

118TH CONGRESS  
1ST SESSION

# S. 1242

To exclude critical minerals that were extracted or processed in certain countries that are providing insufficient levels of assistance to Ukraine from being included for purposes of determining the amount of the clean vehicle tax credit.

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## IN THE SENATE OF THE UNITED STATES

APRIL 20, 2023

Mr. COTTON (for himself, Mr. RUBIO, Mr. VANCE, and Mr. HAGERTY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To exclude critical minerals that were extracted or processed in certain countries that are providing insufficient levels of assistance to Ukraine from being included for purposes of determining the amount of the clean vehicle tax credit.

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 “No EV Credits for  
5 Idle Allies Act”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that the United States  
3 does not have any free trade agreement in effect with the  
4 European Union or any member country of the European  
5 Union.

6 **SEC. 3. EXCLUSION OF CRITICAL MINERALS EXTRACTED**  
7 **OR PROCESSED IN CERTAIN COUNTRIES.**

8 (a) EXCLUSION.—For purposes of determining the  
9 credit under section 30D of the Internal Revenue Code  
10 of 1986 with respect to any new clean vehicle (as defined  
11 in section 30D(d)(1) of such Code), any applicable critical  
12 minerals contained in the battery of such vehicle which  
13 were extracted or processed in Germany or France shall  
14 not be included for purposes of any determination under  
15 section 30D(e)(1)(A) of such Code with respect to such  
16 vehicle unless the Secretary of State certifies that the  
17 country has, since February 24, 2022, directly provided  
18 a cumulative amount of humanitarian, financial, and mili-  
19 tary aid to Ukraine which is not less than the cumulative  
20 amount of the United States direct commitment of hu-  
21 manitarian, financial, and military aid to Ukraine, as  
22 measured as a percent of GDP.

23 (b) RECERTIFICATION REQUIREMENT.—

24 (1) IN GENERAL.—If the Secretary of State  
25 certifies that Germany or France satisfies the re-  
26 quirements under subsection (a), a review of such

1 certification shall be made not less than annually  
2 thereafter for purposes of determining the inclusion  
3 or exclusion of applicable critical minerals extracted  
4 or processed in France or Germany in the credit cal-  
5 culation described in such subsection.

6 (2) FAILURE TO RECERTIFY.—With respect to  
7 the review described in paragraph (1), if the Sec-  
8 retary of State determines that France or Germany  
9 has failed to satisfy the requirements under sub-  
10 section (a), the exclusion described in such sub-  
11 section with respect to applicable critical minerals  
12 which were extracted or processed in such country  
13 shall apply for the 12-month period subsequent to  
14 such determination, at which time the Secretary of  
15 State shall reassess the levels of aid described in  
16 such subsection that have been provided.

17 (c) FAILURE TO ATTAIN CERTIFICATION FOR DURA-  
18 TION OF WAR IN UKRAINE.—If the Secretary of State  
19 cannot make the certification described under subsection  
20 (a) with respect to France or Germany for the duration  
21 of the Russian war in Ukraine (as determined by the Sec-  
22 retary pursuant to subsection (d)), the exclusion described  
23 in subsection (a) with respect to applicable critical min-  
24 erals which were extracted or processed in such country

1 shall apply until such time as the government of that  
2 country—

3 (1) spends not less than 2 percent of its GDP  
4 on defense spending; and

5 (2) with respect to the 2 most recently com-  
6 pleted calendar years, has maintained that level of  
7 funding.

8 (d) DETERMINATION.—For purposes of subsection  
9 (c), the Secretary of State shall, upon determining that  
10 the Russian war in Ukraine has concluded, submit a noti-  
11 fication to that effect to Congress.

12 (e) DEFINITIONS.—In this section—

13 (1) AID TO UKRAINE.—The term “aid to  
14 Ukraine” shall only apply to assistance provided to  
15 the Government of Ukraine or for the assistance of  
16 individuals within the borders of Ukraine.

17 (2) APPLICABLE CRITICAL MINERALS.—The  
18 term “applicable critical minerals” has the same  
19 meaning given such term in section 45Z(c)(6) of the  
20 Internal Revenue Code of 1986.

21 (3) DIRECTLY PROVIDED.—The term “directly  
22 provided”, with respect to aid, shall not include any  
23 contributions made to the European Union and sub-  
24 sequently provided to support Ukraine.

1       (f) EFFECTIVE DATE.—This section shall apply to  
2 vehicles placed in service after the date of enactment of  
3 this Act.

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