118TH CONGRESS
1ST SESSION

S. ______

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.

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IN THE SENATE OF THE UNITED STATES

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introduced the following bill; which was read twice
and referred to the Committee on

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A BILL

To require the Secretary of Energy to conduct a study and
submit a report on the greenhouse gas emissions inten-
sity 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 2023” or the “PROVE IT Act of 2023”.
SEC. 2. STUDY ON GREENHOUSE GAS EMISSIONS INTENSITY OF CERTAIN PRODUCTS PRODUCED IN THE UNITED STATES AND IN CERTAIN FOREIGN COUNTRIES.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

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

(B) the Committee on Energy and Commerce of the House of Representatives.

(2) AVERAGE PRODUCT EMISSIONS INTENSITY.—The term “average product emissions intensity” means the national average of the product emissions intensity of a category of covered products produced in, as applicable—

(A) the United States; or

(B) a covered country.

(3) CARBON DIOXIDE-EQUIVALENT; CO₂-E.—The term “carbon dioxide-equivalent” or “CO₂-e” means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas.

(4) CATEGORY OF COVERED PRODUCTS.—
(A) IN GENERAL.—The term “category of covered products” means—

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

(ii) any other category of covered products, as determined by the Secretary, consisting of products covered by 1 or more headings or subheadings of the Harmonized Tariff Schedule of the United States.

(B) CATEGORIES DESCRIBED.—The categories referred to in subparagraph (A)(i), consisting of products covered by the headings or subheadings of the Harmonized Tariff Schedule of the United States described parenthetically for each category, are the following:

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

(ii) Articles of aluminum (any of 7609 through 7616).
(iii) Articles of cement (6810 or 6811).

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

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

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

(vii) Cement (2523 or 3824.5).

(viii) Crude oil (2709).

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

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

(xi) Hydrogen (2804.10).

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

(xiii) Lithium-ion batteries (8507.60).

(xiv) Natural gas (2711.11 or 2711.21).

(xv) Petrochemicals (2901 or 2711.14).

(xvi) Plastics (any of 3901 through 3915).

(xvii) Pulp and paper (any of 4701 through 4707 or 4801 through 4813).
(xviii) Refined strategic and critical minerals, including copper, cobalt, graphite, lithium, manganese, and nickel (2825.50, 2827.41, any of 7401 through 7404, 7406, 2822.00, 8105.20, 8105.30, 2504, 3801.10, 2836.91, 2825.20, 2820.10, 8111, 2825.40, any of 7501 through 7504, or 2833.24).

(xix) Refined petroleum products (2710, 2712, 2713, 2714, 2715, 2902.20, 2902.30, or 2902.44).

(xx) Solar cells and panels (any of 8541.42 through 8541.43 or 8501.71 through 8501.80).

(xxi) Uranium (2612.10, 2844.10, 2844.20, or 2844.30).

(xxii) Wind turbines (8502.31).

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

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

(B) A country that is a signatory to a free trade agreement with the United States that is in effect as of the date on which the Secretary begins a study under subsection (b)(1).

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

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

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

(E) Any other country that the Secretary determines to be appropriate, including any country that the Secretary determines is a significant producer or exporter of at least 1 category of covered products.

(6) COVERED PRODUCT.—

(A) IN GENERAL.—The term “covered product” means a product covered by—

(i) any of the headings or subheadings of the Harmonized Tariff Schedule of the United States described parenthetically in paragraph (4)(B); or
(ii) any other heading or subheading of the Harmonized Tariff Schedule of the United States included within a category of covered products determined by the Secretary in accordance with paragraph (4)(A)(ii).

(B) LIST OF COVERED PRODUCTS.—The Secretary shall maintain a list of covered products that identifies the category of covered products associated with each covered product on the list.

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

(8) PRODUCT EMISSIONS INTENSITY.—

(A) IN GENERAL.—The term "product emissions intensity" means the quantity of greenhouse gases emitted to the atmosphere as a result of the extraction, production, processing, manufacture, and assembly, as applicable, of 1 unit of a covered product, including the greenhouse gas emissions of an upstream input that is incorporated into a downstream covered product.
(B) UNITS OF MEASUREMENT.—The Secretary, as the Secretary determines to be appropriate, shall designate the units of measurement in which the product emissions intensity of a covered product shall be expressed, which may include—

(i) metric tons of CO$_2$-e per metric ton of a covered product;

(ii) metric tons of CO$_2$-e per dollar value of a covered product; or

(iii) any other unit of measurement that the Secretary determines to be appropriate.

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

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and not less frequently than once every 5 years thereafter, the Secretary, in coordination with the Secretary of Commerce (including appropriate officials of the Bureau of the Census and the International Trade Administration), the Administrator of the Environmental Protection Agency, the United States Trade Representative, the Secretary of Homeland Security, the
Secretary of State, and such other Federal officials as the Secretary determines to be appropriate, shall conduct, and submit to the appropriate committees of Congress a report describing the results of, a study—

(A) to determine the average product emissions intensity of each category of covered products produced in the United States;

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

(C) subject to paragraph (2)(B), to determine the average product emissions intensity of each category of covered products produced in covered countries, which may incorporate, as the Secretary determines to be appropriate, findings from—

(i) the implementation of the measures described in section 40416(a) of the Infrastructure Investment and Jobs Act (42 U.S.C. 18776(a)); and

(ii) the international energy data resources described in that section;

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

(E) to determine the relative average product emissions intensity of each category of covered products produced in the United States compared to the average product emissions intensity of each category of covered products produced in covered countries.

(2) REQUIREMENTS.—

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

(i) a detailed, specific, and transparent description of the methodology used to determine the average product emissions intensity of a category of covered products under subParagraphs (A) and (C) of that paragraph;

(ii) a record of all sources of data used to determine the average product emissions intensity of a category of covered products under subParagraphs (A) and (C) of that paragraph; and

(iii) the heading or subheading of the Harmonized Tariff Schedule of the United States associated with each covered prod-
uct for which the average product emissions intensity of a category of covered products is determined under subparagraphs (A) and (C) of that paragraph.

(B) CERTAIN COVERED COUNTRIES.—With respect to a covered country described in subparagraph (C) or (D) of subsection (a)(5), in carrying out subparagraph (C) of paragraph (1), the Secretary may limit the study under that paragraph to categories of covered products with respect to which the covered country holds more than a de minimis share of the global market share of that category of covered products.

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

(3) COORDINATION AMONG PRIMARY STUDY PARTICIPANTS.—In carrying out paragraph (1), the Secretary, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the
United States Trade Representative, the Secretary of Homeland Security, the Secretary of State, and such other Federal officials as the Secretary determines to be appropriate shall establish procedures to facilitate timely and efficient data sharing for purposes of carrying out that paragraph, including, if appropriate, by designating appropriate individuals with appropriate qualifications to review any data shared.

(4) Consultation and coordination with others.—In carrying out paragraph (1), the Secretary may consult and enter into agreements with institutions having relevant data or data collection or analysis capabilities, such as the National Laboratories, the National Institute of Standards and Technology, the National Academy of Sciences, the International Energy Agency, the Organisation for Economic Co-operation and Development, and relevant academic and think-tank partners.

(5) Consultation and coordination with industry.—In carrying out paragraph (1), the Secretary, in coordination with the Secretary of Commerce, shall establish—

(A) a process to receive data from industry partners; and
(B) a process pursuant to which industry
may request that a product be—

(i) included on the list of covered
products maintained under subsection
(a)(6)(B); and

(ii) analyzed as a covered product in
subsequent studies and reports under that
paragraph.

(6) INTERNATIONAL COORDINATION.—

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

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

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

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

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

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

(ii) an opportunity to discuss chosen
data; and

(iii) an opportunity to fill data gaps.

(7) DATA AVAILABILITY.—

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

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

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

(I) a notation with respect to
each instance noted under clause (i);

and
(II) an explanation for that notation;

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

(iv) identify any gaps in product emissions intensity data for covered products or
categories of covered products produced in
the United States.

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

(C) CONSIDERATIONS.—In determining
whether there are sufficient data to precisely
determine the average product emissions inten-
sity of a covered product or category of covered
products under subparagraph (A)(i), the Sec-
retary shall consider the following factors:

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

(ii) The public availability of data on the quantity and source of inputs, such as electricity, consumed by particular industries.

(iii) The extent to which the data described in clauses (i) and (ii) cover a representative group of producers within an industry.

(iv) The transparency in the method used to collect, analyze, summarize, and publish the data described in clauses (i) and (ii).

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

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

(c) PUBLIC DATABASE.—The Secretary shall establish a public online database of—

(1) the average product emissions intensity data collected under subparagraphs (A) and (C) of subsection (b)(1); and
(2) the relative average product emissions intensity of covered products determined under subparagraph (E) of that subsection.

(d) **Updates.**—Not less frequently than once every 5 years, the Secretary shall update—

(1) the database established under subsection (c); and

(2) the list of covered products maintained under subsection (a)(6)(B).