the case of coal—

6 “(A) any coal mining operation in the
7 United States, and

8 “(B) any importer of coal into the United
9 States,

10 “(3) in the case of natural gas—

11 “(A) any entity entering pipeline quality
12 natural gas into the natural gas transmission
13 system, and

14 “(B) any importer of natural gas into the
15 United States,

16 “(4) in the case of fluorinated gases any entity
17 required to report the emission of a fluorinated gas
18 under part 98 of title 40, Code of Federal Regula-
19 tions, and

20 “(5) any entity or class of entities which, as de-
21 termined by the Secretary, is transporting, selling,
22 or otherwise using a covered fuel in a manner which
23 emits a greenhouse gas to the atmosphere and which
24 has not been covered by the carbon fee, the

1 fluorinated greenhouse gas fee, or the carbon border
2 fee adjustment.

3 “(g) COVERED FUEL.—The term ‘covered fuel’
4 means crude oil, natural gas, coal, or any other product
5 derived from crude oil, natural gas, or coal which shall
6 be used so as to emit greenhouse gases to the atmosphere.

7 “(h) CRUDE OIL.—The term ‘crude oil’ means
8 unrefined petroleum.

9 “(i) EXPORT.—The term ‘export’ means to transport
10 a product from within the jurisdiction of the United States
11 to persons outside the United States.

12 “(j) FLUORINATED GREENHOUSE GAS.—The term
13 ‘fluorinated greenhouse gas’ means sulfur hexafluoride
14 (SF₆), nitrogen trifluoride (NF₃), and any fluorocarbon
15 except for controlled substances as defined in subpart A
16 of part 82 of title 40, Code of Federal Regulation, and
17 substances with vapor pressures of less than 1 mm of Hg
18 absolute at 25 degrees. With these exceptions, ‘fluorinated
19 greenhouse gas’ includes but is not limited to any
20 hydrofluorocarbon, any perfluorocarbon, any fully
21 fluorinated linear, branched or cyclic alkane, ether, ter-
22 tiary amine or aminoether, any perfluoropolyether, and
23 any hydrofluoropolyether.

1 “(k) FOSSIL FUEL.—The term ‘fossil fuel’ means
2 coal, coal products, petroleum, petroleum products, or nat-
3 ural gas.

4 “(l) FULL FUEL CYCLE GREENHOUSE GAS EMIS-
5 SIONS.—The term ‘full fuel cycle greenhouse gas emis-
6 sions’ means the greenhouse gas content of a covered fuel
7 plus that covered fuel’s upstream greenhouse gas emis-
8 sions.

9 “(m) GLOBAL WARMING POTENTIAL.—The term
10 ‘global warming potential’ means the ratio of the time-
11 integrated radiative forcing from the instantaneous release
12 of one kilogram of a trace substance relative to that of
13 one kilogram of carbon dioxide.

14 “(n) GREENHOUSE GAS.—The term ‘greenhouse gas’
15 means carbon dioxide (CO₂), methane (CH₄), nitrous
16 oxide (N₂O), sulfur hexafluoride (SF₆),
17 hydrofluorocarbons (HFCs), perfluorocarbon (PFCs), and
18 other gases as defined by rule of the Administrator.

19 “(o) GREENHOUSE GAS CONTENT.—The term
20 ‘greenhouse gas content’ means the amount of greenhouse
21 gases, expressed in metric tons of CO₂-e, which would be
22 emitted to the atmosphere by the use of a covered fuel
23 and shall include, nonexclusively, emissions of carbon diox-
24 ide (CO₂), nitrous oxide (N₂O), methane (CH₄), and other

1 greenhouse gases as identified by rule of the Adminis-
2 trator.

3 “(p) GREENHOUSE GAS EFFECT.—The term ‘green-
4 house gas effect’ means the adverse effects of greenhouse
5 gases on health or welfare caused by the greenhouse gas’s
6 heat-trapping potential or its effect on ocean acidification.

7 “(q) IMPORT.—Irrespective of any other definition in
8 law or treaty, the term ‘import’ means to land on, bring
9 into, or introduce into any place subject to the jurisdiction
10 of the United States.

11 “(r) PETROLEUM.—The term ‘petroleum’ means oil
12 removed from the earth or the oil derived from tar sands
13 or shale.

14 “(s) PRODUCTION GREENHOUSE GAS EMISSIONS.—
15 The term ‘production greenhouse gas emissions’ means
16 the quantity of greenhouse gases, expressed in metric tons
17 of CO₂-e, emitted to the atmosphere resulting from, non-
18 exclusively, the production, manufacture, assembly, trans-
19 portation, or financing of a product.

20 “(t) UPSTREAM GREENHOUSE GAS EMISSIONS.—
21 The term ‘upstream greenhouse gas emissions’ means the
22 quantity of greenhouse gases, expressed in metric tons of
23 CO₂-e, emitted to the atmosphere resulting from, non-
24 exclusively, the extraction, processing, transportation, fi-
25 nancing, or other preparation of a covered fuel for use.

1 **“SEC. 9902. CARBON FEE.**

2 “(a) CARBON FEE.—There is hereby imposed a car-
3 bon fee on any covered entity’s emitting use, or sale or
4 transfer for an emitting use, of any covered fuel.

5 “(b) AMOUNT OF THE CARBON FEE.—The carbon
6 fee imposed by this section is an amount equal to—

7 “(1) the greenhouse gas content of the covered
8 fuel, multiplied by

9 “(2) the carbon fee rate.

10 “(c) CARBON FEE RATE.—For purposes of this sec-
11 tion—

12 “(1) IN GENERAL.—The carbon fee rate, with
13 respect to any use, sale, or transfer during a cal-
14 endar year, shall be—

15 “(A) in the case of calendar year 2019,
16 \$15, and

17 “(B) except as provided in paragraph (2),
18 in the case of any calendar year thereafter—

19 “(i) the carbon fee rate in effect
20 under this subsection for the preceding cal-
21 endar year, plus

22 “(ii) \$10.

23 “(2) EXCEPTIONS.—

24 “(A) INCREASED CARBON FEE RATE
25 AFTER MISSED ANNUAL EMISSIONS REDUCTION
26 TARGET.—In the case of any year immediately

1 following a year for which the Secretary deter-
2 mines under 9903(b) that the actual emissions
3 of greenhouse gases from covered fuels exceeded
4 the emissions reduction target for the previous
5 year, paragraph (1)(B)(ii) shall be applied by
6 substituting ‘\$15’ for the dollar amount other-
7 wise in effect for the calendar year under such
8 paragraph.

9 “(B) CESSATION OF CARBON FEE RATE IN-
10 CREASE AFTER CERTAIN EMISSION REDUCTIONS
11 ACHIEVED.—In the case of any year imme-
12 diately following a year for which the Secretary
13 determines under 9903(b) that actual emissions
14 of greenhouse gases from covered fuels is not
15 more than 10 percent of the greenhouse gas
16 emissions from covered fuels during the year
17 2016, paragraph (1)(B)(ii) shall be applied by
18 substituting ‘\$0’ for the dollar amount other-
19 wise in effect for the calendar year under such
20 paragraph.

21 “(3) INFLATION ADJUSTMENT.—In the case of
22 any calendar year after 2019, each of the dollar
23 amounts in paragraphs (1)(A), (1)(B)(ii), and
24 (2)(A) shall be increased by an amount equal to—

25 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year, determined by substituting ‘calendar year
4 2018’ for ‘calendar year 2016’ in subparagraph
5 (A)(ii) thereof.

6 “(d) EXEMPTION AND REFUND.—The Secretary
7 shall prescribe such rules as are necessary to ensure the
8 fee imposed by this section is not imposed with respect
9 to any nonemitting use, or any sale or transfer for a non-
10 emitting use, including rules providing for the refund of
11 any carbon fee paid under this section with respect to any
12 such use, sale, or transfer.

13 “(e) EXEMPTIONS.—

14 “(1) AGRICULTURE.—

15 “(A) FUEL.—If any covered fuel or its de-
16 rivative is used on a farm for a farming pur-
17 pose, the Secretary shall pay (without interest)
18 to the ultimate purchaser of such covered fuel
19 or its derivative, the total amount of carbon
20 fees previously paid upon that covered fuel or
21 its derivative, as specified by rule of the Sec-
22 retary.

23 “(B) FARM, FARMING USE, AND FARMING
24 PURPOSE.—The terms ‘farm’, ‘farming use’,
25 and ‘farming purpose’ shall have the respective

1 meanings given such terms under section
2 6420(c).

3 “(C) OTHER GREENHOUSE GASES EMIS-
4 SIONS FROM AGRICULTURE.—The carbon fee
5 shall not be levied upon non-fossil fuel green-
6 house gas emissions which occur on a farm.

7 “(2) ARMED FORCES OF THE UNITED
8 STATES.—If any covered fuel or its derivative is
9 used by the Armed Forces of the United States as
10 supplies for vessels of war, vehicles, or electrical
11 power generation equipment, the Secretary shall pay
12 (without interest) to the ultimate purchaser of such
13 covered fuel or its derivative, the total amount of
14 carbon fees previously paid upon that covered fuel or
15 its derivative, as specified by rule of the Secretary.

16 **“SEC. 9903. EMISSIONS REDUCTION SCHEDULE.**

17 “(a) IN GENERAL.—An emissions reduction schedule
18 for greenhouse gas emissions from covered fuels is hereby
19 established, as follows:

20 “(1) REFERENCE YEAR.—The greenhouse gas
21 emissions from covered fuels during the year 2016
22 shall be the reference amount of emissions and shall
23 be determined from the ‘Inventory of U.S. Green-
24 house Gas Emissions and Sinks: 1990–2016’ pub-

1 lished by the Environmental Protection Agency in
2 April of 2018.

3 “(2) EMISSIONS REDUCTION TARGET.—The
4 first emission reduction target shall be for the year
5 2022. The emission target for each year thereafter
6 shall be the previous year’s target emissions minus
7 a percentage of emissions during the reference year
8 determined in accordance with the following table:

“Year	Emissions Reduction Target
2016	Reference year
2020 to 2024	No emissions reduction target
2025 to 2034	5 percent of 2016 emissions per year
2035 to 2050	2.5 percent of 2016 emissions per year

9 “(b) ADMINISTRATIVE DETERMINATION.—Not later
10 than 60 days after the beginning of each calendar year
11 beginning after the enactment of this section, the Sec-
12 retary, in consultation with the Administrator, shall deter-
13 mine whether actual emissions of greenhouse gases from
14 covered fuels exceeded the emissions reduction target for
15 the preceding calendar year. The Secretary shall make
16 such determination using the same greenhouse gas ac-
17 counting method as was used to determine the greenhouse
18 gas emissions in the ‘Inventory of U.S. Greenhouse Gas
19 Emissions and Sinks: 1990–2016’ published by the Envi-
20 ronmental Protection Agency in April of 2018.

1 **“SEC. 9904. FEE ON FLUORINATED GREENHOUSE GASES.**

2 “(a) **FLUORINATED GAS FEE.**—A fee is hereby im-
3 posed upon any fluorinated greenhouse gas which is re-
4 quired to be reported under part 98 of title 40, Code of
5 Federal Regulations.

6 “(b) **AMOUNT.**—The fee to be paid by the covered
7 entity required to so report shall be an amount equal to—

8 “(1) the total amount, in metric tons of CO₂-
9 e, of emitted fluorinated greenhouse gases (or, in the
10 case of a supplier, emissions that would result deter-
11 mined under the rules of such part), multiplied by

12 “(2) an amount equal to 10 percent of the car-
13 bon fee rate in effect under section 9902(d)(1) for
14 the calendar year of such emission.

15 **“SEC. 9905. DECOMMISSIONING OF CARBON FEE.**

16 “(a) **IN GENERAL.**—At such time that—

17 “(1) the Secretary determines under 9903(b)
18 that actual emissions of greenhouse gases from cov-
19 ered fuels is not more than 10 percent of the green-
20 house gas emissions from covered fuels during the
21 year 2016, and

22 “(2) the monthly carbon dividend payable to an
23 adult eligible individual has been less than \$20 for
24 3 consecutive years,

25 the Secretary shall decommission in an orderly manner all
26 bureaus and programs associated with administering the

1 carbon fee, the carbon border fee adjustment, and the Car-
 2 bon Dividend Trust Fund.

3 “(b) INFLATION ADJUSTMENT.—In the case of any
 4 calendar year after 2020, the \$20 amount under sub-
 5 section (a)(2) shall be increased by an amount equal to—

6 “(1) such dollar amount, multiplied by

7 “(2) cost-of-living adjustment determined under
 8 section 1(f)(3) for the calendar year, determined by
 9 substituting ‘calendar year 2017’ for ‘calendar year
 10 2016’ in subparagraph (A)(ii) thereof.

11 **“SEC. 9906. CARBON CAPTURE AND SEQUESTRATION.**

12 “(a) IN GENERAL.—The Secretary, in consultation
 13 with the Administrator and the Secretary of Energy, shall
 14 prescribe regulations for making payments as provided in
 15 subsection (b) to qualified facilities which capture and se-
 16 quester qualified carbon dioxide.

17 “(b) PAYMENT AMOUNTS.—

18 “(1) IN GENERAL.—The Secretary shall make
 19 payments to a qualified facility in the same manner
 20 as if such payment was a refund of an overpayment
 21 of the carbon fee imposed by section 9902, in cases
 22 in which such qualified facility—

23 “(A) uses any covered fuel—

24 “(i) with respect to which the carbon
 25 fee has been paid, and

1 “(ii) which results in the emission of
2 qualified carbon dioxide,

3 “(B) captures such emitted qualified car-
4 bon dioxide, and

5 “(C)(i) sequesters such qualified carbon di-
6 oxide in a manner which is safe, permanent,
7 and in compliance with any applicable local,
8 State, and Federal laws, or

9 “(ii) utilizes such qualified carbon dioxide
10 in a manner provided in paragraph (3)(C).

11 “(2) AMOUNT OF REFUND.—The payment de-
12 termined under this section shall be an amount
13 equal to the lesser of—

14 “(A)(i) the adjusted metric tons of quali-
15 fied carbon dioxide captured and sequestered or
16 utilized, multiplied by

17 “(ii) the carbon fee rate during the year in
18 which the carbon fee was imposed by section
19 9902 upon the covered fuel to which such car-
20 bon dioxide relates, or

21 “(B) the amount of the carbon fee imposed
22 by section 9902 with respect to such covered
23 fuel.

24 “(3) DEFINITIONS AND SPECIAL RULES.—For
25 purposes of this section—

1 “(A) QUALIFIED CARBON DIOXIDE; QUALI-
2 FIED FACILITY.—

3 “(i) QUALIFIED CARBON DIOXIDE.—
4 The term ‘qualified carbon dioxide’ has the
5 same meaning given such term under sec-
6 tion 45Q(b).

7 “(ii) QUALIFIED FACILITY.—The term
8 ‘qualified facility’ means any industrial fa-
9 cility at which carbon capture equipment is
10 placed in service.

11 “(B) ADJUSTED TOTAL METRIC TONS.—
12 The adjusted total metric tons of qualified car-
13 bon dioxide captured and sequestered or utilized
14 shall be the total metric tons of qualified carbon
15 dioxide captured and sequestered or utilized, re-
16 duced by the amount of any carbon dioxide like-
17 ly to escape and be emitted into the atmosphere
18 due to imperfect storage technology or other-
19 wise, as determined by the Secretary in con-
20 sultation with the Administrator.

21 “(C) UTILIZATION.—The Secretary, in
22 consultation with the Administrator, shall es-
23 tablish regulations providing for the methods
24 and processes by which qualified carbon dioxide
25 may be utilized so as to remove that qualified

dioxide safely and permanently from the atmosphere. Utilization may include the production of substances such as but not limited to plastics and chemicals. Such regulations shall minimize the escape or further emission of the qualified carbon dioxide into the atmosphere.

“(D) SEQUESTRATION.—Not later 540 days after the date of the enactment of this section, the Secretary, in consultation with the Administrator, shall prescribe regulations identifying the conditions under which carbon dioxide may be safely and permanently sequestered.

“(4) COORDINATION WITH CREDIT FOR CARBON DIOXIDE SEQUESTRATION.—At such time that the Secretary prescribes regulations implementing this section, no payment under this section shall be allowed to a taxpayer to whom a credit has been allowed for any taxable year under section 45Q.

“SEC. 9907. ADMINISTRATIVE AUTHORITY.

“(a) IN GENERAL.—The Secretary in consultation with the Administrator shall prescribe such regulations, and other guidance, as may be necessary to carry out the purposes of this subtitle and assess and collect the carbon fee imposed by section 9902 and the fluorinated greenhouse gas fee imposed by section 9904.

1 “(b) SPECIFICALLY.—Such regulations and guidance
2 shall include—

3 “(1) the identification of an effective point in
4 the production, distribution, or use of a covered fuel
5 or fluorinated greenhouse gas for collecting such car-
6 bon fee or fluorinated greenhouse gas fee, in such a
7 manner so as to minimize administrative burden and
8 maximize the extent to which full fuel cycle green-
9 house gas emissions from covered fuels or
10 fluorinated greenhouse gases have the carbon fee or
11 fluorinated greenhouse gas fee levied upon them,

12 “(2) the identification of covered entities which
13 shall be liable for the payment of the carbon fee or
14 the fluorinated greenhouse gas fee,

15 “(3) requirements for the monthly payment of
16 such fees,

17 “(4) as may be necessary or convenient, rules
18 for distinguishing between different types of covered
19 fuels,

20 “(5) as may be necessary or convenient, rules
21 for distinguishing between a covered fuel’s green-
22 house gas content and its upstream greenhouse gas
23 emissions,

24 “(6) rules to ensure that no covered fuel or
25 fluorinated greenhouse gas has the carbon fee,

1 fluorinated greenhouse gas fee, or carbon border fee
 2 adjustment imposed upon it more than once, and
 3 “(7) rules to ensure that the domestic imple-
 4 mentation of the carbon fee and the fluorinated
 5 greenhouse gas fee coordinate with the implementa-
 6 tion of the carbon border fee adjustment of chapter
 7 102.

8 **“CHAPTER 102—CARBON BORDER FEE**
 9 **ADJUSTMENT**

“Sec. 9908. Carbon border fee adjustment.

“Sec. 9909. Administration of the carbon border fee adjustment.

“Sec. 9910. Allocation of carbon border fee adjustment revenues.

10 **“SEC. 9908. CARBON BORDER FEE ADJUSTMENT.**

11 “(a) IN GENERAL.—The fees imposed by, and re-
 12 funds allowed under, this section shall be referred to as
 13 ‘the carbon border fee adjustment’.

14 “(b) PURPOSE.—The purpose of the carbon border
 15 fee adjustment is to protect animal, plant, and human life
 16 and health, to conserve exhaustible natural resources by
 17 preventing carbon leakage, and to facilitate the creation
 18 of international agreements.

19 “(c) IMPORTED COVERED FUELS FEE.—In the case
 20 of any person that imports into the United States any cov-
 21 ered fuel, there shall be imposed a fee equal to the excess
 22 (if any) of—

23 “(1) an amount equal to—

1 “(A) the amount of full fuel cycle green-
2 house gas emissions of such fuel, multiplied by

3 “(B) the carbon fee rate in effect for the
4 year in which such fuel is imported, over

5 “(2) the total foreign cost of carbon carried by
6 such fuel.

7 “(d) IMPORTED CARBON-INTENSIVE PRODUCTS
8 FEE.—In the case of any person that imports into the
9 United States any carbon-intensive products, there shall
10 be imposed a fee equal to the excess (if any) of—

11 “(1) an amount equal to—

12 “(A) production greenhouse gas emissions
13 of such product, multiplied by

14 “(B) the carbon fee rate in effect for the
15 year in which the production greenhouse gas
16 emissions of such product were emitted into the
17 atmosphere, over

18 “(2) the total foreign cost of carbon carried by
19 such product.

20 “(e) REFUND ON EXPORTS FROM UNITED
21 STATES.—

22 “(1) CARBON-INTENSIVE PRODUCTS.—Under
23 regulations prescribed by the Secretary, there shall
24 be allowed a credit or refund (without interest) to
25 exporters of carbon-intensive products manufactured

1 or produced in the United States an amount equal
2 to the excess (if any) of—

3 “(A) an amount equal to—

4 “(i) the production greenhouse gas
5 emissions of the exported carbon-intensive
6 product, multiplied by

7 “(ii) the carbon fee rate during the
8 year in which the carbon fee or fluorinated
9 greenhouse gas fee was paid upon the pro-
10 duction greenhouse gas emissions of the
11 exported carbon-intensive product, over

12 “(B) any total cost of carbon to be levied
13 upon the carbon-intensive product by any juris-
14 diction to which the carbon-intensive product is
15 to be imported.

16 Any such credit or refund shall be allowed in the
17 same manner as if it were an overpayment of the fee
18 imposed by section 9902 or 9904. The Secretary
19 shall establish fair, timely, impartial, and as nec-
20 essary confidential procedures by which any exporter
21 of any product from the United States may petition
22 the Secretary to include that exported product on
23 the list of carbon-intensive products.

24 “(2) COVERED FUELS.—Under regulations pre-
25 scribed by the Secretary, in the case of a covered

1 fuel produced in the United States with respect to
 2 which the fee under section 9902 was paid, there
 3 shall be allowed as a credit or refund (without inter-
 4 est) to any exporter of such covered fuels an amount
 5 equal to the excess (if any) of—

6 “(A) an amount equal to—

7 “(i) the full fuel cycle greenhouse gas
 8 emissions of the covered fuel, multiplied by

9 “(ii) the carbon fee rate at the time
 10 the carbon fee was paid upon the full fuel
 11 cycle greenhouse gas emissions of the ex-
 12 ported covered fuel, over

13 “(B) any total cost of carbon to be levied
 14 upon the covered fuel by a jurisdiction to which
 15 the carbon-intensive product is to be imported.

16 Any such credit or refund shall be allowed in the
 17 same manner as if it were an overpayment of tax
 18 imposed by section 9902.

19 “(f) DEFINITIONS.—For purposes of this section—

20 “(1) FOREIGN COST OF CARBON; FOREIGN CAR-
 21 BON COSTS.—The term ‘foreign cost of carbon’ or
 22 ‘foreign carbon cost’ means the cost of any laws of
 23 a foreign jurisdiction which impose a system of cap-
 24 and-trade with respect to, or a tax or fee on, green-

1 house gas. Such cost shall be determined and ex-
2 pressed as a price per metric ton of CO₂-e.

3 “(2) TOTAL COST OF CARBON CARRIED.—The
4 term ‘total cost of carbon carried’ means an amount
5 equal to—

6 “(A) the production greenhouse gas emis-
7 sions of a carbon-intensive product or the full
8 fuel cycle greenhouse gas emissions of a covered
9 fuel, multiplied by

10 “(B) the cost of carbon with respect to
11 such product or fuel, reduced by any amount
12 refunded with respect to such product or fuel
13 by a foreign jurisdiction.

14 The total cost of carbon carried shall be expressed
15 as price in United States dollars.

16 “(3) TOTAL FOREIGN COST OF CARBON CAR-
17 RIED.—The term ‘total foreign cost of carbon car-
18 ried’ means an amount equal to—

19 “(A) the production greenhouse gas emis-
20 sions of a carbon-intensive product, or the full
21 fuel cycle greenhouse gas emissions of a covered
22 fuel, multiplied by

23 “(B) the foreign cost of carbon with re-
24 spect to such product or fuel, reduced by the

1 amount refunded with respect to such product
2 or fuel by a foreign jurisdiction.

3 The total foreign cost of carbon carried shall be ex-
4 pressed as price in United States dollars.

5 **“SEC. 9909. ADMINISTRATION OF THE CARBON BORDER**
6 **FEE ADJUSTMENT.**

7 “(a) GENERALLY.—The Secretary in consultation
8 with the Administrator shall prescribe regulations and
9 guidance which implement the carbon border fee adjust-
10 ment under section 9908.

11 “(b) COLLABORATION.—In determining the produc-
12 tion greenhouse gas emissions of an imported carbon-in-
13 tensive product, the upstream greenhouse gas emissions
14 of an imported covered fuel, the full fuel cycle greenhouse
15 gas emissions of an imported covered fuel, or the foreign
16 cost of carbon, or otherwise administering the carbon bor-
17 der fee adjustment, it is the sense of Congress that the
18 Secretary should collaborate with authorized officers of
19 any jurisdiction, including sub-national governments, af-
20 fected by the carbon border fee adjustment.

21 “(c) METHODOLOGY.—In determining the production
22 greenhouse gas emissions of an imported carbon-intensive
23 product, the upstream greenhouse gas emissions of an im-
24 ported covered fuel, the full fuel cycle greenhouse gas
25 emissions of an imported covered fuel, or the foreign cost

1 of carbon, the Secretary shall use reliable methodologies,
2 which—

3 “(1) as may be necessary or convenient—

4 “(A) distinguish between different types of
5 covered fuels,

6 “(B) distinguish between a covered fuel’s
7 greenhouse gas content and that covered fuel’s
8 upstream greenhouse gas emissions,

9 “(C) distinguish between the different
10 types of greenhouse gas emissions which com-
11 pose a covered fuel’s upstream greenhouse gas
12 emissions or greenhouse gas content, as well as
13 the various processes which produced those
14 emissions, and

15 “(D) distinguish between the different
16 types of greenhouse gas emissions which com-
17 pose a carbon-intensive product’s production
18 greenhouse gas emissions, as well as the various
19 processes which produced those emissions,

20 “(2) ensure that no covered fuel, covered
21 fluorinated greenhouse gas, or carbon-intensive prod-
22 uct has the carbon fee, the fluorinated greenhouse
23 gas fee, or the border fee adjustment imposed upon
24 it more than once,

1 “(3) ensure that the implementation of the bor-
2 der carbon adjustment aligns with the carbon fee
3 and the fluorinated gas fee,

4 “(4) in the case of incomplete data, rely upon
5 the best available methodologies for interpolating
6 data gaps, and

7 “(5) are consistent with international treaties
8 and agreements.

9 “(d) SCHEDULE.—The Secretary shall determine—

10 “(1) not later than 3 years after the date of the
11 enactment of this section, the production greenhouse
12 gas emissions of imported carbon-intensive products,

13 “(2) not later than 180 days after the date of
14 the enactment of this section, the full fuel cycle
15 greenhouse gas emissions and the upstream green-
16 house gas emissions of every imported covered fuel,
17 and

18 “(3) not later than 3 years after the date of the
19 enactment of this section, the foreign cost of carbon
20 in all jurisdictions.

21 “(e) PROCEDURE.—The Secretary shall establish
22 fair, timely, impartial, and as necessary confidential proce-
23 dures by which the importer of any carbon-intensive prod-
24 uct or any covered fuel may petition the Secretary to re-
25 vise the Secretary’s determination of the production green-

1 house gas emissions, full fuel cycle greenhouse gas emis-
 2 sions, or upstream greenhouse gas emissions of that im-
 3 porter’s imported covered fuel or imported carbon-inten-
 4 sive product, or the foreign cost of carbon carried by that
 5 importer’s imported carbon-intensive product.

6 “(f) SHIPMENTS FROM THE UNITED STATES TO THE
 7 TERRITORIES OF THE UNITED STATES.—Notwith-
 8 standing any other treaty, law, or policy, shipments of cov-
 9 ered fuels or carbon-intensive products from the United
 10 States to Guam, the United States Virgin Islands, Samoa,
 11 Puerto Rico, and the Northern Mariana Islands shall be
 12 eligible for a refund of the carbon fee under section
 13 9908(e).

14 “(g) IMPORTS TO THE TERRITORIES OF THE UNITED
 15 STATES.—Notwithstanding any other treaty, law, or pol-
 16 icy, imports of covered fuels or carbon-intensive products
 17 to Guam, the United States Virgin Islands, Samoa, Puerto
 18 Rico, and the Northern Mariana Islands shall not be sub-
 19 ject to Section 9908(c) or 9908(d).”

20 **“SEC. 9910. ALLOCATION OF CARBON BORDER FEE ADJUST-**
 21 **MENT REVENUES.**

22 “The revenues collected under this chapter may be
 23 used to supplement appropriations made available in fiscal
 24 years 2020 and thereafter—

1 “(1) to U.S. Customs and Border Protection, in
2 such amounts as are necessary to administer the
3 carbon border fee adjustment, then

4 “(2) to the Department of Treasury, in such
5 amounts as are necessary to allow refunds under
6 section 9908(e) to exporters of carbon-intensive
7 products and exporters of covered fuels.”.

8 (b) COORDINATION WITH CARBON OXIDE SEQUES-
9 TRATION CREDIT.—Section 45Q(f) is amended by adding
10 at the end the following new paragraph:

11 “(8) COORDINATION WITH CARBON CAPTURE
12 AND SEQUESTRATION PAYMENTS.—No credit shall
13 be allowed under this section to a taxpayer which
14 has received any payment under section 9906.”.

15 (c) TREATIES AND INTERNATIONAL NEGOTIA-
16 TIONS.—

17 (1) CONFORMANCE WITH INTERNATIONAL
18 TREATIES.—In the case that the Appellate Body of
19 the World Trade Organization, or any other authori-
20 tative international treaty interpreter, shall find any
21 portion of the carbon border fee adjustment under
22 chapter 102 of the Internal Revenue Code of 1986
23 to violate any treaty to which the United States is
24 a party, the Secretary of the Treasury is authorized
25 to alter any aspect of such carbon border fee adjust-

1 ment so as to bring the carbon border fee adjust-
2 ment into conformance with international law.

3 (2) INTERNATIONAL NEGOTIATIONS.—The Con-
4 gress finds the international mitigation of green-
5 house gas emissions to be of national importance.
6 Therefore, the Congress encourages the Secretary of
7 State, or the Secretary’s designee, to commence and
8 complete negotiations with other nations with the
9 goal of forming treaties, environmental agreements,
10 accords, partnerships or any other instrument that
11 effectively reduces global greenhouse gas emissions
12 to 10 percent of 2016 levels by 2050 and which re-
13 spect the principle of common but differentiated re-
14 sponsibilities and respective capabilities.

15 (3) SUSPENSION OF THE CARBON BORDER FEE
16 ADJUSTMENT.—Any part of the carbon border fee
17 adjustment shall be suspended, in whole or in
18 part,—

19 (A) by treaty or other international agree-
20 ment which includes provisions for the suspen-
21 sion of the carbon border fee adjustment, in
22 whole or in part, with any party signatory to
23 the treaty or other international agreement, or

24 (B) by a finding of the Secretary that a ju-
25 risdiction of importation has implemented poli-

1 cies which, in the case of high emitting coun-
 2 tries, reduce greenhouse gas emissions at a rate
 3 at least equivalent to United States greenhouse
 4 gas emission reductions, or, in the case of low
 5 emitting countries, prevent the increase in
 6 greenhouse gas emissions.

7 Any such finding shall be reviewed at least every 3
 8 years and amended or revoked as required.

9 **SEC. 4. ESTABLISHMENT OF THE CARBON DIVIDEND TRUST**
 10 **FUND.**

11 (a) IN GENERAL.—Subchapter A of chapter 98 of the
 12 Internal Revenue Code of 1986 is amended by adding at
 13 the end the following:

14 **“SEC. 9512. CARBON DIVIDEND TRUST FUND.**

15 “(a) ESTABLISHMENT AND FUNDING.—There is
 16 hereby established in the Treasury of the United States
 17 a trust fund to be known as the ‘Carbon Dividend Trust
 18 Fund’, consisting of such amounts as may be appropriated
 19 to such trust fund as provided for in this section.

20 “(b) TRANSFERS TO THE CARBON DIVIDEND TRUST
 21 FUND.—There is hereby appropriated to the Carbon Divi-
 22 dend Trust Fund amounts equal to the fees received into
 23 the Treasury less any amounts refunded or paid under
 24 section 9902(d) or 9906 of chapter 101 for each month.

1 “(c) EXPENDITURES.—Amounts in the trust fund
2 shall be available for the following purposes:

3 “(1) ADMINISTRATIVE EXPENSES.—So much of
4 the expenses necessary to administer the Carbon
5 Dividend Trust Fund for each year, as does not ex-
6 ceed—

7 “(A) in the case of the first 5 calendar
8 years ending after the date of the enactment of
9 this section, the administrative expenses for any
10 year may not exceed 8 percent of amounts ap-
11 propriated to the Carbon Dividend Trust Fund
12 during such year, and

13 “(B) in the case of any calendar year
14 thereafter, 2 percent of the 5-year rolling aver-
15 age of the amounts appropriated to the Carbon
16 Dividend Trust Fund, and

17 “(2) OTHER ADMINISTRATIVE EXPENSES.—So
18 much of the expenses as are necessary to administer
19 chapter 101 for any year as does not to exceed 0.60
20 percent of the amounts appropriated to the Carbon
21 Dividend Trust Fund for the previous year, and fur-
22 ther limited as follows:

23 “(A) The Department of the Treasury.

24 “(B) The Social Security Administration.

1 “(C) The Environmental Protection Agen-
2 cy.

3 “(D) Department of State.

4 “(3) CARBON DIVIDEND PAYMENTS.—

5 “(A) IN GENERAL.—From the amounts in
6 the Carbon Dividend Trust Fund made avail-
7 able under paragraphs (1) and (2) of this sub-
8 section for any year, the Secretary shall for
9 each month beginning more than 270 days after
10 the date of the enactment of the Energy Inno-
11 vation and Carbon Dividend Act of 2019, make
12 carbon dividend payments to each eligible indi-
13 vidual.

14 “(B) PRO-RATA SHARE.—A carbon divi-
15 dend payment is one pro-rata share for each
16 adult, and half a pro-rata share for each child
17 under 19 years old, of amounts available for the
18 month in the Carbon Dividend Trust Fund.

19 “(C) ELIGIBLE INDIVIDUAL.—The term
20 ‘eligible individual’ means, with respect to any
21 month, any natural living person who has a
22 valid Social Security number or taxpayer identi-
23 fication number and is a citizen or lawful resi-
24 dent of the United States (other than any indi-
25 vidual who is a citizen of any possession of the

1 United States and whose bona fide residence is
2 outside of the United States). The Secretary is
3 authorized to verify an individual's eligibility to
4 receive a carbon dividend payment.

5 “(D) FEE TREATMENT OF PAYMENTS.—
6 Amounts paid under this subsection shall be in-
7 cludible in gross income.

8 “(E) FEDERAL PROGRAMS AND FEDERAL
9 ASSISTED PROGRAMS.—The carbon dividend
10 amount received by any individual shall not be
11 taken into account as income and shall not be
12 taken into account as resources for purposes of
13 determining the eligibility of such individual or
14 any other individual for benefits or assistance,
15 or the amount or extent of benefits or assist-
16 ance, under any Federal program or under any
17 State or local program financed in whole or in
18 part with Federal funds.

19 “(F) ADVANCE PAYMENT.—The Secretary
20 shall transfer to the Carbon Dividend Trust
21 Fund such amounts as are necessary for the
22 disbursement of an advanced carbon dividend to
23 all eligible individuals as follows:

24 “(i) An advanced carbon dividend
25 shall be the same as the anticipated first

1 carbon dividend required to be distributed
 2 under subparagraph (A) and shall be dis-
 3 tributed the month prior to the first collec-
 4 tion of the carbon fee.

5 “(ii) Total amounts disbursed as ad-
 6 vanced carbon dividends shall be deducted
 7 from the carbon dividends on a pro-rata
 8 basis over the first 3 years after the dis-
 9 bursement of the first carbon dividends.

10 “(d) ADMINISTRATIVE AUTHORITY.—The Secretary
 11 shall promulgate rules, guidance, and regulations useful
 12 and necessary to implement the Carbon Dividend Trust
 13 Fund.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 for subchapter A of chapter 98 of such Code is amended
 16 by adding at the end the following new item:

“Sec. 9512. Carbon Dividend Trust Fund.”.

17 **SEC. 5. LIMITED DISCLOSURE OF INFORMATION.**

18 Section 6103(l) of the Internal Revenue Code of 1986
 19 is amended by adding at the end the following new para-
 20 graphs:

21 “(23) LIMITED DISCLOSURE OF IDENTITY IN-
 22 FORMATION RELATING TO CARBON DIVIDEND PAY-
 23 MENTS.—

24 “(A) DEPARTMENT OF TREASURY.—Indi-
 25 vidual identity information shall, without writ-

ten request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for purposes of administering section 9512 (relating the Carbon Dividend Trust Fund).

“(B) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, on written request, disclose to officers and employees of the Department of the Treasury individual identity information which has been disclosed to the Social Security Administration as is necessary to administer section 9512.

“(C) RESTRICTION ON DISCLOSURE.—Information disclosed under this paragraph shall be disclosed only for purposes of, and to the extent necessary in, carrying out section 9512.”.

SEC. 6. NATIONAL ACADEMY OF SCIENCES REVIEW OF CARBON FEE AND EMISSIONS REDUCTION SCHEDULE.

(a) IN GENERAL.—Not later than 10 years after the date of the enactment of this Act, the Secretary of Energy shall enter into an agreement with the National Academy of Sciences to prepare a report relating to the carbon fee

1 imposed by section 9902 of the Internal Revenue Code of
2 1986 and the emissions reductions schedule established
3 under section 9903 of such Code.

4 (b) REPORT REQUIREMENTS.—Such report shall—

5 (1) assess the efficiency and effectiveness of the
6 carbon fee in achieving the emissions reduction tar-
7 gets set forth in section 9903 of such Code;

8 (2) describe and make recommendations on
9 whether the carbon fee rate and annual increases
10 prescribed by section 9902(c) of such Code should
11 be adjusted in order to optimize the efficiency and
12 effectiveness of this Act in achieving the emissions
13 reduction targets set forth in section 9903 of such
14 Code;

15 (3) describe the potential of the carbon fee to
16 achieve future emissions targets set forth in section
17 9903(a) of such Code through the year 2050;

18 (4) describe and evaluate the effectiveness of
19 the carbon fee in reducing emissions from key sec-
20 tors of the economy, including sectors of the econ-
21 omy that have decreased their carbon emissions, sec-
22 tors of the economy that have increased their carbon
23 emissions, and sectors of the economy in which car-
24 bon emissions have not changed;

1 (5) make findings and recommendations to
2 Federal departments and agencies and to Congress
3 on actions that could be taken to reduce carbon
4 emissions in the sectors of the economy in which
5 carbon emissions have not decreased;

6 (6) make findings and recommendations on ad-
7 justing regulations enacted under the Clean Air Act
8 and other Federal laws that affect economic sectors
9 achieving the emissions reduction targets set forth in
10 section 9903 of such Code; and

11 (7) provide an assessment of any other factors
12 determined to be material to the program's effi-
13 ciency and effectiveness in achieving the goals set
14 forth in this act.

15 (c) REPORT MADE PUBLICLY AVAILABLE.—Not later
16 than 10 years after the date of the enactment of this Act,
17 the Secretary of Energy shall submit to Congress the re-
18 port required under subsection (a). Such report shall be
19 made electronically available to the public and open to
20 public comment for at least 60 days before the final sub-
21 mission to Congress.

22 **SEC. 7. IMPACT OF CARBON FEE ON BIOMASS USE AND**
23 **CARBON SINKS.**

24 (a) STUDY OF BIOMASS.—The Secretary of Energy
25 shall enter into an agreement with the National Academy

1 of Sciences and the Administrator of the Environmental
2 Protection Agency to conduct a study, make recommenda-
3 tions, and submit a report regarding the impact of the
4 carbon fee on the use of biomass as an energy source and
5 the resulting impacts on carbon sinks and biodiversity.

6 (b) STUDY REQUIREMENTS.—The study conducted
7 under subsection (a) by the National Academy of Sciences
8 shall include analysis, documentation, and determinations
9 on—

10 (1) the carbon fee and its impact on the use of
11 biomass as an energy source and greenhouse gas
12 emissions from the use of biomass as an energy
13 source;

14 (2) the impacts of the use of biomass as an en-
15 ergy source on carbon sinks and biodiversity; and

16 (3) the various types of biomass that are being
17 used as an energy source.

18 (c) RECOMMENDATIONS.—Based on the findings and
19 conclusions of the study, the National Academy of
20 Sciences shall make recommendations to Federal depart-
21 ments and agencies and to Congress. The recommenda-
22 tions shall include any actions that should be taken to
23 mitigate impacts of the carbon fee on—

24 (1) increasing greenhouse gas emissions from
25 the use of biomass as an energy source; and

1 (2) degradation of carbon sinks and biodiversity
2 relating to the use of biomass as an energy source.

3 (d) REPORT.—The National Academy of Sciences
4 shall prepare a report that includes any findings and rec-
5 ommendations made pursuant to this section and, not
6 later than 18 months after the date of the enactment of
7 this Act, make such report electronically available to the
8 public.

9 **SEC. 8. AMENDMENTS TO THE CLEAN AIR ACT.**

10 (a) IN GENERAL.—Title III of the Clean Air Act (42
11 U.S.C. 7601) is amended by adding at the end the fol-
12 lowing:

13 **“SEC. 330. SUSPENSION OF REGULATION OF FUELS AND**
14 **EMISSIONS BASED ON GREENHOUSE GAS EF-**
15 **FECTS.**

16 “(a) FUELS.—Unless specifically authorized in sec-
17 tion 202, 211, 213, or 231 or this section, if a carbon
18 fee is imposed by section 9902 or 9908 of the Internal
19 Revenue Code of 1986 with respect to a covered fuel, the
20 Administrator shall not enforce any rule limiting the emis-
21 sion of greenhouse gases from the combustion of that fuel
22 under this Act (or impose any requirement on any State
23 to limit such emission) on the basis of the emission’s
24 greenhouse gas effects.

1 “(b) EMISSIONS.—Unless specifically authorized in
2 section 202, 211, 213, or 231 or this section, if a fee is
3 imposed by section 9904 of the Internal Revenue Code of
4 1986 with respect to a fluorinated greenhouse gas, the Ad-
5 ministrator shall not enforce any rule limiting such gas
6 under this Act (or impose any requirement on any State
7 to limit such gas) on the basis of the greenhouse gas ef-
8 fects of such gas.

9 “(c) AUTHORIZED REGULATION.—Notwithstanding
10 subsections (a) and (b), nothing in this section limits the
11 Administrator’s authority pursuant to any other provision
12 of this Act—

13 “(1) to limit the emission of any greenhouse
14 gas because of any adverse impact on health or wel-
15 fare other than its greenhouse gas effects;

16 “(2) in limiting emissions as described in para-
17 graph (1), to consider the collateral benefits of lim-
18 iting the emissions because of greenhouse gas ef-
19 fects;

20 “(3) to limit the emission of black carbon or
21 any other pollutant that is not a greenhouse gas
22 that the Administrator determines by rule has heat-
23 trapping properties; or

1 “(4) to take any action with respect to any
2 greenhouse gas other than limiting its emission, in-
3 cluding—

4 “(A) monitoring, reporting, and record-
5 keeping requirements;

6 “(B) conducting or supporting investiga-
7 tions; and

8 “(C) information collection.

9 “(d) EXCEPTION FOR CERTAIN GREENHOUSE GAS
10 EMISSIONS.—Notwithstanding subsections (a) and (b),
11 nothing in this section limits the Administrator’s authority
12 to regulate greenhouse gas emissions from—

13 “(1) sources that—

14 “(A) are subject to subpart OOOO or
15 OOOOa of part 60 of title 40, Code of Federal
16 Regulations, as in effect on January 1, 2020; or

17 “(B) would be subject to such subpart
18 OOOO or subpart OOOOa if such subpart ap-
19 plied regardless of the date on which construc-
20 tion, modification, or reconstruction of the
21 source involved commenced; or

22 “(2) POTW Treatment Plants (as defined in
23 section 403.3(r) of title 40, Code of Federal Regula-
24 tions).

25 “(e) SUSPENSION EXPIRATION.—

1 “(1) DETERMINATION.—The Administrator
2 shall make a determination by March 30, 2030, and
3 no less than once every five years thereafter, based
4 on the determination required by section 9903(b) of
5 the Internal Revenue Code of 1986, as to whether
6 cumulative greenhouse gas emissions from covered
7 fuels subject to taxation under section 9902 of such
8 Code during the period from calendar year 2022
9 through the calendar year preceding the determina-
10 tion exceed the cumulative emissions for that period
11 that would have occurred if the emission reduction
12 targets in section 9903(a)(2) of such Code were met.

13 “(2) CONSEQUENCE OF CUMULATIVE EMIS-
14 SIONS EXCEEDANCE.—If the Administrator deter-
15 mines under paragraph (1) that cumulative green-
16 house gas emissions from covered fuels subject to
17 tax under section 9902 of the Internal Revenue
18 Code of 1986 exceed the cumulative emissions for
19 the period covered by the determination that would
20 have occurred if the emission reduction targets in
21 section 9903(a)(2) of such Code were met, then the
22 prohibitions in subsection (a) of this section, and in
23 section 211(c)(5) of this Act, shall cease to apply.

24 “(f) ASSURING ENVIRONMENTAL INTEGRITY.—

1 “(1) AUTHORITY.—If the Administrator deter-
2 mines pursuant to subsection (e)(1) of this section
3 that the emission reduction targets in section 9903
4 (a)(2) of the Internal Revenue Code of 1986 are not
5 met—

6 “(A) subsections (a) and (b) shall cease to
7 apply; and

8 “(B) the Administrator shall—

9 “(i) issue such regulations as the Ad-
10 ministrator deems necessary to bring
11 greenhouse gas emissions from covered
12 fuels subject to taxation under section
13 9902 of the Internal Revenue Code of
14 1986 to levels that are at or below the
15 emission reductions targets in section
16 9903(a)(2) of such Code; and

17 “(ii) require in such regulations that
18 additional reductions in greenhouse gas
19 emissions are achieved to fully compensate
20 for any amount by which greenhouse gas
21 emissions from covered fuels subject to
22 taxation under section 9902 of such Code
23 have exceeded the targets in section
24 9903(a)(2) of such Code.

1 “(2) DEADLINE FOR FINALIZING REGULA-
2 TIONS.—The Administrator shall finalize any regula-
3 tions required by paragraph (1) not later than two
4 years after the Administrator makes the relevant de-
5 termination pursuant to such paragraph.

6 “(3) ACHIEVEMENT OF ADDITIONAL REDUC-
7 TIONS.—Regulations issued pursuant to paragraph
8 (1) shall ensure that any additional reductions re-
9 quired by paragraph (1)(B)(ii) are fully achieved by
10 no later than eight years after the Administrator
11 makes the determination pursuant to subsection
12 (e)(1) described in paragraph (1).

13 “(g) DEFINITIONS.—In this section, the terms
14 ‘greenhouse gas’ and ‘greenhouse gas effects’ have the
15 meanings given to those terms in section 9901 of the In-
16 ternal Revenue Code of 1986.”.

17 (b) NEW MOTOR VEHICLES AND NEW MOTOR VEHI-
18 CLE ENGINES.—Section 202(b) of the Clean Air Act (42
19 U.S.C. 7521(b)) is amended—

20 (1) by redesignating the second paragraph (3)
21 (as redesignated by section 230(4)(C) of Public Law
22 101–549 (104 Stat. 2529)) as paragraph (4); and

23 (2) by adding at the end the following:

24 “(5) Notwithstanding subsections (a) and (b) of
25 section 330, the Administrator may—

1 “(A) limit the emission of any greenhouse
2 gas (as defined in section 9901 of the Internal
3 Revenue Code of 1986) on the basis of the
4 emission’s greenhouse gas effects (as defined in
5 section 9901 of the Internal Revenue Code of
6 1986) from any class or classes of new motor
7 vehicles or new motor vehicle engines subject to
8 regulation under subsection (a)(1); and

9 “(B) grant a waiver under section
10 209(b)(1) for standards for the control of
11 greenhouse gas emissions.”.

12 (c) FUELS.—Section 211(c) of the Clean Air Act (42
13 U.S.C. 7545(c)) is amended by adding at the end the fol-
14 lowing new paragraph:

15 “(5) The Administrator shall not, pursuant to this
16 subsection, impose on any manufacturer or processor of
17 fuel any requirement for the purpose of reducing the emis-
18 sion of any greenhouse gas (as defined in section 9901
19 of the Internal Revenue Code of 1986) produced by com-
20 bustion of the fuel on the basis of the emission’s green-
21 house gas effects (as defined in section 9901 of the Inter-
22 nal Revenue Code of 1986).”.

23 (d) NONROAD ENGINES AND VEHICLES EMISSIONS
24 STANDARDS.—Section 213 of the Clean Air Act (42

1 U.S.C. 7547) is amended by adding at the end the fol-
 2 lowing:

3 “(e) GREENHOUSE GAS EMISSIONS.—Notwith-
 4 standing section 330(a), the Administrator may limit the
 5 emission of any greenhouse gas (as defined in section
 6 9901 of the Internal Revenue Code of 1986) on the basis
 7 of the emission’s greenhouse gas effects (as defined in sec-
 8 tion 9901 of the Internal Revenue Code of 1986) from
 9 any nonroad engines and nonroad vehicles subject to regu-
 10 lation under this section.”.

11 (e) AIRCRAFT EMISSION STANDARDS.—Section 231
 12 of the Clean Air Act (42 U.S.C. 7571) is amended by add-
 13 ing at the end the following new subsection:

14 “(d) Notwithstanding subsections (a) and (b) of sec-
 15 tion 330, the Administrator may limit the emission of any
 16 greenhouse gas (as defined in section 9901 of the Internal
 17 Revenue Code of 1986) on the basis of the emission’s
 18 greenhouse gas effects (as defined in section 9901 of the
 19 Internal Revenue Code of 1986) from any class or classes
 20 of aircraft engines, so long as any such limitation is not
 21 more stringent than the standards adopted by the Inter-
 22 national Civil Aviation Organization.”.

23 **SEC. 9. EFFECTIVE DATE.**

24 The amendments made by this Act shall take effect
 25 on the date of the enactment of this Act, except the carbon

1 fee under section 9902 of the Internal Revenue Code of
2 1986 shall apply to uses, sales, or transfers more than
3 270 days after the date of the enactment of this Act.

4 **SEC. 10. PRINCIPLE OF INTERPRETATION.**

5 In the case of ambiguity, the texts of this statute and
6 its amending texts shall be interpreted so as to allow for
7 the most effective abatement of greenhouse gas emissions.

8 **SEC. 11. NO PREEMPTION OF STATE LAW.**

9 Nothing in this legislation shall preempt or super-
10 sede, or be interpreted to preempt or supersede, any State
11 law or regulation.

