



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: August 17, 2021

Agenda Item 6J

Approvals:

City Manager ES J
Dept. Head _____
Attorney _____
Finance _____

Department: City Manager's Office
Prepared By: Jennifer Savage, Assistant to the City Manager

Subject: *H.R. 2307 – ENERGY INNOVATION AND CARBON DIVIDEND ACT OF 2021*

Fiscal Impact: None

Summary: Staff recommends that Council consider the possibility of supporting H.R. 2307.

Background: On July 20, 2021, the City Council directed staff to agendize the possibility of supporting H.R. 2307 – the Energy Innovation and Carbon Dividend Act of 2021 and to prepare a staff report.

The bill was introduced in the House of Congress on April 1, 2021 with the official title of: "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."

The bill imposes a fee on the carbon content of fuels, including crude oil, natural gas, coal, or any other product derived from those fuels emit greenhouse gases. Producers or importers of the fuels would be responsible for payment of the fees. Exemptions include agricultural purposes and the Armed Forces. 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 fees must be decommissioned when emissions levels and monthly dividend payments fall below specified levels.

Discussion: In April 2021, Representative Deutch introduced H.R. 2307 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. In addition to its introduction on April 1, 2021, the bill was also referred to three subcommittees: Committee on Ways and Means; Committee on Energy and Commerce; and Committee on Foreign Affairs. The bill's status has not changed since April 1, 2021. The bill must pass the House and Senate before going to the President for approval.

According to the Environmental Protection Agency (EPA), global carbon emissions from fossil fuels have significantly increased since 1900 and, since 1970, carbon dioxide emissions have increase by about 90%. To encourage the reduction of carbon emissions, the proposed bill would place a fee on fossil fuels such as coal, oil, and gas.

The fee would grow over time and incentivize energy companies and leading industries to move toward cleaner, cheaper energy options. The fees collected would be allocated to Americans every month. To protect U.S. manufacturers and jobs, imported goods will pay a border carbon adjustment, and goods exported from the United States will receive a refund under this policy¹.

The City's Centennial General Plan and Climate Action Plan each include goals and policies to reduce greenhouse gas emissions and conserve energy. Therefore, H.R. 2307 appears to align with City goals and policies.

Recommended

Actions: The City Council may choose to:

1. Adopt Resolution 21-___ supporting H.R. 2307 – the Energy Innovation and Carbon Dividend Act of 2021 (Attachment 1).
2. Direct staff to transmit the resolution to local senators (Feinstein and Padilla) and representative (Levin), and the original sponsor of the bill (Deutch).

Attachments:

1. Resolution 21-____, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA SUPPORTING H.R. 2307 – THE ENERGY INNOVATION AND CARBON DIVIDEND ACT OF 2021
2. Text of H.R. 2307 – the Energy Innovation and Carbon Dividend Act of 2021

Notification: None

¹ <https://energyinnovationact.org/how-it-works/>

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SAN CLEMENTE, CALIFORNIA, SUPPORT H.R. 2307 –
ENERGY INNOVATION AND CARBON DIVIDEND ACT OF
2021

WHEREAS, according to the Environmental Protection Agency (EPA), global carbon emissions from fossil fuels have significantly increased since 1900. Since 1970 carbon dioxide emissions have increase by about 90%; and

WHEREAS, the United States is one of the top global carbon dioxide emitters; and

WHEREAS, failing to reduce and/or limit the amount of greenhouse gas emissions into the atmosphere could have sever ramifications for the world's environment; and

WHEREAS, in April 2021, Representative Deutch introduced H.R. 2307 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; and

WHEREAS, H.R. 2307, also called the Energy Innovation and Carbon Dividend Act of 2021, enjoys bipartisan support in the United States House of Representatives; and

WHEREAS, the City of San Clemente's Centennial General Plan includes goals and policies to reduce greenhouse gases and conserve energy; and

WHEREAS, the City of San Clemente's Climate Action Plan seeks to reduce greenhouse gas emissions; and

WHEREAS, the City of San Clemente acknowledges that greenhouse gas reductions and energy conservation is based on achieving a long-term balance among social, economic and environmental factors; and

WHEREAS, H.R. 2307 – Energy Innovation and Carbon Dividend Act of 2021 proposes to establish a national carbon fee and dividend as a market-based incentive to encourage the development and use of renewable energy resources and reduce greenhouse gas emissions.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. The City Council of the City of San Clemente supports H.R. 2307 – Energy Innovation and Carbon Dividend Act of 2021 and its efforts for a market-based solution to reduce greenhouse gas emissions.

Section 2. The City Manager is directed to transmit this Resolution to local

senators (Feinstein and Padilla) and representative (Levin), and the original sponsor of the bill (Deutch).

Section 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 City Attorney

117TH CONGRESS
1ST SESSION

H. R. 2307

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

APRIL 1, 2021

Mr. DEUTCH (for himself, Mr. MALINOWSKI, Ms. ESHOO, Ms. SCHAKOWSKY, Mr. CRIST, Mr. KILMER, Mr. PETERS, Ms. CHU, Mr. CONNOLLY, Ms. CRAIG, Mr. MORELLE, Mr. CARBAJAL, Mr. RASKIN, Mr. SIRES, Mr. SHERMAN, Mr. CROW, Mr. CORREA, Ms. SCANLON, Mr. JOHNSON of Georgia, Ms. PINGREE, Mr. MOULTON, Ms. ROYBAL-ALLARD, Mr. GARAMENDI, Mr. EVANS, Mr. PHILLIPS, Ms. MENG, Mr. CÁRDENAS, Ms. LEE of California, and Mr. CARTWRIGHT) 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Innovation and
5 Carbon Dividend Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

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

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

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

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

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

24 The Internal Revenue Code of 1986 is amended by
25 adding at the end the following new 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. Decommissioning of carbon fee.

“Sec. 9905. Carbon Capture and Sequestration.

“Sec. 9906. 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.**—The
10 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) for purposes of this chapter—

18 “(A) any manufactured or agricultural
19 product which the Secretary in consultation
20 with the Administrator determines is emissions-

1 intensive and trade-exposed, except that no cov-
2 ered fuel is a carbon-intensive product, and

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

11 “(2) for purposes of chapter 102, any economic
12 sector, or product from that sector, which the Sec-
13 retary in consultation with the Administrator deter-
14 mines is prone to carbon leakage because it is emis-
15 sions-intensive and trade-exposed, along with other
16 pertinent criteria, except that no covered fuel is a
17 carbon-intensive product.

18 “(d) CARBON LEAKAGE.—The term ‘carbon leakage’
19 means an increase of global greenhouse gas emissions
20 which are substantially due to the relocation of greenhouse
21 gas sources from the United States to jurisdictions which
22 lack comparable controls upon greenhouse gas emissions.

23 “(e) COST OF CARBON OR CARBON COSTS.—The
24 term ‘cost of carbon’ or ‘carbon costs’ means a national
25 or sub-national government policy which explicitly places

1 a price on greenhouse gas pollution and shall be limited
2 to either a tax on greenhouse gases or a system of cap-
3 and-trade. The cost of carbon is expressed as the price
4 per metric ton of CO₂-e.

5 “(f) COVERED ENTITY.—The term ‘covered entity’
6 means—

7 “(1) in the case of crude oil—

8 “(A) a refinery operating in the United
9 States, and

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

12 “(2) in the case of coal—

13 “(A) any coal mining operation in the
14 United States, and

15 “(B) any importer of coal into the United
16 States,

17 “(3) in the case of natural gas—

18 “(A) any entity entering pipeline quality
19 natural gas into the natural gas transmission
20 system, and

21 “(B) any importer of natural gas into the
22 United States, and

23 “(4) any entity or class of entities which, as de-
24 termined by the Secretary, is transporting, selling,
25 or otherwise using a covered fuel in a manner which

1 emits a greenhouse gas to the atmosphere and which
2 has not been covered by the carbon fee or the carbon
3 border fee adjustment.

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

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

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

13 “(j) FOSSIL FUEL.—The term ‘fossil fuel’ means
14 coal, coal products, petroleum, petroleum products, or nat-
15 ural gas.

16 “(k) FULL FUEL CYCLE GREENHOUSE GAS EMIS-
17 SIONS.—The term ‘full fuel cycle greenhouse gas emis-
18 sions’ means the greenhouse gas content of a covered fuel
19 plus that covered fuel’s upstream greenhouse gas emis-
20 sions.

21 “(l) GLOBAL WARMING POTENTIAL.—The term
22 ‘global warming potential’ means the ratio of the time-
23 integrated radiative forcing from the instantaneous release
24 of one kilogram of a trace substance relative to that of
25 one kilogram of carbon dioxide.

1 “(m) GREENHOUSE GAS.—The term ‘greenhouse
2 gas’ means carbon dioxide (CO₂), methane (CH₄), nitrous
3 oxide (N₂O), and other gases as defined by rule of the
4 Administrator.

5 “(n) GREENHOUSE GAS CONTENT.—The term
6 ‘greenhouse gas content’ means the amount of greenhouse
7 gases of a product or a fuel, expressed in metric tons of
8 CO₂-e, which would be emitted to the atmosphere by the
9 use of a covered fuel and shall include, nonexclusively,
10 emissions of carbon dioxide (CO₂), nitrous oxide (N₂O),
11 methane (CH₄), and other greenhouse gases as identified
12 by rule of the Administrator.

13 “(o) GREENHOUSE GAS EFFECT.—The term ‘green-
14 house gas effect’ means the adverse effects of greenhouse
15 gases on health or welfare caused by the greenhouse gas’s
16 heat-trapping potential or its effect on ocean acidification.

17 “(p) IMPORT.—Irrespective of any other definition in
18 law or treaty, the term ‘import’ means to land on, bring
19 into, or introduce into any place subject to the jurisdiction
20 of the United States.

21 “(q) PETROLEUM.—The term ‘petroleum’ means oil
22 removed from the earth or the oil derived from tar sands
23 or shale.

24 “(r) PRODUCTION GREENHOUSE GAS EMISSIONS.—
25 The term ‘production greenhouse gas emissions’ means

1 the quantity of greenhouse gases, expressed in metric tons
2 of CO₂-e, emitted to the atmosphere resulting from, non-
3 exclusively, the production, manufacture, assembly, trans-
4 portation, or financing of a product.

5 “(s) UPSTREAM GREENHOUSE GAS EMISSIONS.—

6 The term ‘upstream greenhouse gas emissions’ means the
7 quantity of greenhouse gases, expressed in metric tons of
8 CO₂-e, emitted to the atmosphere resulting from, non-
9 exclusively, the extraction, processing, transportation, fi-
10 nancing, or other preparation of a covered fuel for use.

11 **“SEC. 9902. CARBON FEE.**

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

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

17 “(1) the greenhouse gas content of the covered
18 fuel, multiplied by

19 “(2) the carbon fee rate.

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

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

1 “(A) in the case of calendar year 2021,
2 \$15 per metric ton of CO₂-e, and

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

5 “(i) the carbon fee rate in effect
6 under this subsection for the preceding cal-
7 endar year, plus

8 “(ii) \$10.

9 “(2) EXCEPTIONS.—

10 “(A) INCREASED CARBON FEE RATE
11 AFTER MISSED ANNUAL EMISSIONS REDUCTION
12 TARGET.—In the case of any year immediately
13 following a year for which the Secretary deter-
14 mines under section 9903(b) that the actual
15 emissions of greenhouse gases from covered
16 fuels exceeded the emissions reduction target
17 for the previous year, paragraph (1)(B)(ii) shall
18 be applied by substituting ‘\$15’ for the dollar
19 amount otherwise in effect for the calendar year
20 under such paragraph.

21 “(B) CESSATION OF CARBON FEE RATE IN-
22 CREASE AFTER CERTAIN EMISSION REDUCTIONS
23 ACHIEVED.—In the case of any year imme-
24 diately following a year for which the Secretary
25 determines under 9903(b) that actual emissions

1 of greenhouse gases from covered fuels is not
2 more than 10 percent of the greenhouse gas
3 emissions from covered fuels during the year
4 2010, paragraph (1)(B)(ii) shall be applied by
5 substituting '\$0' for the dollar amount other-
6 wise in effect for the calendar year under such
7 paragraph.

8 “(3) INFLATION ADJUSTMENT.—In the case of
9 any calendar year after 2021, each of the dollar
10 amounts in paragraphs (1)(B) and (2)(A) shall be
11 increased by an amount equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(f)(3) for the calendar
15 year, determined by substituting ‘calendar year
16 2010’ for ‘calendar year 2016’ in subparagraph
17 (A)(ii) thereof.

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

25 “(e) EXEMPTIONS.—

1 “(1) AGRICULTURE.—

2 “(A) FUEL.—If any covered fuel or its de-
3 rivative is used on a farm for a farming pur-
4 pose, the Secretary shall pay (without interest)
5 to the ultimate purchaser of such covered fuel
6 or its derivative, the total amount of carbon
7 fees previously paid upon that covered fuel or
8 its derivative, as specified by rule of the Sec-
9 retary.

10 “(B) FARM, FARMING USE, AND FARMING
11 PURPOSE.—The terms ‘farm’, ‘farming use’,
12 and ‘farming purpose’ shall have the respective
13 meanings given such terms under section
14 6420(c).

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

19 “(2) ARMED FORCES OF THE UNITED
20 STATES.—If any covered fuel or its derivative is
21 used by the Armed Forces of the United States as
22 supplies for vessels of war, vehicles, or electrical
23 power generation equipment, the Secretary shall pay
24 (without interest) to the ultimate purchaser of such
25 covered fuel or its derivative, the total amount of

1 carbon fees previously paid upon that covered fuel or
2 its derivative, as specified by rule of the Secretary.

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

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

7 “(1) REFERENCE YEAR.—The net greenhouse
8 gas emissions during the year 2010 shall be the ref-
9 erence amount of emissions and shall be determined
10 from the ‘Inventory of U.S. Greenhouse Gas Emis-
11 sions and Sinks: 1990–2010’ published by the Envi-
12 ronmental Protection Agency in April of 2012.

13 “(2) EMISSIONS REDUCTION TARGET.—The
14 first emission reduction target shall be for the year
15 2023. The emission target for each year thereafter
16 shall be the previous year’s target emissions minus
17 a percentage of emissions during the reference year
18 determined in accordance with the following table:

“Year	Emissions Reduction Target
2010	Reference year
2021 to 2022	No emissions reduction target
2023 to 2030	5 percent of 2010 emissions per year
2031 to 2050	3 percent of 2010 emissions per year

19 “(b) ADMINISTRATIVE DETERMINATION.—Not later
20 than 60 days after the beginning of each calendar year

1 beginning after the enactment of this section, the Sec-
2 retary, in consultation with the Administrator, shall deter-
3 mine whether actual emissions of greenhouse gases from
4 covered fuels exceeded the emissions reduction target for
5 the preceding calendar year. The Secretary shall make
6 such determination using the same, or appropriately up-
7 dated, greenhouse gas accounting method as was used to
8 determine the net greenhouse gas emissions in the 'Inven-
9 tory of U.S. Greenhouse Gas Emissions and Sinks: 1990-
10 2010' published by the Environmental Protection Agency
11 in April of 2012.

12 **"SEC. 9904. DECOMMISSIONING OF CARBON FEE.**

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

14 “(1) the Secretary determines under 9903(b)
15 that actual emissions of greenhouse gases from cov-
16 ered fuels is not more than 10 percent of the green-
17 house gas emissions during the year 2010, and

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

21 the Secretary shall decommission in an orderly manner
22 programs administering the carbon fee, the carbon border
23 fee adjustment, and the Carbon Dividend Trust Fund.

1 “(b) INFLATION ADJUSTMENT.—In the case of any
2 calendar year after 2021, the \$20 amount under sub-
3 section (a)(2) shall be increased by an amount equal to—

4 “(1) such dollar amount, multiplied by

5 “(2) cost-of-living adjustment determined under
6 section 1(f)(3) for the calendar year, determined by
7 substituting ‘calendar year 2020’ for ‘calendar year
8 2010’ in subparagraph (A)(ii) thereof.

9 **“SEC. 9905. CARBON CAPTURE AND SEQUESTRATION.**

10 “(a) IN GENERAL.—The Secretary, in consultation
11 with the Administrator and the Secretary of Energy, shall
12 prescribe regulations for making payments as provided in
13 subsection (b) to qualified facilities which capture and se-
14 quester qualified carbon dioxide or sequester qualified car-
15 bon dioxide obtained from one or more qualified facilities.

16 “(b) PAYMENT AMOUNTS.—

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

22 “(A) uses any covered fuel—

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

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

3 “(B) captures such emitted, or an equiva-
4 lent amount of, qualified carbon 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 or an equivalent amount of carbon dioxide in a
11 manner provided in paragraph (3)(C).

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

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

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

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

1 “(3) DEFINITIONS AND SPECIAL RULES.—For
2 purposes of this section—

3 “(A) QUALIFIED CARBON DIOXIDE; QUALI-
4 FIED FACILITY.—

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

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

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

23 “(C) UTILIZATION.—The Secretary, in
24 consultation with the Administrator, shall es-
25 tablish regulations providing for the methods

1 and processes by which qualified carbon dioxide
2 may be utilized so as to exclude that qualified
3 carbon dioxide safely and permanently from the
4 atmosphere. Utilization may include the produc-
5 tion of substances such as but not limited to
6 plastics and chemicals. Such regulations shall
7 minimize the escape or further emission of the
8 qualified carbon dioxide into the atmosphere.

9 “(D) SEQUESTRATION.—Not later than
10 540 days after the date of the enactment of this
11 section, the Secretary, in consultation with the
12 Administrator, shall prescribe regulations iden-
13 tifying the conditions under which carbon diox-
14 ide may be safely and permanently sequestered.

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

21 **“SEC. 9906. ADMINISTRATIVE AUTHORITY.**

22 “(a) IN GENERAL.—The Secretary in consultation
23 with the Administrator shall prescribe such regulations,
24 and other guidance, as may be necessary to carry out the

1 purposes of this subtitle and assess and collect the carbon
2 fee imposed by section 9902.

3 “(b) SPECIFICALLY.—Such regulations and guidance
4 shall include—

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

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

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

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

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

23 “(6) rules to ensure that no covered fuel has
24 the carbon fee or carbon border fee adjustment im-
25 posed upon it more than once, and

1 “(2) IMPORTED CARBON-INTENSIVE PRODUCTS
2 FEE.—In the case of any person that imports into
3 the United States any carbon-intensive product,
4 there shall be imposed a fee equal to the total car-
5 bon fee which would have accumulated upon the
6 greenhouse gas content of the imported carbon-in-
7 tensive product had the imported carbon-intensive
8 product been produced domestically and subject to
9 the domestic carbon fee.

10 “(3) MODIFICATIONS.—The Secretary shall
11 make an administrative determination of whether
12 any class of imported covered fuels or class of im-
13 ported carbon-intensive product is carrying any total
14 foreign carbon cost. The Secretary shall make a de-
15 termination of whether international law or the en-
16 hancement of global greenhouse gas mitigation ef-
17 forts require that those foreign cost of carbon be de-
18 ducted from the border carbon fee adjustment deter-
19 mined in subsection (c)(1) or subsection (d)(1).

20 “(4) FOREIGN COST OF CARBON; FOREIGN CAR-
21 BON COSTS.—For purposes of this subsection, the
22 term ‘foreign cost of carbon’ or ‘foreign carbon cost’
23 means the explicit price a foreign jurisdiction places
24 upon the emission of greenhouse gas pollution to the
25 atmosphere through law or regulation. Such price

1 shall be expressed as the price per metric ton of
2 CO₂-e.

3 “(d) REFUND ON EXPORTS FROM UNITED
4 STATES.—

5 “(1) COVERED FUELS.—Under regulations pre-
6 scribed by the Secretary, in the case of a covered
7 fuel produced in the United States with respect to
8 which the fee under section 9902 was paid, there
9 shall be allowed as a credit or refund (without inter-
10 est) to any exporter of such covered fuels an amount
11 equal to the total carbon fee levied upon the ex-
12 ported covered fuel up to the time of its exportation,
13 including processing emissions. Any such credit or
14 refund shall be allowed in the same manner as if it
15 were an overpayment of tax imposed by section
16 9902.

17 “(2) CARBON-INTENSIVE PRODUCTS.—Under
18 regulations prescribed by the Secretary, there shall
19 be allowed a credit or refund (without interest) to
20 exporters of carbon-intensive products manufactured
21 or produced in the United States an amount equal
22 to the total carbon fees accumulated upon the green-
23 house gas content of the exported carbon-intensive
24 product up to the time of exportation. Any such
25 credit or refund shall be allowed in the same manner

1 as if it were an overpayment of the fee imposed by
2 section 9902 or 9904.

3 **“SEC. 9909. ADMINISTRATION OF THE CARBON BORDER**
4 **FEE ADJUSTMENT.**

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

9 “(b) **COLLABORATION.**—In administering any aspect
10 of the border carbon fee adjustment it is the sense of Con-
11 gress that the Secretary should collaborate with author-
12 ized officers of any jurisdiction, including sub-national
13 governments, affected by the carbon border fee adjust-
14 ment.

15 “(c) **METHODOLOGY.**—In administering the border
16 carbon fee adjustment, the Secretary shall use methodolo-
17 gies, procedures, and data which as may be necessary or
18 convenient—

19 “(1) disaggregate a product’s greenhouse gas
20 content;

21 “(2) are consistent with international law and
22 facilitate international cooperation;

23 “(3) in the case of incomplete data, use cus-
24 tomary methods of interpolation that favor enhanced
25 mitigation and facilitate international cooperation;

1 “(4) avoid the double pricing of greenhouse gas
2 emissions; and

3 “(5) harmonize the border carbon fee adjust-
4 ment with the domestic carbon fee so as to ensure
5 all covered fuels used in the United States are sub-
6 ject to the carbon fee.

7 “(d) SCHEDULE.—The Secretary shall—

8 “(1) begin implementation the border carbon
9 fee adjustment for covered fuels at the same time as
10 the implementation of the carbon fee; and

11 “(2) begin implementation of the border carbon
12 fee adjustment for carbon-intensive products within
13 two years of the date of the enactment of the En-
14 ergy Innovation and Carbon Dividend Act of 2021.

15 “(e) PROCEDURE.—The Secretary shall—

16 “(1) establish fair, timely, impartial, and as
17 necessary confidential procedures by which the im-
18 porter of any carbon-intensive product or any cov-
19 ered fuel may petition the Secretary to revise the
20 Secretary’s determination of its border carbon fee
21 adjustment liability calculated under section
22 9908(c)(1);

23 “(2) establish fair, timely, impartial, and as
24 necessary confidential procedures by which any ex-
25 porter of any product from the United States may

1 petition the Secretary to include that exported prod-
2 uct on the list of carbon-intensive products; and

3 “(3) establish fair, timely, impartial, and as
4 necessary confidential procedures by which the ex-
5 porter of any carbon-intensive product or any cov-
6 ered fuel may petition the Secretary to revise the
7 Secretary’s determination of its border carbon fee
8 adjustment refund calculated under section 9908(d).

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

17 “(g) IMPORTS TO THE TERRITORIES OF THE UNITED
18 STATES.—Notwithstanding any other treaty, law, or pol-
19 icy, imports of covered fuels or carbon-intensive products
20 to Guam, the United States Virgin Islands, American
21 Samoa, Puerto Rico, and the Northern Mariana Islands
22 shall not be subject to section 9908(c).

1 **“SEC. 9910. ALLOCATION OF CARBON BORDER FEE ADJUST-**
2 **MENT REVENUES.**

3 “The revenues collected under this chapter may be
4 used to supplement appropriations made available in fiscal
5 years 2022 and thereafter—

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

9 “(2) to the Green Climate Fund, created by de-
10 cision 3/CP.17 adopted at the 17th Conference of
11 the Parties to the United Nation Framework Con-
12 vention on Climate Change held in Durban, Novem-
13 ber 28 to December 11, 2011.

14 **“SEC. 9911. TREATIES AND INTERNATIONAL NEGOTIA-**
15 **TIONS.**

16 “(a) CONFORMANCE WITH INTERNATIONAL TREA-
17 TIES.—In the case that the Appellate Body of the World
18 Trade Organization, or any other authoritative inter-
19 national treaty interpreter, shall find any portion of the
20 carbon border fee adjustment under this chapter to violate
21 any treaty to which the United States is a party, the Sec-
22 retary of State is authorized to alter that aspect of such
23 carbon border fee adjustment found to violate a treaty ob-
24 ligation so as to bring the carbon border fee adjustment
25 into conformance with international law.

1 “(b) INTERNATIONAL NEGOTIATIONS.—The Con-
2 gress finds the international mitigation of greenhouse gas
3 emissions to be of national importance. Therefore, the
4 Congress encourages the Secretary of State, or the Sec-
5 retary’s designee, to commence and complete negotiations
6 with other nations with the goal of forming treaties, envi-
7 ronmental agreements, accords, partnerships or any other
8 instrument that effectively reduces global greenhouse gas
9 emissions to zero percent of 2010 levels by 2050 and
10 which respect the principle of common but differentiated
11 responsibilities and respective capabilities.

12 “(c) SUSPENSION OF THE CARBON BORDER FEE AD-
13 JUSTMENT.—The Secretary may suspend the border car-
14 bon fee adjustment, in whole or in part—

15 “(1) when, in the determination of the Sec-
16 retary, a country has implemented greenhouse gas
17 mitigation policies sufficient to contribute to a global
18 net reduction of greenhouse gas emissions to zero by
19 2050. In making such determination, the Secretary
20 may partially suspend particular provisions of the
21 carbon border fee adjustment. In making the deter-
22 mination, the Secretary shall consult with the im-
23 porting country. In making the determination, the
24 Secretary shall follow all existing treaty obligations.

1 The Secretary shall review any carbon border fee ad-
2 justment suspension at least every 5 years, or

3 “(2) by treaty or other international agreement
4 that meets the criteria of section 9911(c)(1) and in-
5 cludes provisions for the suspension of the border
6 carbon fee adjustment.”.

7 **SEC. 4. ESTABLISHMENT OF THE CARBON DIVIDEND TRUST**
8 **FUND.**

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

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

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

18 “(b) TRANSFERS TO THE CARBON DIVIDEND TRUST
19 FUND.—There is hereby appropriated to the Carbon Divi-
20 dend Trust Fund amounts equal to the fees received into
21 the Treasury less any amounts refunded or paid under
22 section 9902(d) or 9905 of chapter 101 for each month.

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

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

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

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

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

21 “(A) The Department of the Treasury.

22 “(B) The Social Security Administration.

23 “(C) The Environmental Protection Agen-
24 cy.

25 “(D) Department of State.

1 “(3) CARBON DIVIDEND PAYMENTS.—

2 “(A) IN GENERAL.—From the amounts in
3 the Carbon Dividend Trust Fund made avail-
4 able under paragraphs (1) and (2) of this sub-
5 section for any year, the Secretary shall for
6 each month beginning no more than 270 days
7 after the date of the enactment of the Energy
8 Innovation and Carbon Dividend Act of 2021,
9 make carbon dividend payments to each eligible
10 individual.

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

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

1 authorized to verify an individual's eligibility to
2 receive a carbon dividend payment.

3 “(D) FREE TREATMENT OF PAYMENTS.—
4 Amounts paid under this subsection shall be in-
5 cludible in gross income.

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

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

22 “(i) An advanced carbon dividend
23 shall be the same as the anticipated first
24 carbon dividend required to be distributed
25 under subparagraph (A) and shall be dis-

1 tributed the month prior to the first collec-
2 tion of the carbon fee.

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

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

12 “(e) ASSIGNMENT OF BENEFITS.—The right of any
13 person to any future payment under this chapter shall not
14 be transferable or assignable, at law or in equity, and none
15 of the moneys paid or payable or rights existing under
16 subsection (c)(3) shall be subject to execution, levy, at-
17 tachment, garnishment, or other legal process, or to the
18 operation of any bankruptcy or insolvency law.”.

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

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

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

23 Section 6103(l) of the Internal Revenue Code of 1986
24 is amended by adding at the end the following new para-
25 graphs:

1 “(23) LIMITED DISCLOSURE OF IDENTITY IN-
2 FORMATION RELATING TO CARBON DIVIDEND PAY-
3 MENTS.—

4 “(A) DEPARTMENT OF TREASURY.—Indi-
5 vidual identity information shall, without writ-
6 ten request, be open to inspection by or disclo-
7 sure to officers and employees of the Depart-
8 ment of the Treasury whose official duties re-
9 quire such inspection or disclosure for purposes
10 of administering section 9512 (relating the Car-
11 bon Dividend Trust Fund).

12 “(B) COMMISSIONER OF SOCIAL SECUR-
13 ITY.—The Commissioner of Social Security
14 shall, on written request, disclose to officers
15 and employees of the Department of the Treas-
16 ury individual identity information which has
17 been disclosed to the Social Security Adminis-
18 tration as is necessary to administer section
19 9512.

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

1 **SEC. 6. NATIONAL ACADEMY OF SCIENCES REVIEW OF CAR-**
2 **BON FEE AND EMISSIONS REDUCTION**
3 **SCHEDULE.**

4 (a) **IN GENERAL.**—Not later than 5 years after the
5 date of the enactment of this Act, the Secretary of Energy
6 shall enter into an agreement with the National Academy
7 of Sciences to prepare a report relating to the carbon fee
8 imposed by section 9902 of the Internal Revenue Code of
9 1986 and the emissions reductions schedule established
10 under section 9903 of such Code.

11 (b) **REPORT REQUIREMENTS.**—Such report shall—

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

15 (2) describe and make recommendations on
16 whether the carbon fee rate and annual increases
17 prescribed by section 9902(c) of such Code should
18 be adjusted in order to optimize the efficiency and
19 effectiveness of this Act in achieving the emissions
20 reduction targets set forth in section 9903 of such
21 Code;

22 (3) describe the potential of the carbon fee to
23 achieve future emissions targets set forth in section
24 9903(a) of such Code through the year 2050;

25 (4) describe and evaluate the effectiveness of
26 the carbon fee in reducing emissions from key sec-

1 tors of the economy, including sectors of the econ-
2 omy that have decreased their carbon emissions, sec-
3 tors of the economy that have increased their carbon
4 emissions, and sectors of the economy in which car-
5 bon emissions have not changed;

6 (5) make findings and recommendations to
7 Federal departments and agencies and to Congress
8 on actions that could be taken to reduce carbon
9 emissions in the sectors of the economy in which
10 carbon emissions have not decreased;

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

16 (7) provide an assessment of any other factors
17 determined to be material to the program's effi-
18 ciency and effectiveness in achieving the goals set
19 forth in this Act.

20 (c) REPORT MADE PUBLICLY AVAILABLE.—Not later
21 than one year after the review in subsection (a) has com-
22 menced, the Secretary of Energy shall submit to Congress
23 the report required under subsection (a). Such report shall
24 be made electronically available to the public and open to

1 public comment for at least 60 days before the final sub-
2 mission to Congress.

3 **SEC. 7. IMPACT OF CARBON FEE ON BIOMASS USE AND**
4 **CARBON SINKS.**

5 (a) **STUDY OF BIOMASS.**—The Secretary of Energy
6 shall enter into an agreement with the National Academy
7 of Sciences and the Administrator of the Environmental
8 Protection Agency to conduct a study, make recommenda-
9 tions, and submit a report regarding the impact of the
10 carbon fee on the use of biomass as an energy source and
11 the resulting impacts on carbon sinks and biodiversity.

12 (b) **STUDY REQUIREMENTS.**—The study conducted
13 under subsection (a) by the National Academy of Sciences
14 shall include analysis, documentation, and determinations
15 on—

16 (1) the carbon fee and its impact on the use of
17 biomass as an energy source and greenhouse gas
18 emissions from the use of biomass as an energy
19 source;

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

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

24 (c) **RECOMMENDATIONS.**—Based on the findings and
25 conclusions of the study, the National Academy of

1 Sciences shall make recommendations to Federal depart-
2 ments and agencies and to Congress. The recommenda-
3 tions shall include any actions that should be taken to
4 mitigate impacts of the carbon fee on—

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

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

9 (d) REPORT.—The National Academy of Sciences
10 shall prepare a report that includes any findings and rec-
11 ommendations made pursuant to this section and, not
12 later than 18 months after the date of the enactment of
13 this Act, make such report electronically available to the
14 public.

15 **SEC. 8. EFFECTIVE DATE.**

16 The amendments made by this Act shall take effect
17 on the date of the enactment of this Act, except the carbon
18 fee under section 9902 of the Internal Revenue Code of
19 1986 shall apply to uses, sales, or transfers no more than
20 270 days after the date of the enactment of this Act.

21 **SEC. 9. PRINCIPLE OF INTERPRETATION.**

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

1 **SEC. 10. NO PREEMPTION OF STATE LAW.**

2 (a) **IN GENERAL.**—Nothing in this Act shall preempt
3 or supersede, or be interpreted to preempt or supersede,
4 any State law or regulation.

5 (b) **NO PREEMPTION OF STATE COMMON LAW OR**
6 **STATUTORY CAUSES OF ACTION.**—Nothing in this Act, nor
7 any standard, rule, requirement, risk evaluation, or assess-
8 ment created or implemented pursuant to this Act, shall
9 be construed to preempt any State common law or State
10 statutory law creating a remedy for civil relief.

○