HOUSE BILL NO.

Carbon market token program.

Sponsored by: Joint Minerals, Business & Economic Development Interim Committee

A BILL

for

AN ACT relating to environmental quality; establishing a program for carbon tokens for the mitigation of carbon dioxide and for the selling and trading of tokens as provided; specifying requirements for carbon token providers and verifiers of carbon token providers; providing definitions; creating accounts; providing for a continuing appropriation; amending the duties of the XXX; requiring rulemaking; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:
Please be advised that, because of the lateness of this request, this bill draft has not completed the standard LSO review process and may be subject to additional changes.

Section 1. W.S. 35-11-2201 through 35-11-2203 are created to read:

ARTICLE 22 - CARBON MARKET TOKEN PROGRAM

35-11-2201. Definitions.

(a) As used in this act:

(i) "Additionality" means the benefits of a created carbon token that result in a measurable and verifiable reduction in carbon dioxide emissions or carbon dioxide equivalent emissions in a manner that is demonstrably new and would not have occurred without the creation of the carbon token;
(ii) "Carbon dioxide equivalent" means a metric measure used to compare the emissions from various greenhouse gases based on their global warming potential;

(iii) "Carbon token" means a defined unit representing a verified reduction in carbon dioxide or carbon dioxide equivalents and that is registered with a trading authority or exchange that has been recognized by the department;

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STAFF COMMENT
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Generally, the unit used to represent carbon-emissions reductions have been called "carbon credits." The Committee may wish to consider using that more common term in this bill draft.

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(iv) "Debit" means a defined unit or measurement representing an increase in carbon emissions;

(v) "Department" means the department of XXX;

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STAFF COMMENT

The Committee will need to determine which state department or agency should be responsible for establishing and administering this carbon token program.

(vi) "Performance audit" means an audit conducted to evaluate a carbon token provider's compliance with this act and the rules promulgated by the department for the carbon token program to ensure that the provider is meeting all requirements for the emissions reductions that the provider's tokens represent and all requirements necessary for the continued provision, purchase and trade of current and future carbon tokens;

(vii) "Permanent" means a reduction in emissions that is used to offset emission increases and a reduction that is assured and enforceable for the life of the corresponding emission increase, whether unlimited or limited in duration;

(viii) "Reduction" means a demonstrable and measurable decrease in the quantity of carbon dioxide emissions for which a carbon token is issued;
(ix) "Trading authority or exchange" means any established state, regional, national or international carbon registry program that serves voluntary or compliance markets, provides an independent, verifiable carbon standard to certify carbon credits or tokens and issues carbon credits or tokens;

(x) "This act" means W.S. 35-11-2201 through 35-11-2203.

35-11-2202. Carbon market token program; guidelines.

(a) A carbon market token program shall be established to allow for carbon tokens for the creation, purchase, trade and sale of carbon tokens to promote the continued development and use of Wyoming's energy resources in the national and global energy market, the reduction of carbon emissions, the development and use of carbon capture, utilization and storage technology and the development and use of other practices and methods for storing or reducing carbon emissions.
(b) The carbon token advisory group is hereby created. The advisory group shall be voluntary and no state funds or personnel, except members of the advisory group appointed pursuant to this subsection who are state employees, shall be used in its operation. The advisory group may accept gifts and grants and expend funds received to carry out its duties. The advisory group shall select a chairman and such other officers as it deems necessary and shall keep a record of its proceedings. The advisory group shall evaluate and provide technical review of carbon token providers, verifiers of carbon token providers and carbon tokens that are created in accordance with this act. The advisory group shall, where appropriate, study and recommend certification of any carbon token provider or verifier of carbon token providers seeking approval under this act. The advisory group may request assistance from any state, local or federal agency to review carbon token provider applications and other methods that carbon token providers seek to have verified by the department. Representation and appointment of the members of the advisory group shall be as follows:
(i) The director of the department of environmental quality, or his designee;

(ii) The supervisor of the oil and gas conservation commission, or his designee;

(iii) The chief executive officer of the Wyoming business council, or his designee;

(iv) The director of the department of agriculture, or his designee;

(v) The executive director of the Wyoming energy authority, or his designee;

(vi) Four (4) residents of Wyoming appointed by the governor as follows:

(A) One (1) member representing the oil and gas industry;

(B) One (1) member representing agriculture;
(C) One (1) member representing utilities;

(D) One (1) member representing conservation groups.

(c) The department, after consultation with the carbon token advisory group, shall adopt rules for the establishment and administration of a carbon market token program in Wyoming. The rules shall at a minimum provide for:

(i) Criteria for the creation and measurement of carbon tokens that are permanent, verifiable, enforceable and measurable and that consider additionality;

(ii) The marketing, registration, transfer and sale of carbon tokens created under this act. Any rules promulgated under this paragraph shall:

(A) Include requirements for measuring and tracking debits for which carbon tokens may be used to offset;
(B) Ensure that the holders of carbon tokens may trade or sell them in other verified trading authorities or exchanges;

(C) Provide for the transfer or sale of carbon credits established in other verified trading authorities or exchanges by carbon token providers subject to the requirements of this act.

(iii) Eligibility criteria for the verification of carbon token providers who create or offer carbon tokens under this act, including a requirement that a carbon token provider shall be a resident of or authorized to conduct business in Wyoming;

(iv) The verification of the processes and methods used to create carbon tokens that are used by verified carbon token providers;

(v) The geographic area for the creation of carbon tokens, provided that carbon tokens created under this act shall be created within the state of Wyoming;
(vi) The review process for recommendations submitted by the carbon token advisory group to the department;

(vii) Criteria for the review and approval of other forms of creating carbon tokens that have not previously been verified by the department but have been approved for use by another trading authority or exchange;

(viii) Requirements for the creation, maintenance and submission of records concerning carbon tokens and debits for each verified carbon token provider;

(ix) Requirements for long-term management and accounting of carbon tokens created under this act to ensure that each carbon token created, marketed, transferred or sold is permanent, measurable and verifiable;

(x) Requirements for periodic financial and performance audits to be conducted on each carbon token provider verified and authorized to offer carbon tokens and, where appropriate, on any purchaser of carbon tokens
under the carbon market token program created under this section. Audits shall be conducted only to ensure that the carbon token provider or purchaser is in compliance with the requirements of this act and any rules promulgated for the carbon token program;

(xi) Eligibility criteria for carbon token verifiers who verify the projects, actions or methods that are used to create carbon tokens under this act and who ensure that the verified projects, actions or methods continue to operate in accordance with this act.

(d) Any person or entity that wishes to serve as a verifier of carbon token providers shall apply to the department for certification on a form approved and provided by the department. The carbon token advisory group shall review all applications submitted under this subsection and shall make recommendations on each application to the department.

(e) The department shall not approve any carbon token for marketing, transfer or sale if the carbon token is not
verified by a verifier of carbon token providers approved under subsection (d) of this section.

(f) Before creating, marketing, selling or transferring carbon tokens under this act, a carbon token provider shall apply to the department for certification on a form approved and provided by the department. The carbon token advisory group shall review all applications submitted under this subsection and shall make recommendations on each application to the department.

(g) The department may bring a civil action against any carbon token provider that fails to maintain the reduction in carbon emissions for which a carbon token has been created or issued to represent in order to enforce the carbon token. The department may receive costs and attorney fees for any successful action brought under this subsection.

(h) The department shall certify any carbon token provider or verifier of a carbon token provider that has been approved or certified under the laws of another state
or under the rules of another trading exchange or authority until the earlier of:

(i) The approved carbon token provider or verifier of carbon token providers is certified under this act; or

(ii) January 1, 2025.

35-11-2203. Carbon tokens; fees; accounts.

(a) The department may create an account exclusively for each carbon token provider. The department shall manage the expenditure of funds within each account. Funds within each account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e).

(b) The department shall:

(i) Collect a fee of XXX from each verifier of carbon token providers applying for certification under W.S. 35-11-2202(d);
(ii) Collect a fee of XXX from each carbon token provider applying for certification under W.S. 35-11-2202(e);

(iii) Assess and collect an annual fee from each verifier of carbon token providers and each carbon token provider on a date set by rule of the department. The department may collect the annual fee by deducting it from the balance of any account created under subsection (a) of this section;

(iv) Assess and collect supervisory fees as set forth by rule of the department. The supervisory fees collected under this paragraph shall provide for the costs of any financial or performance audit required under this act. The fees shall be adjusted to assure consistency with the cost of audits.

The Committee will need to decide the amount of any application or annual fees (if any), or if that amount should be set by rule. Both approaches are demonstrated above. (The application fee calls for a set amount; the
annual fees are left to rule of the agency overseeing the program.)

(c) Fees collected under this section shall be credited to the carbon market account which is hereby created. Funds within the carbon market account are continuously appropriated to the department and shall only be used for the purposes and administration of this act.

Please note that additional amendments to current statute are likely necessary depending on the selection of the department or agency to establish and oversee this carbon token program.

Section 2. Not later than October 1, 2022, the department of XXX shall promulgate all rules necessary to implement this act.

Section 3.
(a) Except as provided in subsection (b) of this section, this act is effective October 1, 2022.

(b) Sections 2 and 3 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)