

115TH CONGRESS
2D SESSION

S. 3791

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 SENATE OF THE UNITED STATES

DECEMBER 19, 2018

Mr. COONS (for himself and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on Finance

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Innovation and
5 Carbon Dividend Act of 2018”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) efficient markets strengthen our economy
4 and benefit our Nation by encouraging competition,
5 innovation, and technological progress;

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

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

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

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

19 (a) IN GENERAL.—The Internal Revenue Code of
20 1986 is amended by adding at the end the following new
21 subtitle:

22 **“Subtitle L—CARBON DIVIDENDS**
23 **AND CARBON FEE**

“CHAPTER 101. CARBON FEES

“CHAPTER 102. CARBON BORDER FEE ADJUSTMENT

1 **“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 fee.

“Sec. 9906. Carbon capture and sequestration.

“Sec. 9907. Administrative authority.

2 **“SEC. 9901. DEFINITIONS.**

3 “For purposes of this subtitle:

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

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

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

15 “(1) any manufactured or agricultural product
16 which the Secretary in consultation with the Admin-
17 istrator determines is emissions-intensive and trade-
18 exposed, except that no covered fuel is a carbon-in-
19 tensive product, and

20 “(2) until such time that the Secretary promul-
21 gates rules identifying carbon-intensive products, the
22 following shall be considered carbon-intensive prod-

1 ucts: iron, steel, steel mill products (including pipe
 2 and tube), aluminum, cement, glass (including flat,
 3 container, and specialty glass and fiberglass), pulp,
 4 paper, chemicals, or industrial ceramics.

5 “(d) CARBON LEAKAGE.—The term ‘carbon leakage’
 6 means an increase of global greenhouse gas emissions
 7 which are substantially due to the relocation of greenhouse
 8 gas sources from the United States to jurisdictions which
 9 lack comparable controls upon greenhouse gas emissions.

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

17 “(f) COVERED ENTITY.—The term ‘covered entity’
 18 means—

19 “(1) in the case of crude oil—

20 “(A) a refinery operating in the United
 21 States, and

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

24 “(2) in the case of coal—

1 “(A) any coal mining operation in the
2 United States, and

3 “(B) any importer of coal into the United
4 States,

5 “(3) in the case of natural gas—

6 “(A) any entity entering pipeline quality
7 natural gas into the natural gas transmission
8 system, and

9 “(B) any importer of natural gas into the
10 United States,

11 “(4) in the case of fluorinated gases any entity
12 required to report the emission of a fluorinated gas
13 under part 98 of title 40, Code of Federal Regula-
14 tions, and

15 “(5) any entity or class of entities which, as de-
16 termined by the Secretary, is transporting, selling,
17 or otherwise using a covered fuel in a manner which
18 emits a greenhouse gas to the atmosphere and which
19 has not been covered by the carbon fee, the
20 fluorinated greenhouse gas fee, or the carbon border
21 fee adjustment.

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

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

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

6 “(j) FLUORINATED GREENHOUSE GAS.—The term
7 ‘fluorinated greenhouse gas’ means sulfur hexafluoride
8 (SF_6), nitrogen trifluoride (NF_3), and any fluorocarbon
9 except for controlled substances as defined in subpart A
10 of part 82 of title 40, Code of Federal Regulations, and
11 substances with vapor pressures of less than 1 mm of Hg
12 absolute at 25 degrees. With these exceptions, ‘fluorinated
13 greenhouse gas’ includes but is not limited to any
14 hydrofluorocarbon, any perfluorocarbon, any fully
15 fluorinated linear, branched or cyclic alkane, ether, ter-
16 tiary amine or aminoether, any perfluoropolyether, and
17 any hydrofluoropolyether.

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

21 “(l) FULL FUEL CYCLE GREENHOUSE GAS EMIS-
22 SIONS.—The term ‘full fuel cycle greenhouse gas emis-
23 sions’ means the greenhouse gas content of a covered fuel
24 plus that covered fuel’s upstream greenhouse gas emis-
25 sions.

1 “(m) GLOBAL WARMING POTENTIAL.—The term
 2 ‘global warming potential’ means the ratio of the time-
 3 integrated radiative forcing from the instantaneous release
 4 of one kilogram of a trace substance relative to that of
 5 one kilogram of carbon dioxide.

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

11 “(o) GREENHOUSE GAS CONTENT.—The term
 12 ‘greenhouse gas content’ means the amount of greenhouse
 13 gases, expressed in metric tons of CO₂-e, which would be
 14 emitted to the atmosphere by the use of a covered fuel
 15 and shall include, nonexclusively, emissions of carbon diox-
 16 ide (CO₂), nitrous oxide (N₂O), methane (CH₄), and other
 17 greenhouse gases as identified by rule of the Adminis-
 18 trator.

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

23 “(q) IMPORT.—Irrespective of any other definition in
 24 law or treaty, the term ‘import’ means to land on, bring

1 into, or introduce into any place subject to the jurisdiction
2 of the United States.

3 “(r) PETROLEUM.—The term ‘petroleum’ means oil
4 removed from the earth or the oil derived from tar sands
5 or shale.

6 “(s) PRODUCTION GREENHOUSE GAS EMISSIONS.—
7 The term ‘production greenhouse gas emissions’ means
8 the quantity of greenhouse gases, expressed in metric tons
9 of CO₂-e, emitted to the atmosphere resulting from, non-
10 exclusively, the production, manufacture, assembly, trans-
11 portation, or financing of a product.

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

18 **“SEC. 9902. CARBON FEE.**

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

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

24 “(1) the greenhouse gas content of the covered
25 fuel, multiplied by

1 “(2) the carbon fee rate.

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

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

7 “(A) in the case of calendar year 2019,
8 \$15, and

9 “(B) except as provided in paragraph (2),
10 in the case of any calendar year thereafter, the
11 carbon fee rate in effect under this subsection
12 for the preceding calendar year, plus \$10.

13 “(2) EXCEPTIONS.—

14 “(A) INCREASED CARBON FEE RATE
15 AFTER MISSED ANNUAL EMISSIONS REDUCTION
16 TARGET.—In the case of any year immediately
17 following a year for which the Secretary deter-
18 mines under 9903(b) that the actual emissions
19 of greenhouse gases from covered fuels exceeded
20 the emissions reduction target for the previous
21 year, paragraph (1)(B) shall be applied by sub-
22 stituting ‘\$15’ for ‘\$10’.

23 “(B) CESSATION OF CARBON FEE RATE IN-
24 CREASE AFTER CERTAIN EMISSION REDUCTIONS
25 ACHIEVED.—In the case of any year imme-

diately following a year for which the Secretary determines under 9903(b) that actual emissions of greenhouse gases from covered fuels is not more than 10 percent of the greenhouse gas emissions from covered fuels during the year 2015, paragraph (1)(B) shall be applied by substituting ‘\$0’ for ‘\$10’.

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

“(e) AGRICULTURE EXEMPTIONS.—

“(1) FUEL.—If any covered fuel or its derivative is used on a farm for a farming purpose, the Secretary shall pay (without interest) to the ultimate purchaser of such covered fuel or its derivative, the total amount of carbon fees previously paid upon that covered fuel, as specified by rule of the Secretary.

“(2) FARM, FARMING USE, AND FARMING PURPOSE.—The terms ‘farm’, ‘farming use’, and ‘farm-

1 ing purpose’ shall have the respective meanings
 2 given such terms under section 6420(c).

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

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

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

11 “(1) REFERENCE YEAR.—The greenhouse gas
 12 emissions from covered fuels during the year 2015
 13 shall be the reference amount of emissions and shall
 14 be determined from the ‘Inventory of U.S. Green-
 15 house Gas Emissions and Sinks: 1990–2015’ pub-
 16 lished by the Environmental Protection Agency in
 17 April of 2017.

18 “(2) EMISSIONS REDUCTION TARGET.—The
 19 first emission reduction target shall be for the year
 20 2022. The emission target for each year thereafter
 21 shall be the previous year’s target emissions minus
 22 a percentage of emissions during the reference year
 23 determined in accordance with the following table:

“Year	Emissions Reduction Target
2015	Reference year

“Year	Emissions Reduction Target
2018 to 2021	No emissions reduction target
2022 to 2030	5 percent of 2015 emissions per year
2030 to 2040	2.5 percent of 2015 emissions per year
2040 to 2050	1.5 percent of 2015 emissions per year

1 “(b) ADMINISTRATIVE DETERMINATION.—Not later
2 than 60 days after the beginning of each calendar year
3 beginning after the enactment of this section, the Sec-
4 retary, in consultation with the Administrator, shall deter-
5 mine whether actual emissions of greenhouse gases from
6 covered fuels exceeded the emissions reduction target for
7 the preceding calendar year. The Secretary shall make
8 such determination using the same greenhouse gas ac-
9 counting method as was used to determine the greenhouse
10 gas emissions in the ‘Inventory of U.S. Greenhouse Gas
11 Emissions and Sinks: 1990–2015’ published by the Envi-
12 ronmental Protection Agency in April of 2017.

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

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

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

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

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

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

9 “(a) IN GENERAL.—At such time that—

10 “(1) the Secretary determines under 9903(b)
 11 that actual emissions of greenhouse gases from cov-
 12 ered fuels is not more than 10 percent of the green-
 13 house gas emissions from covered fuels during the
 14 year 2015, and

15 “(2) the monthly carbon dividend payable to an
 16 adult eligible individual has been less than \$20 for
 17 3 consecutive years,

18 the Secretary shall decommission in an orderly manner all
 19 bureaus and programs associated with administering the
 20 carbon fee, the carbon border fee adjustment, and the Car-
 21 bon Dividend Trust Fund.

22 “(b) INFLATION ADJUSTMENT.—In the case of any
 23 calendar year after 2018, the \$20 amount under sub-
 24 section (a)(2) shall be increased by an amount equal to—

25 “(1) such dollar amount, multiplied by

1 “(2) cost-of-living adjustment determined under
 2 section 1(f)(3) for the calendar year, determined by
 3 substituting ‘calendar year 2017’ for ‘calendar year
 4 2016’ in subparagraph (A)(ii) thereof.

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

6 “(a) IN GENERAL.—The Secretary, in consultation
 7 with the Administrator and the Secretary of Energy, shall
 8 prescribe regulations for making payments as provided in
 9 subsection (b) to qualified facilities which capture and se-
 10 quester qualified carbon dioxide.

11 “(b) PAYMENT AMOUNTS.—

12 “(1) IN GENERAL.—The Secretary shall make
 13 payments to a qualified facility in the same manner
 14 as if such payment was a refund of an overpayment
 15 of the carbon fee imposed by section 9902, in cases
 16 in which such qualified facility—

17 “(A) uses any covered fuel—

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

20 “(ii) which results in the emission of
 21 qualified carbon dioxide,

22 “(B) captures such emitted qualified car-
 23 bon dioxide, and

24 “(C)(i) sequesters such qualified carbon di-
 25 oxide in a manner which is safe, permanent,

1 and in compliance with any applicable local,
 2 State, and Federal laws, or

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

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

8 “(A)(i) the adjusted metric tons of quali-
 9 fied carbon dioxide captured and sequestered or
 10 utilized, multiplied by

11 “(ii) the carbon fee rate during the year in
 12 which the carbon fee was imposed by section
 13 9902 upon the covered fuel to which such car-
 14 bon dioxide relates, or

15 “(B) the amount of the carbon fee imposed
 16 by section 9902 with respect to such covered
 17 fuel.

18 “(3) DEFINITIONS AND SPECIAL RULES.—For
 19 purposes of this section—

20 “(A) QUALIFIED CARBON DIOXIDE; QUALI-
 21 FIED FACILITY.—

22 “(i) QUALIFIED CARBON DIOXIDE.—
 23 The term ‘qualified carbon dioxide’ has the
 24 same meaning given such term under sec-
 25 tion 45Q(b).

1 “(ii) QUALIFIED FACILITY.—The term
2 ‘qualified facility’ means any industrial fa-
3 cility at which carbon capture equipment is
4 placed in service.

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

15 “(C) UTILIZATION.—The Secretary, in
16 consultation with the Administrator, shall es-
17 tablish regulations providing for the methods
18 and processes by which qualified carbon dioxide
19 may be utilized so as to remove that qualified
20 dioxide safely and permanently from the atmos-
21 phere. Utilization may include the production of
22 substances such as but not limited to plastics
23 and chemicals. Such regulations shall minimize
24 the escape or further emission of the qualified
25 carbon dioxide into the atmosphere.

1 “(D) SEQUESTRATION.—Not later than
 2 540 days after the date of the enactment of this
 3 section, the Secretary, in consultation with the
 4 Administrator, shall prescribe regulations iden-
 5 tifying the conditions under which carbon diox-
 6 ide may be safely and permanently sequestered.

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

13 **“SEC. 9907. ADMINISTRATIVE AUTHORITY.**

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

20 “(b) SPECIFICALLY.—Such regulations and guidance
 21 shall include—

22 “(1) the identification of an effective point in
 23 the production, distribution, or use of a covered fuel
 24 or fluorinated greenhouse gas for collecting such car-
 25 bon fee or fluorinated greenhouse gas fee, in such a

1 manner so as to minimize administrative burden and
2 maximize the extent to which full fuel cycle green-
3 house gas emissions from covered fuels or
4 fluorinated greenhouse gases have the carbon fee or
5 fluorinated greenhouse gas fee levied upon them,

6 “(2) the identification of covered entities which
7 shall be liable for the payment of the carbon fee or
8 the fluorinated greenhouse gas fee,

9 “(3) requirements for the monthly payment of
10 such fees,

11 “(4) as may be necessary or convenient, rules
12 for distinguishing between different types of covered
13 fuels,

14 “(5) as may be necessary or convenient, rules
15 for distinguishing between a covered fuel’s green-
16 house gas content and its upstream greenhouse gas
17 emissions,

18 “(6) rules to ensure that no covered fuel or
19 fluorinated greenhouse gas has the carbon fee,
20 fluorinated greenhouse gas fee, or carbon border fee
21 adjustment imposed upon it more than once, and

22 “(7) rules to ensure that the domestic imple-
23 mentation of the carbon fee and the fluorinated
24 greenhouse gas fee coordinate with the implementa-

1 tion of the carbon border fee adjustment of chapter
2 102.

3 **“CHAPTER 102—CARBON BORDER FEE**
4 **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.

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

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

9 “(b) PURPOSE.—The purpose of the carbon border
10 fee adjustment is to protect animal, plant, and human life
11 and health, to conserve exhaustible natural resources by
12 preventing carbon leakage, and to facilitate the creation
13 of international agreements.

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

18 “(1) an amount equal to—

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

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

23 “(2) the total foreign cost of carbon carried by
24 such fuel.

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

5 “(1) an amount equal to—

6 “(A) production greenhouse gas emissions
7 of such product, multiplied by

8 “(B) the carbon fee rate in effect for the
9 year in which the production greenhouse gas
10 emissions of such product were emitted into the
11 atmosphere, over

12 “(2) the total foreign cost of carbon carried by
13 such product.

14 “(e) REFUND ON EXPORTS FROM UNITED
15 STATES.—

16 “(1) CARBON-INTENSIVE PRODUCTS.—Under
17 regulations prescribed by the Secretary, there shall
18 be allowed a credit or refund (without interest) to
19 exporters of carbon-intensive products manufactured
20 or produced in the United States an amount equal
21 to the excess (if any) of—

22 “(A) an amount equal to—

23 “(i) the production greenhouse gas
24 emissions of the exported carbon-intensive
25 product, multiplied by

1 “(ii) the carbon fee rate during the
2 year in which the carbon fee or fluorinated
3 greenhouse gas fee was paid upon the pro-
4 duction greenhouse gas emissions of the
5 exported carbon-intensive product, over

6 “(B) any total cost of carbon to be levied
7 upon the carbon-intensive product by any juris-
8 diction to which the carbon-intensive product is
9 to be imported.

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

18 “(2) COVERED FUELS.—Under regulations pre-
19 scribed by the Secretary, in the case of a covered
20 fuel produced in the United States with respect to
21 which the fee under section 9902 was paid, there
22 shall be allowed as a credit or refund (without inter-
23 est) to any exporter of such covered fuels an amount
24 equal to the excess (if any) of—

25 “(A) an amount equal to—

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

3 “(ii) the carbon fee rate at the time
4 the carbon fee was paid upon the full fuel
5 cycle greenhouse gas emissions of the ex-
6 ported covered fuel, over

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

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

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

14 “(1) FOREIGN COST OF CARBON; FOREIGN CAR-
15 BON COSTS.—The term ‘foreign cost of carbon’ or
16 ‘foreign carbon cost’ means the cost of any laws of
17 a foreign jurisdiction which impose a system of cap-
18 and-trade with respect to, or a tax or fee on, green-
19 house gas. Such cost shall be determined and ex-
20 pressed as a price per ton of CO₂-e.

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

24 “(A) the production greenhouse gas emis-
25 sions of a carbon-intensive product or the full

1 fuel cycle greenhouse gas emissions of a covered
 2 fuel, multiplied by

3 “(B) the cost of carbon with respect to
 4 such product or fuel, reduced by any amount
 5 refunded with respect to such product or fuel
 6 by a foreign jurisdiction.

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

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

12 “(A) the production greenhouse gas emis-
 13 sions of a carbon-intensive product, or the full
 14 fuel cycle greenhouse gas emissions of a covered
 15 fuel, multiplied by

16 “(B) the foreign cost of carbon with re-
 17 spect to such product or fuel, reduced by the
 18 amount refunded with respect to such product
 19 or fuel by a foreign jurisdiction.

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

22 **“SEC. 9909. ADMINISTRATION OF THE CARBON BORDER**
 23 **FEE ADJUSTMENT.**

24 “(a) GENERALLY.—The Secretary in consultation
 25 with the Administrator shall prescribe regulations and

1 guidance which implement the carbon border fee adjust-
 2 ment under section 9908.

3 “(b) COLLABORATION.—In determining the produc-
 4 tion greenhouse gas emissions of an imported carbon-in-
 5 tensive product, the upstream greenhouse gas emissions
 6 of an imported covered fuel, the full fuel cycle greenhouse
 7 gas emissions of an imported covered fuel, or the foreign
 8 cost of carbon, or otherwise administering the carbon bor-
 9 der fee adjustment, it is the sense of Congress that the
 10 Secretary should collaborate with authorized officers of
 11 any jurisdiction, including sub-national governments, af-
 12 fected by the carbon border fee adjustment.

13 “(c) METHODOLOGY.—In determining the production
 14 greenhouse gas emissions of an imported carbon-intensive
 15 product, the upstream greenhouse gas emissions of an im-
 16 ported covered fuel, the full fuel cycle greenhouse gas
 17 emissions of an imported covered fuel, or the foreign cost
 18 of carbon, the Secretary shall use reliable methodologies,
 19 which—

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

21 “(A) distinguish between different types of
 22 covered fuels,

23 “(B) distinguish between a covered fuel’s
 24 greenhouse gas content and that covered fuel’s
 25 upstream greenhouse gas emissions,

1 “(C) distinguish between the different
2 types of greenhouse gas emissions which com-
3 pose a covered fuel’s upstream greenhouse gas
4 emissions or greenhouse gas content, as well as
5 the various processes which produced those
6 emissions, and

7 “(D) distinguish between the different
8 types of greenhouse gas emissions which com-
9 pose a carbon-intensive product’s production
10 greenhouse gas emissions, as well as the various
11 processes which produced those emissions,

12 “(2) ensure that no covered fuel, covered
13 fluorinated greenhouse gas, or carbon-intensive prod-
14 uct has the carbon fee, the fluorinated greenhouse
15 gas fee, or the border fee adjustment imposed upon
16 it more than once,

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

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

23 “(5) are consistent with international treaties
24 and agreements.

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

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

4 “(2) not later than 180 days after the date of
5 the enactment of this section, the full fuel cycle
6 greenhouse gas emissions and the upstream green-
7 house gas emissions of every imported covered fuel,
8 and

9 “(3) not later than 3 years after the date of the
10 enactment of this section, the foreign cost of carbon
11 in all jurisdictions.

12 “(e) PROCEDURE.—The Secretary shall establish
13 fair, timely, impartial, and as necessary confidential proce-
14 dures by which the importer of any carbon-intensive prod-
15 uct or any covered fuel may petition the Secretary to re-
16 vise the Secretary’s determination of the production green-
17 house gas emissions, full fuel cycle greenhouse gas emis-
18 sions, or upstream greenhouse gas emissions of that im-
19 porter’s imported covered fuel or imported carbon-inten-
20 sive product, or the foreign cost of carbon carried by that
21 importer’s imported carbon-intensive product.

22 “(f) SHIPMENTS FROM THE UNITED STATES TO THE
23 TERRITORIES OF THE UNITED STATES.—Notwith-
24 standing any other treaty, law, or policy, shipments of cov-
25 ered fuels or carbon-intensive products from the United

1 States to Guam, the United States Virgin Islands, Samoa,
 2 Puerto Rico, and the Northern Mariana Islands shall be
 3 eligible for a refund of the carbon fee under section
 4 9908(e).

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

11 **“SEC. 9910. ALLOCATION OF CARBON BORDER FEE ADJUST-**
 12 **MENT REVENUES.**

13 “The revenues collected under this chapter may be
 14 used to supplement appropriations made available in fiscal
 15 years 2018 and thereafter—

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

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

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

1 “(8) COORDINATION WITH CARBON CAPTURE
2 AND SEQUESTRATION PAYMENTS.—No credit shall
3 be allowed under this section to a taxpayer which
4 has received any payment under section 9906.”.

5 (c) TREATIES AND INTERNATIONAL NEGOTIA-
6 TIONS.—

7 (1) CONFORMANCE WITH INTERNATIONAL
8 TREATIES.—In the case that the Appellate Body of
9 the World Trade Organization, or any other authori-
10 tative international treaty interpreter, shall find any
11 portion of the carbon border fee adjustment under
12 chapter 102 of the Internal Revenue Code of 1986
13 to violate any treaty to which the United States is
14 a party, the Secretary of the Treasury is authorized
15 to alter any aspect of such carbon border fee adjust-
16 ment so as to bring the carbon border fee adjust-
17 ment into conformance with international law.

18 (2) INTERNATIONAL NEGOTIATIONS.—The Con-
19 gress finds the international mitigation of green-
20 house gas emissions to be of national importance.
21 Therefore, the Congress encourages the Secretary of
22 State, or the Secretary’s designee, to commence and
23 complete negotiations with other nations with the
24 goal of forming treaties, environmental agreements,
25 accords, partnerships or any other instrument that

1 effectively reduces global greenhouse gas emissions
2 to 10 percent of 2015 levels by 2050 and which re-
3 spect the principle of common but differentiated re-
4 sponsibilities and respective capabilities.

5 (3) SUSPENSION OF THE CARBON BORDER FEE
6 ADJUSTMENT.—Any part of the carbon border fee
7 adjustment shall be suspended, in whole or in part—

8 (A) by treaty or other international agree-
9 ment which includes provisions for the suspen-
10 sion of the carbon border fee adjustment, in
11 whole or in part, with any party signatory to
12 the treaty or other international agreement, or

13 (B) by a finding of the Secretary that a ju-
14 risdiction of importation has implemented poli-
15 cies which, in the case of high emitting coun-
16 tries, reduce greenhouse gas emissions at a rate
17 at least equivalent to United States greenhouse
18 gas emission reductions, or, in the case of low
19 emitting countries, prevent the increase in
20 greenhouse gas emissions.

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

1 **SEC. 4. ESTABLISHMENT OF THE CARBON DIVIDEND TRUST**
 2 **FUND.**

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

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

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

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

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

19 “(1) ADMINISTRATIVE EXPENSES.—So much of
 20 the expenses necessary to administer the Carbon
 21 Dividend Trust Fund for each year, as does not ex-
 22 ceed—

23 “(A) in the case of the first 5 calendar
 24 years ending after the date of the enactment of
 25 this section, the administrative expenses for any
 26 year may not exceed 8 percent of amounts ap-

1 appropriated to the Carbon Dividend Trust Fund
 2 during such year, and

3 “(B) in the case of any calendar year
 4 thereafter, 2 percent of the 5-year rolling aver-
 5 age of the amounts appropriated to the Carbon
 6 Dividend Trust Fund.

7 “(2) OTHER ADMINISTRATIVE EXPENSES.—So
 8 much of the expenses as are necessary to administer
 9 chapter 101 for any year as does not to exceed 0.60
 10 percent of the amounts appropriated to the Carbon
 11 Dividend Trust Fund for the previous year, and fur-
 12 ther limited as follows:

13 “(A) The Department of the Treasury.

14 “(B) The Social Security Administration.

15 “(C) The Environmental Protection Agen-
 16 cy.

17 “(D) Department of State.

18 “(3) CARBON DIVIDEND PAYMENTS.—

19 “(A) IN GENERAL.—From the amounts in
 20 the Carbon Dividend Trust Fund made avail-
 21 able under paragraphs (1) and (2) of this sub-
 22 section for any year, the Secretary shall for
 23 each month beginning more than 270 days after
 24 the date of the enactment of the Energy Inno-
 25 vation and Carbon Dividend Act of 2018, make

1 carbon dividend payments to each eligible indi-
2 vidual.

3 “(B) PRO-RATA SHARE.—A carbon divi-
4 dend payment is one pro-rata share for each
5 adult and half a pro-rata share for each child
6 under 19 years old of amounts available for the
7 month in the Carbon Dividend Trust Fund.

8 “(C) ELIGIBLE INDIVIDUAL.—The term
9 ‘eligible individual’ means, with respect to any
10 month, any natural living person who has a
11 valid Social Security number or taxpayer identi-
12 fication number and is a citizen or lawful resi-
13 dent of the United States (other than any indi-
14 vidual who is a citizen of any possession of the
15 United States and whose bona fide residence is
16 outside of the United States). The Secretary is
17 authorized to verify an individual’s eligibility to
18 receive a carbon dividend payment.

19 “(D) FEE TREATMENT OF PAYMENTS.—
20 Amounts paid under this subsection shall be in-
21 cludible in gross income.

22 “(E) FEDERAL PROGRAMS AND FEDERAL
23 ASSISTED PROGRAMS.—The carbon dividend
24 amount received by any individual shall not be
25 taken into account as income and shall not be

1 taken into account as resources for purposes of
 2 determining the eligibility of such individual or
 3 any other individual for benefits or assistance,
 4 or the amount or extent of benefits or assist-
 5 ance, under any Federal program or under any
 6 State or local program financed in whole or in
 7 part with Federal funds.

8 “(F) ADVANCE PAYMENT.—The Secretary
 9 shall transfer to the Carbon Dividend Trust
 10 Fund such amounts as are necessary for the
 11 disbursement of an advanced carbon dividend to
 12 all eligible individuals as follows:

13 “(i) An advanced carbon dividend
 14 shall be the same as the anticipated first
 15 carbon dividend required to be distributed
 16 under subparagraph (A) and shall be dis-
 17 tributed the month prior to the first collec-
 18 tion of the carbon fee.

19 “(ii) Total amounts disbursed as ad-
 20 vanced carbon dividends shall be deducted
 21 from the carbon dividends on a pro-rata
 22 basis over the first 3 years after the dis-
 23bursement of the first carbon dividends.

24 “(d) ADMINISTRATIVE AUTHORITY.—The Secretary
 25 shall promulgate rules, guidance, and regulations useful

1 and necessary to implement the Carbon Dividend Trust
2 Fund.”.

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

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

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

7 Section 6103(l) of the Internal Revenue Code of 1986
8 is amended by adding at the end the following new para-
9 graphs:

10 “(23) LIMITED DISCLOSURE OF IDENTITY IN-
11 FORMATION RELATING TO CARBON DIVIDEND PAY-
12 MENTS.—

13 “(A) DEPARTMENT OF TREASURY.—Indi-
14 vidual identity information shall, without writ-
15 ten request, be open to inspection by or disclo-
16 sure to officers and employees of the Depart-
17 ment of the Treasury whose official duties re-
18 quire such inspection or disclosure for purposes
19 of administering section 9512 (relating the Car-
20 bon Dividend Trust Fund).

21 “(B) COMMISSIONER OF SOCIAL SECUR-
22 ITY.—The Commissioner of Social Security
23 shall, on written request, disclose to officers
24 and employees of the Department of the Treas-
25 ury individual identity information which has

1 been disclosed to the Social Security Adminis-
 2 tration as is necessary to administer section
 3 9512.

4 “(C) RESTRICTION ON DISCLOSURE.—In-
 5 formation disclosed under this paragraph shall
 6 be disclosed only for purposes of, and to the ex-
 7 tent necessary in, carrying out section 9512.”.

8 **SEC. 6. NATIONAL ACADEMY OF SCIENCES REVIEW OF CAR-**
 9 **BON FEE AND EMISSIONS REDUCTION**
 10 **SCHEDULE.**

11 (a) IN GENERAL.—Not later than 10 years after the
 12 date of the enactment of this Act, the Secretary of Energy
 13 shall enter into an agreement with the National Academy
 14 of Sciences to prepare a report relating to the carbon fee
 15 imposed by section 9902 of the Internal Revenue Code of
 16 1986 and the emissions reduction schedule established
 17 under section 9903 of such Code.

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

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

22 (2) describe and make recommendations on
 23 whether the carbon fee rate and annual increases
 24 prescribed by section 9902(c) of such Code should
 25 be adjusted in order to optimize the efficiency and

1 effectiveness of this Act in achieving the emissions
2 reduction targets set forth in section 9903 of such
3 Code;

4 (3) describe the potential of the carbon fee to
5 achieve future emissions reduction targets set forth
6 in section 9903(a) of such Code through the year
7 2050;

8 (4) describe and evaluate the effectiveness of
9 the carbon fee in reducing emissions from key sec-
10 tors of the economy, including sectors of the econ-
11 omy that have decreased their carbon emissions, sec-
12 tors of the economy that have increased their carbon
13 emissions, and sectors of the economy in which car-
14 bon emissions have not changed;

15 (5) make findings and recommendations to
16 Federal departments and agencies and to Congress
17 on actions that could be taken to reduce carbon
18 emissions in the sectors of the economy in which
19 carbon emissions have not decreased;

20 (6) make findings and recommendations on ad-
21 justing regulations enacted under the Clean Air Act
22 (42 U.S.C. 7401 et seq.) and other Federal laws
23 that affect economic sectors achieving the emissions
24 reduction targets set forth in section 9903 of such
25 Code; and

1 (7) provide an assessment of any other factors
2 determined to be material to the efficiency and effec-
3 tiveness of the carbon fee in achieving the goals set
4 forth in this Act.

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

12 **SEC. 7. IMPACT OF CARBON FEE ON BIOMASS USE AND**
13 **CARBON SINKS.**

14 (a) STUDY OF BIOMASS.—The Secretary of Energy
15 shall enter into an agreement with the National Academy
16 of Sciences to conduct a study, make recommendations,
17 and submit a report regarding the impact of the carbon
18 fee imposed by section 9902 of the Internal Revenue Code
19 of 1986 on the use of biomass as an energy source and
20 the resulting impacts on carbon sinks.

21 (b) STUDY REQUIREMENTS.—The study conducted
22 under subsection (a) by the National Academy of Sciences
23 shall include analysis, documentation, and determinations
24 on—

25 (1) the impact of the carbon fee on—

1 (A) the use of biomass as an energy
2 source; and

3 (B) greenhouse gas emissions from the use
4 of biomass as an energy source;

5 (2) the impacts of the use of biomass as an en-
6 ergy source on carbon sinks; and

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

9 (c) RECOMMENDATIONS.—Based on the findings and
10 conclusions of the study, the National Academy of
11 Sciences shall make recommendations to Federal depart-
12 ments and agencies and to Congress. The recommenda-
13 tions shall include any actions that should be taken to
14 mitigate impacts of the carbon fee on—

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

17 (2) degradation of carbon sinks relating to the
18 use of biomass as an energy source.

19 (d) REPORT.—The National Academy of Sciences
20 shall prepare a report that includes any findings and rec-
21 ommendations made pursuant to this section and, not
22 later than 18 months after the date of the enactment of
23 this Act, make such report electronically available to the
24 public.

1 **SEC. 8. ENVIRONMENTAL PROTECTION AGENCY REVIEW.**

2 (a) IN GENERAL.—Not earlier than the date that is
3 6 years after the date of enactment of this Act, the Admin-
4 istrator of the Environmental Protection Agency (referred
5 to in this section as the “Administrator”) shall evaluate
6 the effectiveness of the fees imposed by sections 9902,
7 9904, and 9908 of the Internal Revenue Code of 1986
8 at reducing emissions in accordance with the emissions re-
9 duction schedule set forth in section 9903 of such Code.

10 (b) REVIEW OF REGULATIONS.—

11 (1) IN GENERAL.—If the Administrator deter-
12 mines that the fees imposed by sections 9902, 9904,
13 and 9908 of the Internal Revenue Code of 1986 are
14 effectively reducing emissions, such that the emis-
15 sions reduction schedule set forth in section 9903 of
16 such Code is met or exceeded, the Administrator
17 may—

18 (A) review any regulations imposed on the
19 combustion of any covered fuel on which a fee
20 is also imposed by section 9902 or 9908 of the
21 Internal Revenue Code of 1986; and

22 (B) review any regulations imposed on any
23 fluorinated greenhouse gas on which a fee is
24 also imposed by section 9904 of the Internal
25 Revenue Code of 1986.

1 (2) LIMITATION.—The Administrator shall not
2 review under this subsection any regulation im-
3 posed—

4 (A) on a pollutant that is not a greenhouse
5 gas; or

6 (B) that is imposed for the purpose of—

7 (i) protecting public health and wel-
8 fare;

9 (ii) monitoring, reporting, or record-
10 keeping;

11 (iii) conducting or supporting inves-
12 tigations; or

13 (iv) information collection.

14 **SEC. 9. EFFECTIVE DATE.**

15 The amendments made by this Act shall take effect
16 on the date of the enactment of this Act, except the carbon
17 fee under section 9902 of the Internal Revenue Code of
18 1986 shall apply to uses, sales, or transfers more than
19 270 days after the date of the enactment of this Act.

20 **SEC. 10. PRINCIPLE OF INTERPRETATION.**

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

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

2 Nothing in this legislation shall preempt or super-
3 sede, or be interpreted to preempt or supersede, any State
4 law or regulation.

