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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To require the Secretary of Energy to conduct a study and submit a report on the greenhouse gas emissions intensity of certain products produced in the United States and in certain foreign countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CURTIS introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Secretary of Energy to conduct a study and submit a report on the greenhouse gas emissions intensity of certain products produced in the United States and in certain foreign countries, and for other purposes.

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 “Providing Reliable, Ob-
5 jective, Verifiable Emissions Intensity and Transparency
6 Act of 2024” or the “PROVE IT Act of 2024”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The European Union enacted, and is begin-
4 ning enforcement of, a carbon border adjustment
5 mechanism that will impact the United States. Other
6 major trading partners of the United States are ex-
7 ploring or developing similar policies, including Aus-
8 tralia, Japan, and the United Kingdom.

9 (2) Questions remain about how the European
10 Union and others will calculate United States emis-
11 sions intensity for covered products and the accuracy
12 of such determinations.

13 (3) Public entities, like the Department of En-
14 ergy's National Energy Technology Laboratory, and
15 various private sector groups have published studies
16 showing the United States comparative emissions in-
17 tensity advantage in production of manufactured
18 goods like steel and aluminum, as well as raw energy
19 sources like critical minerals, natural gas, and crude
20 oil.

21 (4) The private sector of the United States is
22 leading in emissions reductions and abides by some
23 of the cleanest and safest standards in the world.

24 (5) There is a need to obtain high-quality and
25 consolidated government data to show America's
26 comparative emissions advantage in the event of

1 questionable calculations of United States emissions
2 by foreign entities.

3 (6) In stark contrast, China has leveraged
4 human rights abuses and lax environmental perform-
5 ance and enforcement to create a competitive advan-
6 tage in international trade, undermining United
7 States industrial competitiveness. Nonmarket econo-
8 mies that do not share common social and economic
9 values with the United States share this general
10 tendency.

11 (7) The United States needs a better under-
12 standing of the extent of human rights abuses and
13 how they impact international trade flows.

14 **SEC. 3. STUDY ON GREENHOUSE GAS EMISSIONS INTEN-**
15 **SITY OF CERTAIN PRODUCTS PRODUCED IN**
16 **THE UNITED STATES AND IN CERTAIN FOR-**
17 **EIGN COUNTRIES.**

18 (a) STUDY.—

19 (1) IN GENERAL.—Not later than 2 years after
20 the date of enactment of this Act, and not later than
21 5 years thereafter, the Secretary, in coordination
22 with the Secretary of Commerce (including appro-
23 priate officials of the Bureau of the Census and the
24 International Trade Administration), the Adminis-
25 trator of the Environmental Protection Agency, the

1 United States Trade Representative, the United
2 States International Trade Commission, the Sec-
3 retary of Homeland Security, the Secretary of State,
4 and such other Federal officials as the Secretary de-
5 termines to be appropriate, shall conduct, and sub-
6 mit to the appropriate committees of Congress a re-
7 port describing the results of, a study—

8 (A) to determine the average product emis-
9 sions intensity of each category of covered prod-
10 ucts produced in the United States;

11 (B) to identify gaps in product emissions
12 intensity data for categories of covered products
13 produced in the United States;

14 (C) subject to paragraph (2)(B), to deter-
15 mine the average product emissions intensity of
16 each category of covered products produced in
17 covered countries, which may incorporate, as
18 the Secretary determines to be appropriate,
19 findings from—

20 (i) the implementation of the meas-
21 ures described in section 40416(a) of the
22 Infrastructure Investment and Jobs Act
23 (42 U.S.C. 18776(a)); and

24 (ii) the international energy data re-
25 sources described in that section;

1 (D) to identify any issues with verifying
2 the average product emissions intensity data for
3 covered products produced in covered countries;
4 and

5 (E) to determine the relative average prod-
6 uct emissions intensity of each category of cov-
7 ered products produced in the United States
8 compared to the average product emissions in-
9 tensity of each category of covered products
10 produced in covered countries.

11 (2) REQUIREMENTS.—

12 (A) IN GENERAL.—The report submitted
13 under paragraph (1) shall include—

14 (i) a detailed, specific, and trans-
15 parent description of the methodology used
16 to determine the average product emissions
17 intensity of a category of covered products
18 under subparagraphs (A) and (C) of that
19 paragraph;

20 (ii) a record of all sources of data
21 used to determine the average product
22 emissions intensity of a category of covered
23 products under subparagraphs (A) and (C)
24 of that paragraph; and

1 (iii) the heading or subheading of the
2 Harmonized Tariff Schedule of the United
3 States associated with each covered prod-
4 uct for which the average product emis-
5 sions intensity of a category of covered
6 products is determined under subpara-
7 graphs (A) and (C) of that paragraph.

8 (B) CERTAIN COVERED COUNTRIES.—With
9 respect to a covered country described in sub-
10 paragraph (C) or (D) of section 5(5), in car-
11 rying out subparagraph (C) of paragraph (1),
12 the Secretary may limit the study under that
13 paragraph to categories of covered products
14 with respect to which the covered country holds
15 more than a de minimis share of the global
16 market share of that category of covered prod-
17 ucts.

18 (C) REUSE OF END-OF-LIFE MATERIALS.—
19 In determining the average product emissions
20 intensity of a category of covered products
21 under subparagraphs (A) and (C) of paragraph
22 (1), the Secretary shall favorably consider the
23 reuse of end-of-life materials in place of virgin
24 raw materials.

1 (3) COORDINATION AMONG PRIMARY STUDY
2 PARTICIPANTS.—In carrying out paragraph (1), the
3 Secretary, the Secretary of Commerce, the Adminis-
4 trator of the Environmental Protection Agency, the
5 United States Trade Representative, the Secretary
6 of Homeland Security, the Secretary of State, and
7 such other Federal officials as the Secretary deter-
8 mines to be appropriate shall establish procedures to
9 facilitate timely and efficient data sharing for pur-
10 poses of carrying out that paragraph, including, if
11 appropriate, by designating appropriate individuals
12 with appropriate qualifications to review any data
13 shared.

14 (4) CONSULTATION AND COORDINATION WITH
15 OTHERS.—In carrying out paragraph (1), the Sec-
16 retary may consult and enter into agreements with
17 institutions having relevant data or data collection
18 or analysis capabilities, such as the National Lab-
19 oratories, the National Institute of Standards and
20 Technology, the National Academy of Sciences, the
21 International Energy Agency, the Organisation for
22 Economic Co-operation and Development, and rel-
23 evant academic and think-tank partners.

24 (5) CONSULTATION AND COORDINATION WITH
25 INDUSTRY.—In carrying out paragraph (1), the Sec-

1 retary, in coordination with the Secretary of Com-
2 merce, shall establish—

3 (A) a process to receive data and com-
4 ments from industry partners; and

5 (B) a process for industry partners to sub-
6 mit comments for purposes of the later study
7 and report required under such paragraph.

8 (6) INTERNATIONAL COORDINATION.—

9 (A) IN GENERAL.—In carrying out para-
10 graph (1), the Secretary, the Secretary of
11 State, and the United States Trade Representa-
12 tive shall make every effort to coordinate with
13 the governments of covered countries—

14 (i) to inform the determination of av-
15 erage product emissions intensity values;

16 (ii) to advance common emissions ac-
17 counting methodologies and data formats;
18 and

19 (iii) to improve overall data avail-
20 ability and quality.

21 (B) CONSULTATION.—In any case in which
22 a covered country is credibly collaborating with
23 the Secretary by supporting the collection, anal-
24 ysis, or verification of data, the Secretary may
25 give that covered country—

1 (i) a right to consultation with respect
2 to the determination of the average prod-
3 uct emissions intensity of 1 or more cat-
4 egories of covered products produced in
5 that covered country;

6 (ii) an opportunity to discuss chosen
7 data; and

8 (iii) an opportunity to fill data gaps.

9 (7) DATA AVAILABILITY.—

10 (A) IN GENERAL.—In carrying out para-
11 graph (1), the Secretary shall—

12 (i) take note of any instances in which
13 there is not sufficient data to precisely de-
14 termine the average product emissions in-
15 tensity of a category of covered products
16 under subparagraph (A) or (C) of that
17 paragraph;

18 (ii) include in the report submitted
19 under that paragraph—

20 (I) a notation with respect to
21 each instance noted under clause (i);
22 and

23 (II) an explanation for that nota-
24 tion;

1 (iii) identify any issues with verifying
2 the average product emissions intensity
3 data for categories of covered products
4 under subparagraph (A) or (C) of that
5 paragraph; and

6 (iv) identify any gaps in product emis-
7 sions intensity data for covered products or
8 categories of covered products produced in
9 the United States.

10 (B) REQUIREMENT.—For each instance
11 noted under subparagraph (A)(i), the Secretary
12 shall determine the average product emissions
13 intensity of the next highest aggregation of cat-
14 egories of covered products for which data are
15 available.

16 (C) CONSIDERATIONS.—In determining
17 whether there are sufficient data to precisely
18 determine the average product emissions inten-
19 sity of a category of covered products under
20 subparagraph (A)(i), the Secretary shall con-
21 sider the following factors:

22 (i) The public availability of statistics
23 on greenhouse gas emissions for particular
24 industries from government sources and
25 international organizations.

1 (ii) The public availability of data on
2 the quantity and source of inputs, such as
3 electricity, consumed by particular indus-
4 tries.

5 (iii) The extent to which the data de-
6 scribed in clauses (i) and (ii) cover a rep-
7 resentative group of producers within an
8 industry.

9 (iv) The transparency in the methods
10 used to collect, analyze, summarize, and
11 publish the data described in clauses (i)
12 and (ii).

13 (v) Whether there are other factors
14 that may impact the precision of the data
15 described in clauses (i) and (ii).

16 (vi) The recency of the data described
17 in clauses (i) and (ii).

18 (b) PUBLIC DATABASE.—The Secretary shall estab-
19 lish a public online database of—

20 (1) the average product emissions intensity data
21 determined under subparagraphs (A) and (C) of
22 subsection (a)(1); and

23 (2) the relative average product emissions in-
24 tensity of each category of covered products deter-
25 mined under subparagraph (E) of that subsection.

1 (c) CLARIFICATION.—Nothing in this Act provides
2 any new authority to any Federal agency—

3 (1) to impose, collect, or enforce a greenhouse
4 gas emissions tax, fee, duty, price, or charge; or

5 (2) to establish a new mandatory reporting re-
6 quirement (including by regulation) with respect to
7 the domestic production of any category of covered
8 products.

9 **SEC. 4. ANNUAL REPORT ON FOREIGN COUNTRIES THAT**
10 **USE HUMAN RIGHTS ABUSES TO CREATE A**
11 **COMPETITIVE ADVANTAGE IN TRADE.**

12 (a) IN GENERAL.—Not later than March 1 of each
13 year, the Secretary of Commerce, in coordination with the
14 Secretary of State, the United States Trade Representa-
15 tive, and other Federal officials that the Secretary of Com-
16 merce determines appropriate, shall submit to the Com-
17 mittee on Energy and Commerce and the Committee on
18 Foreign Affairs of the House of Representatives and the
19 Committee on Energy and Natural Resources and the
20 Committee on Foreign Relations of the Senate a report
21 describing, to the extent practicable, how any foreign gov-
22 ernment gains a competitive advantage in international
23 trade by permitting, or engaging in, through its agents,
24 representatives, or enterprises, wholly- or partly-owned, or
25 in collaboration with a private entity, the use of forced

1 or compulsory labor, child labor, or unacceptable condi-
2 tions of work with respect to occupational safety and
3 health, within its sovereign territory or abroad.

4 (b) INCLUSIONS.—Each report submitted under sub-
5 section (a) shall identify foreign countries that use human
6 rights abuses to extract critical minerals or rare earths.

7 (c) FORM.—Each report submitted under subsection
8 (a) shall be in unclassified form, but may include a classi-
9 fied annex.

10 **SEC. 5. DEFINITIONS.**

11 In this Act:

12 (1) APPROPRIATE COMMITTEES OF CON-
13 GRESS.—The term “appropriate committees of Con-
14 gress” means—

15 (A) the Committee on Energy and Natural
16 Resources of the Senate;

17 (B) the Committee on Environment and
18 Public Works of the Senate; and

19 (C) the Committee on Energy and Com-
20 merce of the House of Representatives.

21 (2) AVERAGE PRODUCT EMISSIONS INTEN-
22 SITY.—The term “average product emissions inten-
23 sity” means the national average of the product
24 emissions intensity of a category of covered products
25 produced in, as applicable—

1 (A) the United States; or

2 (B) a covered country.

3 (3) CARBON DIOXIDE-EQUIVALENT; CO₂-e.—

4 The term “carbon dioxide-equivalent” or “CO₂-e”

5 means the number of metric tons of carbon dioxide

6 emissions with the same global warming potential as

7 one metric ton of another greenhouse gas.

8 (4) CATEGORY OF COVERED PRODUCTS.—

9 (A) IN GENERAL.—The term “category of
10 covered products” means—

11 (i) a category described in any of
12 clauses (i) through (xxii) of subparagraph
13 (B), each of which consists of products
14 covered by the headings or subheadings of
15 the Harmonized Tariff Schedule of the
16 United States described parenthetically in
17 that clause; and

18 (ii) any other category of covered
19 products, as determined by the Secretary,
20 consisting of products covered by 1 or
21 more headings or subheadings of the Har-
22 monized Tariff Schedule of the United
23 States.

24 (B) CATEGORIES DESCRIBED.—The cat-
25 egories referred to in subparagraph (A)(i), con-

1 sisting of products covered by the headings or
2 subheadings of the Harmonized Tariff Schedule
3 of the United States described parenthetically
4 for each category, are the following:

5 (i) Aluminum (any of 7601 through
6 7608).

7 (ii) Articles of aluminum (any of 7609
8 through 7616).

9 (iii) Articles of cement (6810 or
10 6811).

11 (iv) Articles of iron and steel (any of
12 7307 through 7326).

13 (v) Articles of plastic (any of 3916
14 through 3926).

15 (vi) Biofuels (2207.10, 2207.20, or
16 3826).

17 (vii) Cement (2523 or 3824.5).

18 (viii) Crude oil (2709).

19 (ix) Fertilizer (2808, 2814, 2834.21,
20 or any of 3101 through 3105).

21 (x) Glass (any of 7001 through 7020).

22 (xi) Hydrogen (2804.10).

23 (xii) Iron and steel (any of 7201
24 through 7306).

25 (xiii) Lithium-ion batteries (8507.60).

- 1 (xiv) Natural gas (2711.11 or
2 2711.21).
- 3 (xv) Petrochemicals (2901 or
4 2711.14).
- 5 (xvi) Plastics (any of 3901 through
6 3915).
- 7 (xvii) Pulp and paper (any of 4701
8 through 4707 or 4801 through 4813).
- 9 (xviii) Refined strategic and critical
10 minerals, including copper, cobalt, graph-
11 ite, lithium, manganese, and nickel
12 (2825.50, 2827.41, any of 7401 through
13 7404, 7406, 2822.00, 8105.20, 8105.30,
14 2504, 3801.10, 2836.91, 2825.20,
15 2820.10, 8111, 2825.40, any of 7501
16 through 7504, or 2833.24).
- 17 (xix) Refined petroleum products
18 (2710, 2712, 2713, 2714, 2715, 2902.20,
19 2902.30, or 2902.44).
- 20 (xx) Solar cells and panels (any of
21 8541.42 through 8541.43 or 8501.71
22 through 8501.80).
- 23 (xxi) Uranium (2612.10, 2844.10,
24 2844.20, or 2844.30).
- 25 (xxii) Wind turbines (8502.31).

1 (5) COVERED COUNTRY.—The term “covered
2 country” means each of the following:

3 (A) A country that is a member of the
4 Group of Seven.

5 (B) A country that is a signatory to a free
6 trade agreement with the United States that is
7 in effect as of the date on which the Secretary
8 begins a study under section 3.

9 (C) A foreign country of concern (as de-
10 fined in section 9901 of the William M. (Mac)
11 Thornberry National Defense Authorization Act
12 for Fiscal Year 2021 (15 U.S.C. 4651)).

13 (D) A country that, in the determination
14 of the Secretary, holds more than a de minimis
15 share of the global market share, as measured
16 by official trade statistics, of—

17 (i) 1 or more categories of covered
18 products; or

19 (ii) upstream inputs for 1 or more
20 categories of covered products.

21 (E) Any other country that the Secretary
22 determines to be appropriate, including any
23 country that the Secretary determines is a sig-
24 nificant producer or exporter of at least 1 cat-
25 egory of covered products.

1 (6) COVERED PRODUCT.—The term “covered
2 product” means a product covered by—

3 (A) any of the headings or subheadings of
4 the Harmonized Tariff Schedule of the United
5 States described parenthetically in paragraph
6 (4)(B); or

7 (B) any other heading or subheading of
8 the Harmonized Tariff Schedule of the United
9 States included within a category of covered
10 products determined by the Secretary in accord-
11 ance with paragraph (4)(A)(ii).

12 (7) GREENHOUSE GAS.—The term “greenhouse
13 gas” has the meaning given the term in section 901
14 of the Energy Independence and Security Act of
15 2007 (42 U.S.C. 17321).

16 (8) PRODUCT EMISSIONS INTENSITY.—

17 (A) IN GENERAL.—The term “product
18 emissions intensity” means the quantity of
19 greenhouse gases emitted to the atmosphere as
20 a result of the extraction, production, proc-
21 essing, manufacture, and assembly, as applica-
22 ble, of 1 unit of a covered product, including
23 the greenhouse gas emissions of an upstream
24 input that is incorporated into a downstream
25 covered product.

1 (B) UNITS OF MEASUREMENT.—The Sec-
2 retary, as the Secretary determines to be appro-
3 priate, shall designate the units of measurement
4 in which the product emissions intensity of a
5 covered product shall be expressed, which may
6 include—

7 (i) metric tons of CO₂-e per metric
8 ton of a covered product;

9 (ii) metric tons of CO₂-e per dollar
10 value of a covered product; or

11 (iii) any other unit of measurement
12 that the Secretary determines to be appro-
13 priate.

14 (9) SECRETARY.—The term “Secretary” means
15 the Secretary of Energy.