

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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[Insert summary here, TBD]

**BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act be cited as the “Climate and Community Reinvestment Act of 2018”**

Sec. 2. The Council of the District of Columbia finds that: [Findings, TBD]

Sec. 3. Definitions

For the purposes of this Act, the term:

(1) “Applicable entity” means:

(A) For the purposes of any electricity sold, used, or entered into the District, the electricity supplier;

(B) For the purposes of any natural gas sold, used, or entered into the District, the natural gas supplier;

(C) For the purposes of any heating oil sold, used, or entered into the District, the retail heating oil dealer;

(D) For the purposes of any motor fuel sold, used, or entered into the District, the motor fuel distributor; and

(E) For the purposes of any other carbon-based fuel sold, used, or entered into the District, the vendor of such carbon-based fuel at the first point of sale within the District.

(2) “Benchmark standards” means whichever of the following vehicle standards establish the most environmentally rigorous emissions requirements or the highest fuel

efficiency requirements:

- (A) CAFE standards;
  - (B) The federal pollution standards for new light-duty vehicles established by the US Environmental Protection Agency, as required by section 202 of the Clean Air Act;
  - (C) Standards established by the State of California, pursuant to Section 209 of the Clean Air Act; or
  - (D) Standards established by the Council for the purposes of implementing Section 7 of this Act.
- (3) “CAFE standards” means the federal Corporate Average Fuel Economy standards promulgated by the US Department of Transportation, pursuant to the Energy Independence and Security Act of 2007.
  - (4) “Carbon-based fuel” means coal, a petroleum product, natural gas, or electricity.
  - (5) "Carbon dioxide equivalent" and “CO<sub>2</sub>e” mean the amount of carbon dioxide by mass that would produce the same global warming impact as a given mass of another greenhouse gas over an integrated twenty-year time frame after emission, based on the best available science.
  - (6) “Commission” means the District of Columbia Public Service Commission.
  - (7) “Council” means the Council of the District of Columbia.
  - (8) “Department” means the District of Columbia Department of Energy and Environment.
  - (9) “Electricity supplier” shall have the meaning given the term in DC Official Code § 34-1431.
  - (10) “Gas company” means a person regulated by the Commission that owns or controls the distribution facilities required for the transmission and delivery of natural gas to customers.
  - (11) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to cause or contribute to anthropogenic climate change.
  - (12) “Heating oil” means any petroleum product used to heat buildings and facilities, excluding petroleum products used for transportation purposes.
  - (13) “Life cycle greenhouse gas emissions” means the aggregate quantity of greenhouse gas

emissions related to the full fuel life cycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer.

- (14) “Motor fuel” means any gasoline, diesel fuel, special fuel, petroleum distillate, refined petroleum product, natural petroleum liquid product, natural gas liquified product, crude oil product, or other substance or combination of substances which is intended to be or is capable of being used for the purpose of propelling or running any internal combustion engine of a motor vehicle and which is sold or used, alone or blended or compounded with other substances, by any person for such purpose.
- (15) “Motor fuel distributor” means any person who is engaged in the business of selling, supplying, or distributing on consignment or otherwise, motor fuels or petroleum products to or through retail service stations which it owns, leases, or otherwise controls and who also maintains a marketing agreement with a retail dealer for the sale or distribution of motor fuels or petroleum products to a retail service station, whether or not such distributor owns, leases, or otherwise controls such retail service station.
- (16) “Natural gas supplier” means a person including an aggregator, broker, or marketer, who sells natural gas or purchases, brokers, arranges or, markets natural gas for sale to customers. The term shall not include a person that supplies natural gas exclusively for its own consumption or the consumption of one or more of its affiliates. The term shall not include the following:

(A) Building owners, lessees, or managers who manage the internal distribution system serving the building and who supply natural gas solely to occupants of the building for use by the occupants;

(B)(i) Any person who purchases natural gas for its own use or for the use of its subsidiaries or affiliates; or

(ii) Any apartment building or office building manager who aggregates retail natural gas sales requirements for his or her building, and who does not:

(I) Take title to natural gas;

(II) Market retail natural gas sales to the individually-metered tenants of his or her building; or

(III) Engage in the resale of natural gas to others;

(C) Property owners who supply small amounts of natural gas, at cost, as an accommodation to lessors or licensees of the property;

(D) A consolidator; or

(E) The gas company.

- (17) “Petroleum product” means all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, electricity, or motion, or which are commonly processed to produce synthetic gas for burning, including without limitation, propane, gasoline, unleaded gasoline, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and number 4, number 5 and residual oil for utility and non-utility uses, but not including, petroleum feedstocks to plastics production or other manufacturing
- (18) “Placed in service” means placed in a condition or state of readiness and availability for the production and delivery of energy.
- (19) “PJM Interconnection” means the regional transmission organization that is regulated by the Federal Energy Regulatory Commission that functionally controls the transmission system for the region that includes the District of Columbia.
- (20) “Renewable energy credit” or “credit” means a credit representing one megawatt-hour of energy produced by a tier one renewable source.
- (21) “Retail heating oil dealer” means any person, other than an employee of a distributor, who owns, leases, operates, or otherwise controls a retail business for the purpose of engaging in the retail sale of heating oil.
- (22) “Retail sale” means the sale of any tangible personal property to the public for any purpose other than for the resale of the property in the form in which it is sold.
- (23) “Retail service station” means any fixed geographic location, including the real estate and permanent improvements thereon, which is operated for the purpose of storing and selling motor fuel at retail and which has a dispensing system for delivery of motor fuel into the service tanks of motor vehicles, whether or not such location is also operated for the purposes of selling petroleum products, automotive products, or other products at retail or of repairing, maintaining, or servicing motor vehicles.
- (24) “Tier one renewable source” shall have the meaning given the term in DC Official Code § 34-1431.
- (25) “Ton” means 2000 lbs.
- (26) “Vehicle excise tax” means the excise tax on the issuance of certificate of title for a motor vehicle in the District, established by DC Official Code § 50-2201.03.

Sec 4. Carbon Pricing. -- (a) The Commission shall collect from any applicable entity, with the exception of the applicable entity listed in paragraph (1)(d) of section 3, a fee on any carbon-based energy sold, used, or entered into the District by such applicable entity for purposes of distribution or use within the District.

(b) The amount of the fee imposed by subsection (a) on any carbon-based fuel shall be equal to the applicable amount per ton of carbon dioxide equivalent that would be emitted through the combustion of such product (as determined by the Department in consultation with the Commission, and pursuant to Section 5).

(c) For the purposes of subsection (b), the applicable amount shall be:

- (1) For any carbon-based fuel sold, used, or entered into the District during calendar year 2020, \$20;
- (2) For any carbon-based fuel sold, used, or entered into the District during any calendar year after 2020 and before 2034, an amount equal to the sum of:

(A) The sum of the amount in effect under this subsection for the preceding calendar year and \$10, and

(B) The product of the amount determined under subparagraph (A) for such year and a cost-of-living, or inflation, adjustment using the United States Bureau of Labor Statistics Consumer Price Index or, if that index is not available, another index adopted by the Department; and

- (3) For any carbon-based fuel sold, used, or entered into the District during any calendar year after 2033, an amount equal to the sum of:

(A) The amount in effect under this subsection for the preceding calendar year, and

(B) The product of the amount determined under subparagraph (A) for such year and a cost-of-living, or inflation, adjustment using the United States Bureau of Labor Statistics Consumer Price Index or, if that index is not available, another index adopted by the Department.

(d) The Commission shall calculate and publish the amount of the fee established under subsection (a) in current dollars for each year by October 1 of the previous year.

(e) The Commission shall require all applicable entities, with the exception of the applicable entity listed in paragraph (1)(d) of section 3, to pay amounts pursuant to this subsection by the end of each calendar quarter.

(f) The Commission shall have regulatory oversight of all monies collected by applicable entities paying the fee established in subsection (a) to comply with the requirements of this section. Each applicable entity paying the fee established in subsection (a) shall submit an annual compliance report to the Commission, by a date and in a form prescribed by the Commission. Each report shall include clear and concise information that demonstrates that the applicable entity made calculations and collected monies fully in accordance with this section. The Commission shall determine if each applicable entity paying the fee established in subsection (a) complied with their requirements, or if additional actions must be taken by the applicable entity to come into compliance.

Sec. 5. Calculation of emissions factors.

- (a) Not later than one year after enactment of this Act, the Department, in consultation with the Commission, shall, for each carbon-based fuel identified in this Act, including various sources of electricity consumed in the District, calculate greenhouse gas emissions factors, in units of carbon dioxide equivalent.
- (b) Emissions factors calculated under this section shall take into account life-cycle greenhouse gas emissions and utilize a 20-year time horizon for global warming potentials.
- (c) At least once a year, the Commission shall calculate, for each electricity supplier, greenhouse gas emissions factors, in carbon dioxide equivalent per megawatt-hour, associated with the combustion of each carbon-based fuel identified in this Act for the purposes of generating electricity. This calculation may be based on the electricity supplier's carbon emissions as reported to and verified by the Commission in accordance with DC Municipal Regulations, § 15-4201.
  - (1) In calculating emissions factors pursuant to this subsection, the Commission shall consider the following to represent sources of electricity that produce no greenhouse gas emissions:
    - (A) Renewable energy credits retired by the electricity supplier as required by the District's Renewable Portfolio Standard as described in DC Official Code §34-1432; and
    - (B) Renewable energy credits retired by the electricity supplier that are additional to the electricity supplier's requirements under the District's Renewable Portfolio Standard as described in DC Official Code § 34-1432, if those renewable energy credits are:
      - (i) Produced in the same year as the year they are retired; and
      - (ii) Sourced from a tier one renewable source that is located within

the PJM Interconnection region and that is placed in service after the date of enactment of this Act.

Sec. 6. Exemptions and deductions.

(a) Carbon capture and storage. An applicable entity subject to a fee under this section shall be allowed a credit against such fee in cases where greenhouse gas emissions from a carbon-based fuel are to be permanently sequestered and not released into the atmosphere, pursuant to subsections (1) and (2).

(1) The credit shall equal the product of:

(A) The amount of the fee for the year in which the sequestration occurs, as determined by subsection (b), and

(B) The amount, in tons, of greenhouse gas emissions that is to be sequestered.

(2) In cases where a credit is issued pursuant to this subsection:

(A) The Department, in consultation with the Commission, shall certify that the emissions are securely sequestered and not released into the atmosphere; and

(B) In the event that the credited emissions are released into the atmosphere in any year, the applicable entity is liable for an amount that is equal to the product of:

(i) The amount, in tons, of greenhouse gas emissions that the Department, in consultation with the Commission, estimates was leaked, and

(ii) \$150 (measured in 2020 dollars).

(b) Electricity suppliers and natural gas suppliers shall not be required to pay the fee established in Section 4 on carbon-based fuel delivered to entities whose primary purpose is to provide public transportation in the District.

(1) Within one year of the enactment of this Act, the Department of Transportation shall:

(A) Promulgate rules specifying criteria for identifying entities whose primary purpose is to provide public transportation; and

(B) Publish a list of those entities in operation within the District that meet the criteria established pursuant to subparagraph (A).

Sec. 7. Additional Provisions to Address Transportation Sector Emissions.

- (a) By January 1, 2020, the Department, in consultation with the Department of Transportation, shall:
  - (1) Estimate greenhouse gas emissions from the District’s transportation sector and reasonably project what transportation-sector emissions will be in 2032.
  - (2) Develop a draft plan to reduce greenhouse gas emissions from the transportation sector using the fee amount specified in Section 4. The projected revenue raised in the draft plan should be proportional to the transportation sector’s share of the District’s emissions relative to the other sectors of the District’s economy.
- (b) By January 1, 2021, the Department, in consultation with the Department of Transportation, shall implement the plan described in paragraph (a)(2).
- (c) The Department of Motor Vehicles, in consultation with the Department, the Department of Transportation, and the Office of Tax and Revenue, shall revise the calculation of the vehicle excise tax, such that the fee amount, as indicated in Section 4, shall be applied as either an increase or decrease to the excise tax amount.
- (d) The increase or decrease to the excise tax amount shall be based on :
  - (1) the difference between the fuel efficiency of the vehicle for which the title is being sought, using window label vehicle fuel efficiency figures, and the benchmark standards; and
  - (2) the carbon fee amount in Section 4 of this act.
- (e) Vehicles seeking a title with a fuel efficiency below the benchmark standards shall pay an increased excise tax amount, with the amount of increased tax increasing based on how far below the benchmark standards the vehicle is.
- (f) Vehicles seeking a title with a fuel efficiency above the benchmark standards shall pay a decreased excise tax amount, or receive an excise tax rebate, with the amount of decreased tax decreasing based on how far above the benchmark standards the vehicle is.
- (g) Changes to the vehicle excise tax made pursuant to this section shall be revenue neutral, whereby total expenditures on excise tax decreases to vehicles with fuel efficiencies above the benchmark standards shall equal the total revenue raised by excise tax increases to vehicles with fuel efficiencies below the benchmark standards.
- (h) The Departments listed in subsection (c) of this section shall make all reasonable efforts to ensure that price impacts of the carbon fee on vehicle registration made pursuant this section are fully communicated to vehicle consumers in the District of Columbia at the point of sale.



- (i) The Department of Motor Vehicles shall publish and maintain publicly available information to help residents understand how the vehicle excise tax described in subsection (a) work, and how they might affect the cost of obtaining a title in the District.
- (j) The modification of the vehicle excise tax described in subsection (a) shall not apply to:
  - (1) Vehicles owned by individuals that are eligible for the federal Earned Income Tax Credit, and
  - (2) All trailers.
- (k) The current exemption for hybrid vehicles achieving over 40 miles per gallon is withdrawn.
- (l) All plug-in electric vehicles are exempted from the excise tax in its entirety.
- (m) The Department shall impose on motor fuels the fees established under Section 4 only if a similar greenhouse gas pricing mechanism on motor fuels is established by either Maryland or Virginia.
- (n) The Department of Motor Vehicles shall promulgate regulations pursuant to subsection (a) and an initial excise tax schedule pursuant to those regulations no later than one year after the enactment of this Act.
- (o) The collection of excise tax amounts pursuant to subsection (a) shall commence upon the promulgation of all necessary rules for its collection and no earlier than one year after the enactment of this Act.

Sec. 8. Any fees or taxes established by this Act shall be reduced by the amount of any fee or payment due under any federal law that establishes a direct greenhouse gas price on the same fossil fuels for the same year as described in this Act, provided however that such reduction shall not be in an amount of less than zero.

Sec. 9. Climate Change Action Fund. -- (a) There is hereby created a Climate Change Action Fund.

(b) All fees collected under Section 4 and Section 7 that are not collected from changes to the Vehicle excise tax shall be deposited in the Climate Change Action Fund.

(c) Proceeds from the Climate Change Action Fund may only be used for the purposes described in Section 10. Proceeds shall be available for the purposes described in Section 10 without appropriation.

Sec. 10. Climate Change Action Fund Uses. -- (a) The funds from the Climate Change Action Fund shall be used for the following:

- (1) Up to five percent of annual funds may be used to pay for administrative costs associated with collecting the fees established in Section 4, administering the fund, and carrying out the other responsibilities assigned to District government agencies under this Act;
  - (2) The Department and the Commission are authorized to disburse funds as needed to implement Section 6 of this Act; and
  - (3) Of the remaining funds:
    - (A) Twenty percent shall go to greenhouse gas reduction programs that primarily benefit low-income residents and families, small-business properties, minority-owned business enterprises, or non-profit organizations;
    - (B) Seventy-five percent shall be used to provide rebates to District residents; and
    - (C) Five percent shall be used for general tax abatement for commercial energy users in the District to be administered in the form of tax credits.
- (b) The funds described under paragraph (a)(1) shall be administered by the Department.
- (c) The funds described under subparagraph (a)(3)(A) shall be administered by the Department, and funding prioritization will be based on the recommendations of an advisory committee that, at a minimum, includes representatives from:
- (A) Environmental organizations;
  - (B) Labor unions;
  - (C) Apartment and building owners;
  - (D) Small business owners;
  - (E) Applicable entities;
  - (F) Low-income advocacy organization;
  - (G) The office of people's council;
  - (H) Other agencies;

- (I) The renewable energy sector;
  - (J) The Sustainable Energy Utility;
  - (K) A clean transportation advocacy organization;
  - (L) Faith communities; and
  - (M) Environmental justice communities.
- (d) The funds described under subparagraph (a)(3)(B) shall be administered by the Office of Tax and Revenue, and shall be allocated accordingly:
- (1) Eighty-five percent shall be disbursed, at the discretion of the Office of Tax and Revenue, through direct payments to each District resident, to be made not later than the end of the calendar quarter following the calendar quarter in which such amounts are deposited in the Climate Change Action Fund. The distribution of these funds shall be subject to the following:
    - (A) Every resident shall receive an equal rebate amount.
    - (B) In addition to the equal rebate amount in subparagraph (A), every resident who is a head of household with children or dependents under the age of eighteen shall have the rebate increased based on the number of children or dependents under eighteen in residence, with each child adding the value of 0.5 of an equal rebate amount.
    - (C) Full-time students of post-secondary institutions who reside in housing within the District that is managed by the institution at which they are a student, and who have established permanent residence within the District by obtaining a driver's license or identification card from the Department of Motor Vehicles, are considered residents over the age of eighteen. Students who lived within the District in housing not managed by a post-secondary educational institution no more than ninety days prior to their residence within such housing will continue to be treated as they were prior to their entrance into this housing.
    - (D) Rebates shall be made by means that ensure the largest number of District residents is reached and benefits from the rebate, while also taking into consideration the administrative cost and feasibility of various delivery mechanisms. In general, rebates shall be made by electronic means to the maximum extent practicable. Rebates may also be granted in the form of direct checks to residents.
  - (2) Fifteen percent shall be disbursed, at the discretion of the Office of Tax and Revenue, through direct payments to be made not later than the end of the calendar quarter following the calendar quarter in which such amounts are deposited in the Climate

Change Action Fund to residents with federal adjusted gross income that is 200 percent or less of federal poverty level. The distribution of these funds shall be subject to the following provisions:

- (A) The amount of rebate per resident calculated in this subsection shall be scaled in a manner consistent with the District's Low-Income Home Energy Assistance Program so that residents with the lowest incomes receive the highest rebates, with the rebate approaching zero for residents whose incomes approach 200 percent of federal poverty level.
- (B) The Office of Tax and Revenue, in consultation with the Department of Human Services, shall determine the manner and the frequency in which this rebate is delivered to eligible residents, and shall consider delivering this rebate through existing programs that provide resources to low-income residents of the District.
- (3) For the purposes of establishing eligibility for a rebate under paragraphs (1) or (2), a District resident means a person that is eighteen years of age or older who lives in the District of Columbia. All persons registered to vote in the District or all persons eighteen years of age or older who hold a valid District of Columbia driver's license or photo ID shall be presumptively considered residents for the purposes of this Act. Persons who do not meet the requirements for presumptive eligibility may establish eligibility by presenting other acceptable documentation to be determined by the Office of Tax and Revenue.
- (e) The funds described under subparagraph (a)(2)(C) shall be administered by the Office of Tax and Revenue, and shall be allocated accordingly: [*TBD by the Business Roundtable*]
- (f) Beginning April 1, 2021, the Office of Tax and Revenue, in consultation with the Department the Commission, shall publish on its website and submit to the Council an annual report on the expenditure of the funds allocated to the Fund in the previous year and plans to distribute the balance remaining in the Fund, if any.

Sec. 11. Reporting and Program Review. -- (a) The Department, in coordination with the Office of Tax and Revenue, the Commission, the Department of Transportation, and the Department of Motor Vehicles, shall conduct a quadrennial review of the carbon price program established in this Act to examine progress and suggest policy changes to improve the functioning of the carbon price as a means of reducing greenhouse emissions, boosting incomes for District residents, and growing the District's clean energy economy.

- (1) The review may include recommendations on adjustments to the carbon fee level or escalation rate, the frequency of rebate disbursements, or other programmatic changes to the way the carbon fee is administered.

- (2) The first review shall be submitted to the Council no later than January 1, 2024.  
Subsequent reports shall be submitted every four years thereafter.

Sec. 12. Effective date. -- (a) This Act shall take effect following approval by the Mayor (or in event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; DC Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.