

117TH CONGRESS
2D SESSION

S. 4355

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

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2022

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

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, 2025, and annually thereafter, any covered enti-
5 ty shall, for each eligible facility operated by such entity,
6 report to the Secretary with respect to the following:

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

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

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

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

21 “(C) with respect to any electricity which
22 was not provided through the electric grid, the
23 greenhouse gas emissions associated with the

1 production of such electricity, provided that
2 such emissions are not reported pursuant to
3 paragraph (1).

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

7 “(b) CALCULATION.—

8 “(1) CARBON INTENSITY.—

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

14 “(i) the covered emissions (as deter-
15 mined under paragraph (2)) with respect
16 to such facility, divided by

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

21 “(B) COVERED NATIONAL INDUSTRY.—

22 For purposes of this subchapter, the carbon in-
23 tensity with respect to any covered national in-
24 dustry shall be an amount equal to the quotient
25 of—

1 “(i) an amount equal to the sum of
2 the covered emissions (as determined
3 under paragraph (2)) with respect to all el-
4 igible facilities which produce covered pri-
5 mary goods which are included within such
6 industry for calendar year 2024, divided by

7 “(ii) the total weight (expressed in
8 tons) of covered primary goods produced at
9 all such eligible facilities during such year.

10 “(C) PETITION FOR SPECIFIC GOODS.—

11 “(i) IN GENERAL.—In the case of any
12 covered national industry which produces
13 more than 1 covered primary good, a cov-
14 ered entity may file a petition with the
15 Secretary to determine the carbon intensity
16 with respect to a specific covered primary
17 good.

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

24 “(I) the chemical, physical, or
25 mechanical production processes for

1 such good are substantially different
2 as compared to other covered primary
3 goods produced within the same cov-
4 ered national industry, and

5 “(II) the carbon intensity deter-
6 mined with respect to such good is at
7 least 25 percent greater than the car-
8 bon intensity determined for other
9 covered primary goods produced with-
10 in the same covered national industry.

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

24 “(D) DETERMINATION.—Any determina-
25 tion of carbon intensity under this paragraph

1 shall be made by the Secretary in coordination
2 with the Administrator and the Secretary of
3 Energy.

4 “(2) COVERED EMISSIONS.—

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

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

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

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

23 “(ii) the total greenhouse gas emis-
24 sions which are captured and disposed of
25 in secure geological storage (in compliance

1 with the regulations established under sec-
2 tion 45Q(f)(2)) during the preceding cal-
3 endar year.

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

12 “(C) EMISSIONS FOR ELECTRICITY
13 USED.—

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

22 “(ii) EXCEPTION.—In the case of an
23 eligible facility which is subject to a power
24 purchase agreement which guarantees that
25 any electricity provided under such agree-

1 ment is generated not less than 15 minutes
2 prior to use by such facility and within the
3 same regional transmission zone as such
4 facility—

5 “(I) clause (i) shall not apply,

6 and

7 “(II) the amount of greenhouse
8 gas emissions associated with such
9 electricity shall be determined based
10 on the average carbon intensity of the
11 electricity provided under such agree-
12 ment.

13 “(3) IMPORTED GOODS.—

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

20 “(i) the carbon intensity of the gen-
21 eral economy of the country of origin of
22 such good, or

23 “(ii) if the Secretary (in coordination
24 with the relevant parties) determines that
25 transparent, verifiable, and reliable infor-

1 mation is available with respect to any cov-
2 ered national industry in the country of or-
3 igin of such good and that such country of
4 igin is a transparent market economy in
5 hich inter-firm resource shuffling is un-
6 likely to occur, the carbon intensity of the
7 covered national industry in such country
8 hich includes production of such good.

9 “(B) PETITION.—

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

20 “(ii) AGGREGATION RULE.—For pur-
21 poses of this subparagraph, the average
22 carbon intensity with respect to the pro-
23 duction of a covered primary good shall be
24 determined based upon greenhouse gas
25 emission and production data from all fa-

1 facilities which produce such good which are
2 under common control of the manufacturer
3 of such good, including any subsidiary,
4 parent company, or joint venture of such
5 manufacturer within the country of origin.

6 “(iii) INPUTS.—With respect to any
7 covered primary good which is imported
8 into the United States and for which other
9 covered primary goods (other than petro-
10 leum, natural gas, or coal) were used as in-
11 puts by the manufacturer in the produc-
12 tion of the imported covered primary good,
13 any greenhouse gas emissions associated
14 with the production of the covered primary
15 goods used as inputs shall be included in
16 the determination of the greenhouse gas
17 emissions associated with production of the
18 imported covered primary good.

19 “(iv) DATA PROVISION.—In the case
20 of an entity which files a petition described
21 in clause (i), such entity shall provide the
22 Secretary with an environmental product
23 declaration containing any information
24 which would otherwise be required to be
25 reported under subsection (a) if the facili-

1 ties which produced the covered primary
2 good to which the petition applies were
3 subject to the reporting requirements
4 under the Greenhouse Gas Reporting Pro-
5 gram.

6 “(C) CARBON INTENSITY OF THE GEN-
7 ERAL ECONOMY.—For purposes of this para-
8 graph, with respect to any country, the carbon
9 intensity of the general economy of such coun-
10 try shall be an amount equal to the quotient
11 of—

12 “(i) the gross domestic product of
13 such country for the year described in
14 clause (ii), divided by

15 “(ii) the production-based greenhouse
16 gas emissions of such country for the most
17 recent year for which the Secretary deter-
18 mines there is reliable information.

19 “(D) EXCLUSION.—In the case of any cov-
20 ered primary good which is imported into the
21 United States and was produced in a relatively
22 least developed country (as described in section
23 124 of the Foreign Assistance Act of 1961 (22
24 U.S.C. 2151v)), this paragraph shall not apply.

1 “(E) 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 annually publish any car-
12 bon intensity which has been determined under subsection
13 (b) with respect to any eligible facility, covered national
14 industry, covered primary good, foreign manufacturer, or
15 country of origin.

16 “(d) RELEVANT PARTIES.—For purposes of this sec-
17 tion, the term ‘relevant parties’ means—

18 “(1) the Administrator,

19 “(2) the Secretary of Energy,

20 “(3) the Secretary of Commerce,

21 “(4) the United States Trade Representative,

22 and

23 “(5) the Chair and Vice Chair of the United
24 States International Trade Commission.

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, 2023, there is hereby imposed a charge
10 in an amount equal to the product of—

11 “(I)(aa) in the case of a good for
12 which the carbon intensity is deter-
13 mined under section 4691(b)(3)(A)(i),
14 the amount (if any) by which the
15 amount determined under clause (iii)
16 with respect to such good exceeds an
17 amount equal to the applicable per-
18 centage of the carbon intensity (as de-
19 termined under section
20 4691(b)(1)(B)) for the covered na-
21 tional industry which includes such
22 good, or

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

1 (if any) by which the carbon intensity
2 determined under such subparagraph
3 with respect to such good exceeds an
4 amount equal to the applicable per-
5 centage of the carbon intensity (as de-
6 termined under section
7 4691(b)(1)(B)) for the covered na-
8 tional industry which includes such
9 good, multiplied by

10 “(II) the total weight (expressed
11 in tons) of the good imported into the
12 United States, multiplied by

13 “(III) the carbon price.

14 “(ii) FINISHED GOODS.—

15 “(I) IN GENERAL.—In the case
16 of any imported finished good which
17 is imported into the United States
18 during any calendar year beginning
19 after December 31, 2025, there is
20 hereby imposed a charge in an
21 amount equal to the sum of the
22 amounts determined under subclause
23 (II) with respect to each covered pri-
24 mary good which is a component part
25 of such imported finished good.

1 “(II) COMPONENTS.—The
2 amount determined under this sub-
3 clause with respect to any covered pri-
4 mary good which is a component part
5 of an imported finished good is an
6 amount equal to the product of—

7 “(aa) the amount (if any)
8 determined under clause (i)(I) if
9 such clause were applied with re-
10 spect to such good, multiplied by

11 “(bb) the total weight (ex-
12 pressed in tons) of the covered
13 primary good, multiplied by

14 “(cc) the carbon price.

15 “(iii) CALCULATION FOR CERTAIN
16 FOREIGN GOODS.—For purposes of clause
17 (i)(I)(aa), the amount determined under
18 this clause with respect to any covered pri-
19 mary good shall be equal to the product
20 of—

21 “(I) an amount equal to the
22 quotient of—

23 “(aa) the carbon intensity of
24 the general economy (as deter-
25 mined under section

1 4691(b)(3)(C)) of the country of
2 origin of such good, divided by

3 “(bb) the carbon intensity of
4 the general economy (as so deter-
5 mined) of the United States,
6 multiplied by

7 “(II) an amount equal to the ap-
8 plicable percentage of the carbon in-
9 tensity (as determined under section
10 4691(b)(1)(B)) for the covered na-
11 tional industry which includes such
12 good.

13 “(B) CHARGE DUE.—The charge imposed
14 under this paragraph with respect to any goods
15 imported during any calendar year shall be paid
16 by the entity which imported such goods not
17 later than September 30 of the calendar year
18 subsequent to such year.

19 “(C) EXCLUSION.—In the case of any cov-
20 ered primary good (including any covered pri-
21 mary good which is a component part of an im-
22 ported finished good) which is imported into the
23 United States and was produced in a relatively
24 least developed country (as described in section

1 124 of the Foreign Assistance Act of 1961 (22
2 U.S.C. 2151v)), this paragraph shall not apply.

3 “(2) DOMESTIC PRODUCTION OF COVERED PRI-
4 MARY GOODS.—

5 “(A) IN GENERAL.—In the case of any eli-
6 gible facility, for each calendar year beginning
7 after December 31, 2023, there is hereby im-
8 posed a charge in an amount equal to the prod-
9 uct of—

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

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

21 “(II) in the case of a covered pri-
22 mary good produced by such facility
23 which is subject to an approved peti-
24 tion under subparagraph (C) of such
25 section, an amount equal to the appli-

1 cable percentage of the carbon inten-
2 sity determined with respect to such
3 good, multiplied by

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

8 “(iii) the carbon price.

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

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

17 “(1) for calendar year 2024, 100 percent,

18 “(2) for calendar years 2025 through 2028, the
19 applicable percentage for the preceding calendar
20 year, reduced by 2.5 percentage points, and

21 “(3) for any calendar year subsequent to cal-
22 endar year 2028, the applicable percentage for the
23 preceding calendar year, reduced by 5 percentage
24 points (but not less than zero).

25 “(c) CARBON PRICE.—

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

4 “(A) for 2024, \$55, and

5 “(B) for each calendar year subsequent to
6 the calendar year described in subparagraph
7 (A), an amount equal to the sum of—

8 “(i) the carbon price for the preceding
9 year, plus

10 “(ii) an amount equal to—

11 “(I) the amount described in
12 clause (i), multiplied by

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

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

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

24 **“SEC. 4693. REBATE.**

25 “(a) EXPORTS.—

1 “(1) IN GENERAL.—In the case of a person who
2 exports any covered primary good from the United
3 States which was produced in an eligible facility for
4 which a charge has been imposed under section
5 4692, a refund shall be allowed to such person in
6 the same manner as if it were an overpayment of the
7 charge imposed by such section in an amount equal
8 to the amount determined under paragraph (2).

9 “(2) RECALCULATION.—In the case of a cov-
10 ered primary good described in paragraph (1), the
11 amount determined under this paragraph is an
12 amount equal to the charge that would be imposed
13 under section 4692 with respect to such good if sub-
14 section (a)(1)(A) of such section were applied by
15 substituting ‘the carbon intensity of all eligible facili-
16 ties (as determined under subparagraph (A) of sec-
17 tion 4691(b)(1)) operated by the covered entity
18 which produced the covered primary good described
19 in section 4693(a)(1)’ for ‘the carbon intensity of
20 such facility (as determined under subparagraph (A)
21 of section 4691(b)(1))’.

22 **“SEC. 4694. DEFINITIONS.**

23 “For purposes of this subchapter—

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

4 “(2) CO₂-e.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the term ‘CO₂-e’ means, with re-
7 spect to a greenhouse gas, the quantity of such
8 gas that has a global warming potential equiva-
9 lent to 1 metric ton of carbon dioxide, as deter-
10 mined pursuant to table A–1 of subpart A of
11 part 98 of title 40, Code of Federal Regula-
12 tions, as in effect on the date of the enactment
13 of this subchapter.

14 “(B) METHANE.—In the case of methane,
15 the term ‘CO₂-e’ means the quantity of meth-
16 ane that has the same global warming potential
17 over a 20-year period as 1 metric ton of carbon
18 dioxide, as determined by the Administrator.

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

21 “(A) produces any covered primary good,
22 and

23 “(B) is required to report emissions of
24 greenhouse gases under the Greenhouse Gas
25 Reporting Program (or would be required to re-

1 port such emissions notwithstanding any other
2 provision of law prohibiting the implementation
3 of or use of funds for such requirements).

4 “(4) COVERED NATIONAL INDUSTRY.—

5 “(A) IN GENERAL.—The term ‘covered na-
6 tional industry’ means any industry which is as-
7 signed a 6-digit NAICS code which is included
8 in any of the following clauses:

9 “(i) 211120 (petroleum extraction).

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

11 “(iii) 212112 (underground coal min-
12 ing).

13 “(iv) 322110 (pulp mills).

14 “(v) 322121 (paper mills).

15 “(vi) 322122 (newsprint mills).

16 “(vii) 322130 (paperboard mills).

17 “(viii) 324110 (petroleum refineries).

18 “(ix) 324121 (asphalt paving mixture
19 and block manufacturing).

20 “(x) 324122 (asphalt shingle and
21 coating materials manufacturing).

22 “(xi) 324199 (all other petroleum and
23 coal products manufacturing).

24 “(xii) 325110 (petrochemical manu-
25 facturing).

1 “(xiii) 325120 (industrial gas manu-
2 facturing).

3 “(xiv) 325193 (ethyl alcohol manufac-
4 turing).

5 “(xv) 325199 (other basic organic
6 chemical manufacturing).

7 “(xvi) 325311 (nitrogenous fertilizer
8 manufacturing).

9 “(xvii) 327211, 327212, 327213, or
10 327215 (glass).

11 “(xviii) 327310 (cement).

12 “(xix) 327410 or 327420 (lime and
13 gypsum product manufacturing).

14 “(xx) 331110 (iron and steel).

15 “(xxi) 331313 (aluminum).

16 “(B) EXCEPTIONS.—

17 “(i) INDUSTRIAL GAS MANUFAC-
18 TURING.—Subparagraph (A)(xiii) shall
19 apply only with respect to the production
20 of hydrogen.

21 “(ii) OTHER BASIC ORGANIC CHEM-
22 ICAL MANUFACTURING.—Subparagraph
23 (A)(xv) shall apply only with respect to the
24 production of adipic acid.

1 “(5) COVERED PRIMARY GOOD.—The term ‘cov-
2 ered primary good’ means any good which is pro-
3 duced as part of a trade or business operating with-
4 in a covered national industry.

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

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

11 “(B) located within the United States.

12 “(7) GREENHOUSE GAS.—The term ‘greenhouse
13 gas’ has the meaning given such term under section
14 211(o)(1)(G) of the Clean Air Act, as in effect on
15 the date of the enactment of this subchapter.

16 “(8) GREENHOUSE GAS EMISSIONS.—The term
17 ‘greenhouse gas emissions’ means the amount of
18 greenhouse gases, expressed in metric tons of CO₂-
19 e, which were emitted to the atmosphere.

20 “(9) GREENHOUSE GAS REPORTING PRO-
21 GRAM.—The term ‘Greenhouse Gas Reporting Pro-
22 gram’ means the Greenhouse Gas Reporting Pro-
23 gram established under part 98 of title 40, Code of
24 Federal Regulations.

25 “(10) IMPORTED FINISHED GOOD.—

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

3 “(i) is imported into the United
4 States, and

5 “(ii)(I) for calendar year 2026 and
6 2027, contains greater than 500 pounds of
7 any combination of any covered primary
8 goods, and

9 “(II) for any calendar year after cal-
10 endar year 2027, contains greater than
11 100 pounds of any combination of any cov-
12 ered primary goods.

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

15 (b) CLERICAL AMENDMENT.—The table of sub-
16 chapters for chapter 38 of the Internal Revenue Code of
17 1986 is amended by adding at the end thereof the fol-
18 lowing new item:

 “SUBCHAPTER E—CARBON INTENSITY CHARGE”.

19 (c) GRANT PROGRAM.—

20 (1) IN GENERAL.—For fiscal year 2025 and
21 each subsequent fiscal year, there are appropriated,
22 out of any funds in the Treasury not otherwise ap-
23 propriated, to the Department of the Treasury
24 amounts equal to applicable amount for the pre-
25 ceding fiscal year, with such amounts to be used by

1 the Secretary, in conjunction with the Secretary of
2 Energy and the Administrator of the Environmental
3 Protection Agency, to establish a competitive grant
4 program to award grants to eligible entities for in-
5 vestments in new technology—

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

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

10 (2) MODELED ON DIESEL EMISSIONS REDUC-
11 TION ACT.—For purposes of the program described
12 in paragraph (1), such program shall be adminis-
13 tered in a manner similar to the national grant pro-
14 gram of the Environmental Protection Agency under
15 subtitle G of title VII of the Energy Policy Act of
16 2005 (42 U.S.C. 16131 et seq.).

17 (3) AWARDING OF GRANT AMOUNTS.—For pur-
18 poses of awarding grants under the program de-
19 scribed in paragraph (1), the Secretary (in conjunc-
20 tion with the Administrator and the Secretary of
21 Energy) shall—

22 (A) give preference to proposed invest-
23 ments—

24 (i) that would result in the greatest
25 decrease in carbon intensity,

1 (ii) for facilities located in economi-
2 cally distressed communities that have ex-
3 perience a loss of manufacturing jobs,

4 (iii) that would maximize improve-
5 ment in local air quality, or

6 (iv) for facilities located in commu-
7 nities with high cumulative pollution bur-
8 dens (as determined by the Administrator),
9 and

10 (B) allocate grant funds to eligible facili-
11 ties and proposed eligible facilities which
12 produce covered primary goods that are in-
13 cluded within a covered national industry in ap-
14 proximate proportion to the share of total
15 greenhouse gas emissions for which such indus-
16 try is responsible for emitting.

17 (4) RECAPTURE.—In the case of any eligible
18 entity which has been awarded a grant under the
19 program described in paragraph (1) with respect to
20 any eligible facility or proposed eligible facility, if
21 such entity fails to—

22 (A) within 3 years of the awarding of such
23 grant, complete the proposed investments in
24 new technology at such facility, or

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

3 (i) in the case of an existing eligible
4 facility, achieve and maintain the reduction
5 in carbon intensity proposed in the applica-
6 tion for such grant, or

7 (ii) in the case of a proposed eligible
8 facility, achieve and maintain the best-in-
9 class carbon intensity proposed in the ap-
10 plication for such grant,

11 the Secretary shall recapture, pursuant to such reg-
12 ulations or other guidance issued by the Secretary,
13 the amount of the grant awarded with respect to
14 such facility.

15 (5) APPLICABLE AMOUNT.—For purposes of
16 this subsection, the term “applicable amount”
17 means, with respect to any fiscal year, an amount
18 equal to 75 percent of the increase in revenues to
19 the Treasury during such fiscal year by reason of
20 the application of subchapter E of chapter 38 of the
21 Internal Revenue Code of 1986 (as added by sub-
22 section (a)).

23 (6) DEFINITIONS.—For purposes of this sub-
24 section—

1 (A) IN GENERAL.—The terms “covered na-
2 tional industry”, “eligible facility”, and “cov-
3 ered primary good” shall have the same mean-
4 ing given such terms under section 4694 of the
5 Internal Revenue Code of 1986 (as added by
6 subsection (a)).

7 (B) BEST-IN-CLASS CARBON INTENSITY.—
8 The term “best-in-class carbon intensity”
9 means, with respect to any proposed eligible fa-
10 cility, that the carbon intensity of such facility
11 would be not greater than the carbon intensity
12 of the existing facility with the lowest carbon
13 intensity within the relevant covered national
14 industry (as determined of the date of the ap-
15 plication for a grant under the program de-
16 scribed in paragraph (1)).

17 (C) ELIGIBLE ENTITY.—The term “eligible
18 entity” means any person which operates an eli-
19 gible facility or will operate a proposed eligible
20 facility.

21 (D) SECRETARY.—The term “Secretary”
22 means the Secretary of the Treasury (or the
23 Secretary’s delegate).

24 (d) ECONOMIC SUPPORT FUND OF DEPARTMENT OF
25 STATE.—

1 (1) IN GENERAL.—For fiscal year 2025 and
2 each subsequent fiscal year, in addition to amounts
3 otherwise available, there are appropriated, out of
4 any funds in the Treasury not otherwise appro-
5 priated, to the Department of State an amount
6 equal to applicable amount for the preceding fiscal
7 year, with such amount to be made available for
8 multilateral assistance to support climate and clean
9 energy programs.

10 (2) APPLICABLE AMOUNT.—For purposes of
11 this subsection, the term “applicable amount”
12 means, with respect to any fiscal year, an amount
13 equal to 25 percent of the increase in revenues to
14 the Treasury during such fiscal year by reason of
15 the application of subchapter E of chapter 38 of the
16 Internal Revenue Code of 1986 (as added by sub-
17 section (a)).

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