

118TH CONGRESS  
1ST SESSION

# S. 3422

To amend the Internal Revenue Code of 1986 to create a carbon border adjustment based on carbon intensity, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2023

Mr. WHITEHOUSE (for himself, Mr. SCHATZ, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to create a carbon border adjustment based on carbon intensity, 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 “Clean Competition  
5 Act”.

6 **SEC. 2. CARBON INTENSITY CHARGE.**

7 (a) IN GENERAL.—Chapter 38 of the Internal Rev-  
8 enue Code of 1986 is amended by adding at the end the  
9 following new subchapter:

## 1      **“Subchapter E—Carbon Intensity Charge**

“Sec. 4691. Calculation of carbon intensity.

“Sec. 4692. Imposition of carbon intensity charge.

“Sec. 4693. Rebate.

“Sec. 4694. Definitions.

### 2      **“SEC. 4691. CALCULATION OF CARBON INTENSITY.**

3           “(a) REPORTING REQUIREMENTS.—Not later than  
4 June 30, 2026, and annually thereafter, any covered enti-  
5 ty shall, for each eligible facility operated by such entity,  
6 report to the Secretary (and, for purposes of the informa-  
7 tion described in paragraphs (2) and (3), the Adminis-  
8 trator) with respect to the following:

9                   “(1) Any information required to be reported to  
10 the Administrator under the Greenhouse Gas Re-  
11 porting Program (or which would be required to be  
12 reported notwithstanding any other provision of law  
13 prohibiting the implementation of or use of funds for  
14 such requirements) for the preceding calendar year.

15                   “(2) The total amount of electricity used at  
16 such facility during the preceding calendar year, in-  
17 cluding—

18                           “(A) whether such electricity was provided  
19 through the electric grid or a dedicated genera-  
20 tion source,

21                           “(B) the terms of any power purchase  
22 agreements with respect to such facility, and

1           “(C) with respect to any electricity which  
2 was not provided through the electric grid, the  
3 greenhouse gas emissions associated with the  
4 production of such electricity, provided that  
5 such emissions are not reported pursuant to  
6 paragraph (1).

7           “(3) The total weight (expressed in tons) of  
8 each covered primary good produced at such facility  
9 during the preceding calendar year.

10          “(b) CALCULATION.—

11           “(1) CARBON INTENSITY.—

12           “(A) ELIGIBLE FACILITY.—For purposes  
13 of this subchapter, for each calendar year, the  
14 carbon intensity with respect to any eligible fa-  
15 cility shall be an amount equal to the quotient  
16 of—

17           “(i) the covered emissions (as deter-  
18 mined under paragraph (2)) with respect  
19 to such facility, divided by

20           “(ii) the total weight (expressed in  
21 tons) of covered primary goods produced at  
22 such facility during the preceding calendar  
23 year.

24           “(B) COVERED NATIONAL INDUSTRY.—

1           “(i) IN GENERAL.—For purposes of  
2 this subchapter, the carbon intensity with  
3 respect to any covered national industry  
4 shall be an amount (as determined by the  
5 Secretary) equal to the quotient of—

6                   “(I) an amount equal to the sum  
7 of the covered emissions (as deter-  
8 mined under paragraph (2)) with re-  
9 spect to all eligible facilities which  
10 produce covered primary goods which  
11 are included within such industry for  
12 calendar year 2025, divided by

13                   “(II) the total weight (expressed  
14 in tons) of covered primary goods  
15 within such industry which are pro-  
16 duced at all such eligible facilities dur-  
17 ing such year.

18           “(ii) DETERMINATION.—For purposes  
19 of this subchapter, the Secretary (in co-  
20 ordination with the relevant parties) may  
21 determine which types of eligible facilities  
22 (and any related covered primary goods)  
23 are included or excluded within a covered  
24 national industry, provided that such de-  
25 termination—

1                   “(I) facilitates a fair comparison  
2                   of carbon intensities across similar eli-  
3                   gible facilities (based on a comparison  
4                   of the material inputs and outputs of  
5                   such facilities), and

6                   “(II) does not meaningfully re-  
7                   duce the scope of greenhouse gas  
8                   emissions covered by this subchapter.

9                   “(iii) EXCLUDED FACILITIES.—In the  
10                  case of any eligible facility which, pursuant  
11                  to clause (ii), is excluded from a covered  
12                  national industry and is not included in  
13                  any other covered national industry, such  
14                  facility shall be deemed to not be included  
15                  in any covered national industry.

16                  “(C) PETITION FOR SPECIFIC GOODS.—

17                  “(i) IN GENERAL.—In the case of any  
18                  covered national industry which produces  
19                  more than 1 covered primary good, a cov-  
20                  ered entity may file a petition with the  
21                  Secretary to—

22                  “(I) determine the carbon inten-  
23                  sity with respect to a specific covered  
24                  primary good, and

1                   “(II) determine a classification  
2                   for defining such covered primary  
3                   good for purposes of this subchapter,  
4                   such as—

5                   “(aa) the applicable 6-digit  
6                   subheading of the Harmonized  
7                   Tariff Schedule of the United  
8                   States,

9                   “(bb) the relevant produc-  
10                  tion process,

11                  “(cc) a set of material char-  
12                  acteristics, or

13                  “(dd) any combination of  
14                  the methods for classification de-  
15                  scribed in items (aa) through  
16                  (cc).

17                  “(ii) REVIEW.—With respect to any  
18                  covered primary good which is included in  
19                  a petition described in clause (i), the Sec-  
20                  retary (in coordination with the Adminis-  
21                  trator and the Secretary of Energy) shall  
22                  approve such petition if—

23                  “(I) the chemical, physical, or  
24                  mechanical production processes for  
25                  such good are substantially different

1 as compared to other covered primary  
2 goods produced within the same cov-  
3 ered national industry,

4 “(II) the properties of such good  
5 are distinct such that its uses cannot  
6 be easily replaced by other covered  
7 primary goods produced within the  
8 same covered national industry, and

9 “(III) the carbon intensity deter-  
10 mined with respect to such good is at  
11 least 25 percent greater than the car-  
12 bon intensity determined for other  
13 covered primary goods produced with-  
14 in the same covered national industry.

15 “(iii) RECALCULATION.—In the case  
16 of any petition described in clause (i)  
17 which is approved by the Secretary pursu-  
18 ant to clause (ii), the Secretary (in coordi-  
19 nation with the Administrator) shall rede-  
20 termine the carbon intensity with respect  
21 to the covered national industry which in-  
22 cludes production of the covered primary  
23 good which is the subject of such petition  
24 by excluding any covered emissions associ-  
25 ated with the production of such good for

1 purposes of the determination made under  
2 subparagraph (B) for such industry.

3 “(iv) GOODS-LEVEL DATA.—In the  
4 case of any petition described in clause (i)  
5 which is approved by the Secretary pursu-  
6 ant to clause (ii), the Secretary (in coordi-  
7 nation with the Administrator) shall use a  
8 methodology for determining the carbon in-  
9 tensity of the covered primary good (as de-  
10 termined using the eligible facility informa-  
11 tion reported under subsection (a)), and  
12 shall publish the methodology and the re-  
13 sults of such determination, in a manner  
14 which—

15 “(I) is compatible with existing  
16 Federal carbon accounting rules and  
17 standards,

18 “(II) includes the related chem-  
19 ical, physical, or mechanical produc-  
20 tion processes responsible for dif-  
21 ferences in carbon intensity and cov-  
22 ered emissions, and

23 “(III) prioritizes ease of adminis-  
24 tration and compliance.



1           “(D) DETERMINATION.—Any determina-  
2           tion of carbon intensity under this paragraph  
3           shall be made by the Secretary in coordination  
4           with the Administrator and the Secretary of  
5           Energy.

6           “(2) COVERED EMISSIONS.—

7           “(A) IN GENERAL.—For purposes of this  
8           subsection, for each calendar year, the amount  
9           of covered emissions with respect to any eligible  
10          facility shall be an amount (as determined by  
11          the Secretary, in coordination with the Admin-  
12          istrator) equal to—

13               “(i) the amount equal to the sum of—

14                       “(I) the total greenhouse gas  
15                       emissions associated with the produc-  
16                       tion of covered primary goods at such  
17                       facility during the preceding calendar  
18                       year (as reported pursuant to sub-  
19                       section (a)), plus

20                       “(II) the total greenhouse gas  
21                       emissions associated with any elec-  
22                       tricity used at such facility for the  
23                       production of such goods during the  
24                       preceding calendar year, minus

1           “(ii) the total greenhouse gas emis-  
2           sions which are captured and disposed of  
3           in secure geological storage (in compliance  
4           with the regulations established under sec-  
5           tion 45Q(f)(2)) during the preceding cal-  
6           endar year.

7           “(B) DIRECT AIR CAPTURE.—For pur-  
8           poses of subparagraph (A)(ii), in the case of  
9           any greenhouse gas emissions which are cap-  
10          tured directly from the ambient air, the oper-  
11          ator of the facility which captured such emis-  
12          sions may apportion such emissions amongst  
13          any eligible facilities which are under common  
14          control of such operator.

15          “(C) EMISSIONS FOR ELECTRICITY  
16          USED.—

17          “(i) IN GENERAL.—For purposes of  
18          subparagraph (A)(i)(II), the amount of  
19          greenhouse gas emissions associated with  
20          electricity provided through the electric  
21          grid shall be determined based on the aver-  
22          age carbon intensity for the regional grid  
23          in which the eligible facility is located for  
24          the preceding calendar year.

1           “(ii) EXCEPTION.—In the case of an  
2           eligible facility which is subject to a power  
3           purchase agreement (or its foreign equiva-  
4           lent) which guarantees that any electricity  
5           provided under such agreement is gen-  
6           erated not less than 15 minutes prior to  
7           use by such facility and within the same  
8           regional transmission zone (or its foreign  
9           equivalent) as such facility—

10                   “(I) clause (i) shall not apply,

11                   and

12                   “(II) the amount of greenhouse  
13                   gas emissions associated with such  
14                   electricity shall be determined based  
15                   on the average carbon intensity of the  
16                   electricity provided under such agree-  
17                   ment.

18           “(3) IMPORTED GOODS.—

19                   “(A) IN GENERAL.—In the case of any  
20                   covered primary good which is imported into  
21                   the United States, the carbon intensity with re-  
22                   spect to such good shall be determined by the  
23                   Secretary (in coordination with the relevant  
24                   parties) based on—

1           “(i) the carbon intensity of the gen-  
2           eral economy of the country of origin of  
3           such good, or

4           “(ii) if the Secretary (in coordination  
5           with the relevant parties) determines that  
6           transparent, verifiable, and reliable infor-  
7           mation is available with respect to any cov-  
8           ered national industry in the country of or-  
9           origin of such good and that such country of  
10          origin is a transparent market economy in  
11          which inter-firm resource shuffling is un-  
12          likely to occur, the carbon intensity of the  
13          covered national industry in such country  
14          which includes production of such good.

15          “(B) PETITION.—

16          “(i) IN GENERAL.—In the case of any  
17          entity which imports a covered primary  
18          good for which the carbon intensity can be  
19          determined under subparagraph (A)(ii),  
20          such entity may file a petition with the  
21          Secretary to determine the charge under  
22          section 4692, if any, based on the average  
23          carbon intensity with respect to the pro-  
24          duction of such good by the manufacturer  
25          within the country of origin.

1           “(ii) AGGREGATION RULE.—For pur-  
2           poses of this subparagraph, the average  
3           carbon intensity with respect to the pro-  
4           duction of a covered primary good shall be  
5           determined based upon greenhouse gas  
6           emission and production data from all fa-  
7           cilities which produce such good which are  
8           under common control of the manufacturer  
9           of such good, including any subsidiary,  
10          parent company, or joint venture of such  
11          manufacturer within the country of origin.

12          “(iii) DATA PROVISION.—In the case  
13          of an entity which files a petition described  
14          in clause (i), such entity shall provide the  
15          Secretary with an environmental product  
16          declaration containing—

17                 “(I) any information which would  
18                 otherwise be required to be reported  
19                 under subsection (a) if the facilities  
20                 which produced the covered primary  
21                 good to which the petition applies  
22                 were subject to the reporting require-  
23                 ments under the Greenhouse Gas Re-  
24                 porting Program, and

1                   “(II) any other information  
2                   which is necessary (as determined by  
3                   the Secretary, in coordination with the  
4                   relevant parties) to calculate the car-  
5                   bon intensity of the covered primary  
6                   good in accordance with any relevant  
7                   methodologies for allocating the car-  
8                   bon intensity of the covered primary  
9                   good under paragraph (1)(C)(iv).

10                   “(C) INPUTS.—With respect to any cov-  
11                   ered primary good which is imported into the  
12                   United States and for which other covered pri-  
13                   mary goods (other than petroleum, natural gas,  
14                   or coal) were used as inputs by the manufac-  
15                   turer in the production of the imported covered  
16                   primary good, any greenhouse gas emissions as-  
17                   sociated with the production of the covered pri-  
18                   mary goods used as inputs shall be included in  
19                   the determination of the greenhouse gas emis-  
20                   sions associated with production of the im-  
21                   ported covered primary good.

22                   “(D) CARBON INTENSITY OF THE GEN-  
23                   ERAL ECONOMY.—For purposes of this para-  
24                   graph, with respect to any country, the carbon  
25                   intensity of the general economy of such coun-

1 try shall be an amount equal to the quotient  
2 of—

3 “(i) the greenhouse gas emissions of  
4 such country for the most recent year for  
5 which the Secretary determines there is re-  
6 liable information, divided by

7 “(ii) the gross domestic product of  
8 such country for the year described in  
9 clause (i).

10 “(E) EXCLUSION.—

11 “(i) IN GENERAL.—Subject to clause  
12 (ii), in the case of any covered primary  
13 good (including any covered primary good  
14 which is a component part of a finished  
15 good) which is imported into the United  
16 States and was produced in a relatively  
17 least developed country (as described in  
18 section 124 of the Foreign Assistance Act  
19 of 1961 (22 U.S.C. 2151v)), this para-  
20 graph shall not apply.

21 “(ii) EXCEPTION.—Clause (i) shall  
22 not apply if the country described in such  
23 clause produces at least 3 percent of total  
24 global exports by value of the covered pri-  
25 mary good.

1           “(F) INTER-FIRM RESOURCE SHUF-  
2 FLING.—For purposes of this paragraph, the  
3 term ‘inter-firm resource shuffling’ means any  
4 buying, selling, trading, exchanging, or other  
5 transfer of control of production facilities be-  
6 tween entities based on the carbon intensity of  
7 such facilities for the purpose of creating enti-  
8 ties with relatively lower carbon intensity and  
9 entities with relatively higher carbon intensity.

10       “(c) PUBLICATION.—The Secretary (in coordination  
11 with the relevant parties) shall—

12           “(1) annually publish any carbon intensity  
13 which has been determined under subsection (b)  
14 with respect to any eligible facility, covered national  
15 industry, covered primary good, foreign manufac-  
16 turer, or country of origin, and

17           “(2) publish (and update, as appropriate) a list  
18 of—

19           “(A) each covered primary good, as cat-  
20 egorized by the covered national industry in  
21 which such good is included, and

22           “(B) any covered primary good for which  
23 a petition described in clause (i) of subsection  
24 (b)(1)(C) has been approved by the Secretary  
25 pursuant to clause (ii) of such subsection.



1 **“SEC. 4692. IMPOSITION OF CARBON INTENSITY CHARGE.**

2 “(a) IN GENERAL.—

3 “(1) IMPORTATION OF GOODS.—

4 “(A) IN GENERAL.—

5 “(i) COVERED PRIMARY GOODS.—In  
6 the case of any covered primary good im-  
7 ported into the United States during any  
8 calendar year beginning after December  
9 31, 2024, there is hereby imposed a charge  
10 in an amount (rounded to the nearest dol-  
11 lar) equal to the product of—

12 “(I)(aa) in the case of a good for  
13 which the carbon intensity is deter-  
14 mined under section 4691(b)(3)(A)(i),  
15 the amount (if any) by which the  
16 amount determined under clause (iii)  
17 with respect to such good exceeds an  
18 amount equal to the applicable per-  
19 centage of the relevant carbon inten-  
20 sity for such good, or

21 “(bb) in the case of a good for  
22 which the carbon intensity is deter-  
23 mined under subparagraph (A)(ii) or  
24 (B) of section 4691(b)(3), the amount  
25 (if any) by which the carbon intensity  
26 determined under such subparagraph

1 with respect to such good exceeds an  
2 amount equal to the applicable per-  
3 centage of the relevant carbon inten-  
4 sity for such good, multiplied by

5 “(II) the total weight (expressed  
6 in tons) of the good imported into the  
7 United States, multiplied by

8 “(III) the carbon price.

9 “(ii) FINISHED GOODS.—

10 “(I) IN GENERAL.—In the case  
11 of any finished good which is im-  
12 ported into the United States during  
13 any calendar year beginning after De-  
14 cember 31, 2026, there is hereby im-  
15 posed a charge in an amount equal to  
16 the sum of the amounts determined  
17 under subclause (II) with respect to  
18 each covered primary good which is a  
19 component part of such finished good.

20 “(II) COMPONENTS.—The  
21 amount determined under this sub-  
22 clause with respect to any covered pri-  
23 mary good which is a component part  
24 of a finished good is an amount equal  
25 to the product of—

1                   “(aa) the amount (if any)  
2                   determined under clause (i)(I) if  
3                   such clause were applied with re-  
4                   spect to such good, multiplied by

5                   “(bb) the total weight (ex-  
6                   pressed in tons) of the covered  
7                   primary good, multiplied by

8                   “(cc) the carbon price.

9                   “(iii) CALCULATION FOR CERTAIN  
10                  FOREIGN GOODS.—For purposes of clause  
11                  (i)(I)(aa), the amount determined under  
12                  this clause with respect to any covered pri-  
13                  mary good shall be equal to the product  
14                  of—

15                  “(I) an amount equal to the  
16                  quotient of—

17                  “(aa) the carbon intensity of  
18                  the general economy (as deter-  
19                  mined under section  
20                  4691(b)(3)(D)) of the country of  
21                  origin of such good, divided by

22                  “(bb) the carbon intensity of  
23                  the general economy (as so deter-  
24                  mined) of the United States,  
25                  multiplied by

1                   “(II) an amount equal to the ap-  
2                   plicable percentage of the relevant  
3                   carbon intensity for such good.

4                   “(B) CHARGE DUE.—The charge imposed  
5                   under this paragraph with respect to any goods  
6                   imported during any calendar year shall be paid  
7                   by the entity which imported such goods not  
8                   later than September 30 of the calendar year  
9                   subsequent to such year.

10                  “(C) EXCLUSION.—

11                   “(i) IN GENERAL.—Subject to clause  
12                   (ii), in the case of any covered primary  
13                   good (including any covered primary good  
14                   which is a component part of a finished  
15                   good) which is imported into the United  
16                   States and was produced in a relatively  
17                   least developed country (as described in  
18                   section 124 of the Foreign Assistance Act  
19                   of 1961 (22 U.S.C. 2151v)), this para-  
20                   graph shall not apply.

21                   “(ii) EXCEPTION.—Clause (i) shall  
22                   not apply if the country described in such  
23                   clause produces at least 3 percent of total  
24                   global exports by value of the covered pri-  
25                   mary good.

1           “(D) CARBON CLUBS.—If the Secretary  
2           (in coordination with the relevant parties) de-  
3           termines that a foreign country has imple-  
4           mented policies which impose explicit costs on  
5           the emission of greenhouse gases which are ma-  
6           terially similar to the charges imposed pursuant  
7           to the provisions of this subchapter, the charge  
8           (or a percentage of the charge which is equiva-  
9           lent to the costs imposed by the foreign coun-  
10          try) which would otherwise be imposed under  
11          this section with respect to covered primary  
12          goods produced in such foreign country may be  
13          waived.

14           “(E) RELEVANT CARBON INTENSITY.—In  
15          this paragraph, the term ‘relevant carbon inten-  
16          sity’ means, with respect to any covered pri-  
17          mary good—

18                   “(i) except as provided in clause (ii),  
19                   the carbon intensity (as determined under  
20                   section 4691(b)(1)(B)) for the covered na-  
21                   tional industry which includes such good,  
22                   or

23                   “(ii) in the case of any covered pri-  
24                   mary good which is included in a petition  
25                   described in clause (i) of section

1           4691(b)(1)(C) which is approved by the  
2           Secretary pursuant to clause (ii) of such  
3           section, the carbon intensity of such good  
4           as determined under such section.

5           “(2) DOMESTIC PRODUCTION OF COVERED PRI-  
6           MARY GOODS.—

7           “(A) IN GENERAL.—In the case of any eli-  
8           gible facility, for each calendar year beginning  
9           after December 31, 2024, there is hereby im-  
10          posed a charge in an amount (rounded to the  
11          nearest dollar) equal to the product of—

12           “(i) the amount (if any) by which the  
13           carbon intensity of such facility (as deter-  
14           mined under subparagraph (A) of section  
15           4691(b)(1)) exceeds—

16           “(I) an amount equal to the ap-  
17           plicable percentage of the carbon in-  
18           tensity for the covered national indus-  
19           try (as determined under subpara-  
20           graph (B) of section 4691(b)(1))  
21           which includes any covered primary  
22           good produced by such facility, or

23           “(II) in the case of a covered pri-  
24           mary good produced by such facility  
25           which is subject to an approved peti-

1                   tion under subparagraph (C) of such  
2                   section, an amount equal to the appli-  
3                   cable percentage of the carbon inten-  
4                   sity determined with respect to such  
5                   good, multiplied by

6                   “(ii) the total weight (expressed in  
7                   tons) of any covered primary goods pro-  
8                   duced by such facility during such calendar  
9                   year, multiplied by

10                   “(iii) the carbon price.

11                   “(B) CHARGE DUE.—The charge imposed  
12                   under this paragraph with respect to any cal-  
13                   endar year shall be paid by the covered entity  
14                   not later than September 30 of the calendar  
15                   year subsequent to such year.

16                   “(b) APPLICABLE PERCENTAGE.—For purposes of  
17                   paragraphs (1)(A) and (2)(A) of subsection (a), the appli-  
18                   cable percentage shall be—

19                   “(1) for calendar year 2025, 100 percent,

20                   “(2) for calendar years 2026 through 2029, the  
21                   applicable percentage for the preceding calendar  
22                   year, reduced by 2.5 percentage points, and

23                   “(3) for any calendar year subsequent to cal-  
24                   endar year 2029, the applicable percentage for the

1 preceding calendar year, reduced by 5 percentage  
2 points (but not less than zero).

3 “(c) CARBON PRICE.—

4 “(1) IN GENERAL.—For purposes of para-  
5 graphs (1)(A) and (2)(A) of subsection (a), the car-  
6 bon price shall be—

7 “(A) for 2025, \$55, and

8 “(B) for each calendar year subsequent to  
9 the calendar year described in subparagraph  
10 (A), an amount equal to the sum of—

11 “(i) the carbon price for the preceding  
12 year, plus

13 “(ii) an amount equal to—

14 “(I) the amount described in  
15 clause (i), multiplied by

16 “(II) the percentage by which the  
17 CPI for the preceding calendar year  
18 exceeds the CPI for the second pre-  
19 ceding calendar year, increased by 5  
20 percentage points.

21 “(2) CPI.—Rules similar to the rules of para-  
22 graphs (4) and (5) of section 1(f) shall apply for  
23 purposes of this subsection.



1           “(3) ROUNDING.—Any applicable amount de-  
2           termined under this subsection which is not a mul-  
3           tiple of \$1 shall be rounded to the nearest dollar.

4   **“SEC. 4693. REBATE.**

5           “(a) EXPORTATION OF COVERED PRIMARY GOOD.—  
6           In the case of a person who exports any covered primary  
7           good from the United States which was produced in an  
8           eligible facility for which a charge has been imposed under  
9           section 4692, a refund shall be allowed to such person in  
10          the same manner as if it were an overpayment of the  
11          charge imposed by such section in an amount equal to the  
12          charge that would be imposed under subsection  
13          (a)(1)(A)(i) of such section with respect to such good if  
14          the carbon intensity with respect to such eligible facility  
15          were determined under section 4691(b)(1)(A) by sub-  
16          stituting ‘all eligible facilities by the covered entity which  
17          produced the covered primary good described in section  
18          4693(a)(1)’ for ‘such facility’ each place it appears in such  
19          section.

20          “(b) EXPORTATION OF FINISHED GOOD.—In the  
21          case of a person who exports any finished good from the  
22          United States for which a charge has been imposed under  
23          section 4692 on such finished good or any of its compo-  
24          nents, a refund shall be allowed to such person in the same  
25          manner as if it were an overpayment of the charge im-

1 posed by such section in an amount equal to the charge  
2 that would otherwise be imposed under such section with  
3 respect to such finished good (as determined pursuant to  
4 subsection (a)(1)(A)(ii) of such section).

5 **“SEC. 4694. DEFINITIONS.**

6 “For purposes of this subchapter—

7 “(1) ADMINISTRATOR.—The term ‘Adminis-  
8 trator’ means the Administrator of the Environ-  
9 mental Protection Agency.

10 “(2) CO<sub>2</sub>-e.—

11 “(A) IN GENERAL.—Subject to subpara-  
12 graph (B), the term ‘CO<sub>2</sub>-e’ means, with re-  
13 spect to a greenhouse gas, the quantity of such  
14 gas that has a global warming potential equiva-  
15 lent to 1 metric ton of carbon dioxide, as deter-  
16 mined pursuant to table A–1 of subpart A of  
17 part 98 of title 40, Code of Federal Regula-  
18 tions, as in effect on the date of the enactment  
19 of this subchapter.

20 “(B) METHANE.—In the case of methane,  
21 the term ‘CO<sub>2</sub>-e’ means the quantity of meth-  
22 ane that has the same global warming potential  
23 over a 20-year period as 1 metric ton of carbon  
24 dioxide, as determined by the Administrator.

1           “(3) COVERED ENTITY.—The term ‘covered en-  
2           tity’ means any entity which—

3                   “(A) produces any covered primary good,  
4                   and

5                   “(B) is required to report emissions of  
6                   greenhouse gases under the Greenhouse Gas  
7                   Reporting Program (or would be required to re-  
8                   port such emissions notwithstanding any other  
9                   provision of law prohibiting the implementation  
10                  of or use of funds for such requirements).

11          “(4) COVERED NATIONAL INDUSTRY.—

12                  “(A) IN GENERAL.—Except as provided  
13                  under section 4691(b)(1)(B)(ii), the term ‘cov-  
14                  ered national industry’ means any industry  
15                  which is assigned a 6-digit NAICS code which  
16                  is included in any of the following clauses:

17                          “(i) 211120 (petroleum extraction).

18                          “(ii) 211130 (natural gas extraction).

19                          “(iii) 212114 (surface coal mining).

20                          “(iv) 212115 (underground coal min-  
21                          ing).

22                          “(v) 322110 (pulp mills).

23                          “(vi) 322120 (paper mills).

24                          “(vii) 322130 (paperboard mills).

25                          “(viii) 324110 (petroleum refineries).

1           “(ix) 324121 (asphalt paving mixture  
2 and block manufacturing).

3           “(x) 324122 (asphalt shingle and  
4 coating materials manufacturing).

5           “(xi) 324199 (all other petroleum and  
6 coal products manufacturing).

7           “(xii) 325110 (petrochemical manu-  
8 facturing).

9           “(xiii) 325120 (industrial gas manu-  
10 facturing).

11          “(xiv) 325193 (ethyl alcohol manufac-  
12 turing).

13          “(xv) 325199 (other basic organic  
14 chemical manufacturing).

15          “(xvi) 325311 (nitrogenous fertilizer  
16 manufacturing).

17          “(xvii) 327211, 327212, 327213, or  
18 327215 (glass).

19          “(xviii) 327310 (cement).

20          “(xix) 327410 or 327420 (lime and  
21 gypsum product manufacturing).

22          “(xx) 331110 (iron and steel).

23          “(xxi) 331313 or 331314 (aluminum).

24          “(B) EXCEPTIONS.—

1                   “(i) INDUSTRIAL GAS MANUFAC-  
2                   TURING.—Subparagraph (A)(xiii) shall  
3                   apply only with respect to the production  
4                   of hydrogen.

5                   “(ii) OTHER BASIC ORGANIC CHEM-  
6                   ICAL MANUFACTURING.—Subparagraph  
7                   (A)(xv) shall apply only with respect to the  
8                   production of adipic acid.

9                   “(5) COVERED PRIMARY GOOD.—The term ‘cov-  
10                  ered primary good’ means any good which is pro-  
11                  duced as part of a trade or business operating with-  
12                  in a covered national industry, and includes (except  
13                  as otherwise provided under section 4691(b)(1)(C))  
14                  any good classifiable under the same 6-digit sub-  
15                  heading of the Harmonized Tariff Schedule of the  
16                  United States.

17                  “(6) ELIGIBLE FACILITY.—The term ‘eligible  
18                  facility’ means any facility (as such term is defined  
19                  for purposes of the Greenhouse Gas Reporting Pro-  
20                  gram) which is—

21                         “(A) operated by a covered entity for the  
22                         production of any covered primary good, and

23                         “(B) located within the United States.

24                         “(7) FINISHED GOOD.—

1                   “(A) IN GENERAL.—The term ‘finished  
2 good’ means any good which—

3                   “(i) for calendar years 2027 and  
4 2028—

5                   “(I) contains greater than 500  
6 pounds of any combination of any cov-  
7 ered primary goods, or

8                   “(II) was produced from inputs  
9 of any combination of covered primary  
10 goods, the value of which comprise  
11 more than 90 percent of the total  
12 value of the material inputs involved  
13 in the production of such good,

14                   “(ii) for calendar years 2029 and  
15 2030—

16                   “(I) contains greater than 100  
17 pounds of any combination of any cov-  
18 ered primary goods, or

19                   “(II) was produced from inputs  
20 of any combination of covered primary  
21 goods, the value of which comprise  
22 more than 75 percent of the total  
23 value of the material inputs involved  
24 in the production of such good, and

1                   “(iii) for any calendar year after cal-  
2                   endar year 2030—

3                   “(I) contains greater than such  
4                   amount as is determined by the Sec-  
5                   retary (as determined in coordination  
6                   with the relevant parties, and which  
7                   shall not be greater than 100 pounds)  
8                   of any combination of any covered pri-  
9                   mary goods, or

10                  “(II) was produced from inputs  
11                  of any combination of covered primary  
12                  goods, the value of which comprise  
13                  more than such percentage as is de-  
14                  termined by the Secretary (as deter-  
15                  mined in coordination with the rel-  
16                  evant parties, and which shall not be  
17                  greater than 75 percent) of the total  
18                  value of the material inputs involved  
19                  in the production of such good.

20                  “(B) EXCEPTION.—The term ‘finished  
21                  good’ shall not include any waste or scrap prod-  
22                  uct which is imported or exported.

23                  “(8) GREENHOUSE GAS.—The term ‘greenhouse  
24                  gas’ has the meaning given such term under section

1 211(o)(1)(G) of the Clean Air Act, as in effect on  
2 the date of the enactment of this subchapter.

3 “(9) GREENHOUSE GAS EMISSIONS.—The term  
4 ‘greenhouse gas emissions’ means the amount of  
5 greenhouse gases, expressed in metric tons of CO<sub>2</sub>-  
6 e, which were emitted to the atmosphere.

7 “(10) GREENHOUSE GAS REPORTING PRO-  
8 GRAM.—The term ‘Greenhouse Gas Reporting Pro-  
9 gram’ means the Greenhouse Gas Reporting Pro-  
10 gram established under part 98 of title 40, Code of  
11 Federal Regulations.

12 “(11) NAICS.—The term ‘NAICS’ means the  
13 North American Industrial Classification System.

14 “(12) REGIONAL GRID.—The term ‘regional  
15 grid’ means the smallest defined region of inter-  
16 connected power grid (including power generation  
17 assets) from which a facility draws power that ac-  
18 counts for the total power supplied to the facility by  
19 the grid and for which there is reliable data.

20 “(13) RELEVANT PARTIES.—The term ‘relevant  
21 parties’ means—

22 “(A) the Administrator,

23 “(B) the Secretary of Energy,

24 “(C) the Secretary of Commerce,



1           “(D) the United States Trade Representa-  
2           tive, and

3           “(E) the Chair and Vice Chair of the  
4           United States International Trade Commis-  
5           sion.”.

6           (b) CLERICAL AMENDMENT.—The table of sub-  
7           chapters for chapter 38 of the Internal Revenue Code of  
8           1986 is amended by adding at the end thereof the fol-  
9           lowing new item:

                  “SUBCHAPTER E—CARBON INTENSITY CHARGE”.

10          (c) GRANT PROGRAM.—

11           (1) IN GENERAL.—For fiscal year 2026 and  
12           each subsequent fiscal year, there are appropriated,  
13           out of any funds in the Treasury not otherwise ap-  
14           propriated, to the Department of the Treasury  
15           amounts equal to applicable amount for the pre-  
16           ceding fiscal year, with such amounts to be used by  
17           the Secretary, in conjunction with the Secretary of  
18           Energy and the Administrator of the Environmental  
19           Protection Agency, to establish a competitive grant  
20           program to award grants to eligible entities for in-  
21           vestments in new technology—

22                   (A) in the case of an existing eligible facil-  
23                   ity, to reduce their carbon intensity, and

24                   (B) in the case of a proposed eligible facil-  
25                   ity, to ensure best-in-class carbon intensity.

1           (2) MODELED ON DIESEL EMISSIONS REDUC-  
2           TION ACT.—For purposes of the program described  
3           in paragraph (1), such program shall be adminis-  
4           tered in a manner similar to the national grant pro-  
5           gram of the Environmental Protection Agency under  
6           subtitle G of title VII of the Energy Policy Act of  
7           2005 (42 U.S.C. 16131 et seq.).

8           (3) AWARDING OF GRANT AMOUNTS.—For pur-  
9           poses of awarding grants under the program de-  
10          scribed in paragraph (1), the Secretary (in conjunc-  
11          tion with the Administrator and the Secretary of  
12          Energy) shall—

13                 (A) give preference to proposed invest-  
14                 ments—

15                         (i) that would result in the greatest  
16                         decrease in carbon intensity,

17                         (ii) for facilities located in economi-  
18                         cally distressed communities that have ex-  
19                         perienced a loss of manufacturing jobs,

20                         (iii) that would maximize improve-  
21                         ment in local air quality, or

22                         (iv) for facilities located in commu-  
23                         nities with high cumulative pollution bur-  
24                         dens (as determined by the Administrator),  
25                         and

1 (B) allocate grant funds to eligible facili-  
2 ties and proposed eligible facilities which  
3 produce covered primary goods that are in-  
4 cluded within a covered national industry in ap-  
5 proximate proportion to the share of total  
6 greenhouse gas emissions for which such indus-  
7 try is responsible for emitting.

8 (4) RECAPTURE.—In the case of any eligible  
9 entity which has been awarded a grant under the  
10 program described in paragraph (1) with respect to  
11 any eligible facility or proposed eligible facility, if  
12 such entity fails to—

13 (A) within 3 years of the awarding of such  
14 grant, complete the proposed investments in  
15 new technology at such facility, or

16 (B) during the 10-year period after such  
17 investments are placed in service—

18 (i) in the case of an existing eligible  
19 facility, achieve and maintain the reduction  
20 in carbon intensity proposed in the applica-  
21 tion for such grant, or

22 (ii) in the case of a proposed eligible  
23 facility, achieve and maintain the best-in-  
24 class carbon intensity proposed in the ap-  
25 plication for such grant,

1 the Secretary shall recapture, pursuant to such reg-  
2 ulations or other guidance issued by the Secretary,  
3 the amount of the grant awarded with respect to  
4 such facility.

5 (5) APPLICABLE AMOUNT.—For purposes of  
6 this subsection, the term “applicable amount”  
7 means, with respect to any fiscal year, an amount  
8 equal to 75 percent of the increase in revenues to  
9 the Treasury during such fiscal year by reason of  
10 the application of subchapter E of chapter 38 of the  
11 Internal Revenue Code of 1986 (as added by sub-  
12 section (a)).

13 (6) DEFINITIONS.—For purposes of this sub-  
14 section—

15 (A) IN GENERAL.—The terms “covered na-  
16 tional industry”, “eligible facility”, and “cov-  
17 ered primary good” shall have the same mean-  
18 ing given such terms under section 4694 of the  
19 Internal Revenue Code of 1986 (as added by  
20 subsection (a)).

21 (B) BEST-IN-CLASS CARBON INTENSITY.—  
22 The term “best-in-class carbon intensity”  
23 means, with respect to any proposed eligible fa-  
24 cility, that the carbon intensity of such facility  
25 would be not greater than the carbon intensity

1 of the existing facility with the lowest carbon  
2 intensity within the relevant covered national  
3 industry (as determined of the date of the ap-  
4 plication for a grant under the program de-  
5 scribed in paragraph (1)).

6 (C) ELIGIBLE ENTITY.—The term “eligible  
7 entity” means any person which operates an eli-  
8 gible facility or will operate a proposed eligible  
9 facility.

10 (D) SECRETARY.—The term “Secretary”  
11 means the Secretary of the Treasury (or the  
12 Secretary’s delegate).

13 (d) ECONOMIC SUPPORT FUND OF DEPARTMENT OF  
14 STATE.—

15 (1) IN GENERAL.—For fiscal year 2026 and  
16 each subsequent fiscal year, in addition to amounts  
17 otherwise available, there are appropriated, out of  
18 any funds in the Treasury not otherwise appro-  
19 priated, to the Department of State an amount  
20 equal to the applicable amount for the preceding fis-  
21 cal year, with such amount to be made available for  
22 bilateral and multilateral assistance to support cli-  
23 mate and clean energy programs.

24 (2) APPLICABLE AMOUNT.—For purposes of  
25 this subsection, the term “applicable amount”

1 means, with respect to any fiscal year, an amount  
2 equal to 25 percent of the increase in revenues to  
3 the Treasury during such fiscal year by reason of  
4 the application of subchapter E of chapter 38 of the  
5 Internal Revenue Code of 1986 (as added by sub-  
6 section (a)).

○